



# Rent Act 1977

## 1977 CHAPTER 42

### PART I

#### PRELIMINARY

##### *Protected and statutory tenancies*

#### **1 Protected tenants and tenancies**

Subject to this Part of this Act, a tenancy under which a dwelling-house (which may be a house or part of a house) is let as a separate dwelling is a protected tenancy for the purposes of this Act.

Any reference in this Act to a protected tenant shall be construed accordingly.

#### **2 Statutory tenants and tenancies**

(1) Subject to this Part of this Act—

- (a) after the termination of a protected tenancy of a dwelling-house the person who, immediately before that termination, was the protected tenant of the dwelling-house shall, if and so long as he occupies the dwelling-house as his residence, be the statutory tenant of it; and
- (b) Part I of Schedule 1 to this Act shall have effect for determining what person (if any) is the statutory tenant of a dwelling-house at any time after the death of a person who, immediately before his death, was either a protected tenant of the dwelling-house or the statutory tenant of it by virtue of paragraph (a) above.

(2) In this Act a dwelling-house is referred to as subject to a statutory tenancy when there is a statutory tenant of it.

(3) In subsection (1)(a) above and in Part I of Schedule 1, the phrase "if and so long as he occupies the dwelling-house as his residence" shall be construed as it was immediately

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before the commencement of this Act (that is to say, in accordance with section 3(2) of the Rent Act 1968).

- (4) A person who becomes a statutory tenant of a dwelling-house as mentioned in subsection (1)(a) above is, in this Act, referred to as a statutory tenant by virtue of his previous protected tenancy.
- (5) A person who becomes a statutory tenant as mentioned in subsection 1(b) above is, in this Act, referred to as a statutory tenant by succession.

### **3 Terms and conditions of statutory tenancies**

- (1) So long as he retains possession, a statutory tenant shall observe and be entitled to the benefit of all the terms and conditions of the original contract of tenancy, so far as they are consistent with the provisions of this Act.
- (2) It shall be a condition of a statutory tenancy of a dwelling-house that the statutory tenant shall afford to the landlord access to the dwelling-house and all reasonable facilities for executing therein any repairs which the landlord is entitled to execute.
- (3) Subject to section 5 of the Protection from Eviction Act 1977 (under which at least 4 weeks' notice to quit is required), a statutory tenant of a dwelling-house shall be entitled to give up possession of the dwelling-house if, and only if, he gives such notice as would have been required under the provisions of the original contract of tenancy, or, if no notice would have been so required, on giving not less than 3 months' notice.
- (4) Notwithstanding anything in the contract of tenancy, a landlord who obtains an order for possession of a dwelling-house as against a statutory tenant shall not be required to give to the statutory tenant any notice to quit.
- (5) Part II of Schedule 1 to this Act shall have effect in relation to the giving up of possession of statutory tenancies and the changing of statutory tenants by agreement.

#### *Exceptions*

### **4 Dwelling-houses above certain rateable values**

- (1) A tenancy is not a protected tenancy if the dwelling-house falls within one of the Classes set out in subsection (2) below.
- (2) Where alternative rateable values are mentioned in this subsection, the higher applies if the dwelling-house is in Greater London and the lower applies if it is elsewhere.

#### *Class A*

The appropriate day in relation to the dwelling-house falls or fell on or after 1st April 1973 and the dwelling-house on the appropriate day has or had a rateable value exceeding £1,500 or £750.

#### *Class B*

The appropriate day in relation to the dwelling-house fell on or after 22nd March 1973, but before 1st April 1973, and the dwelling-house—

- (a) on the appropriate day had a rateable value exceeding £600 or £300, and
- (b) on 1st April 1973 had a rateable value exceeding £1,500 or £750.

#### *Class C*

The appropriate day in relation to the dwelling-house fell before 22nd March 1973 and the dwelling-house—

- (a) on the appropriate day had a rateable value exceeding £400 or £200, and
  - (b) on 22nd March 1973 had a rateable value exceeding £600 or £300, and
  - (c) on 1st April 1973 had a rateable value exceeding £1,500 or £750.
- (3) If any question arises in any proceedings whether a dwelling-house falls within a Class in subsection (2) above, by virtue of its rateable value at any time, it shall be deemed not to fall within that Class unless the contrary is shown.

## **5 Tenancies at low rents**

- (1) A tenancy is not a protected tenancy if under the tenancy either no rent is payable or, subject to section 17(2) of this Act, the rent payable is less than two-thirds of the rateable value which is or was the rateable value of the dwelling-house on the appropriate day.
- (2) Where—
- (a) the appropriate day in relation to a dwelling-house fell before 22nd March 1973, and
  - (b) the dwelling-house had on the appropriate day a rateable value exceeding, if it is in Greater London, £400 or, if it is elsewhere, £200,
- subsection (1) above shall apply in relation to the dwelling-house as if the reference to the appropriate day were a reference to 22nd March 1973.
- (3) In this Act a tenancy falling within subsection (1) above is referred to as a " tenancy at a low rent ".
- (4) In determining whether a long tenancy is a tenancy at a low rent, there shall be disregarded such part (if any) of the sums payable by the tenant as is expressed (in whatever terms) to be payable in respect of rates, services, repairs, maintenance, or insurance, unless it could not have been regarded by the parties as a part so payable.
- (5) In subsection (4) above " long tenancy " means a tenancy granted for a term certain exceeding 21 years, other than a tenancy which is, or may become, terminable before the end of that term by notice given to the tenant.

## **6 Dwelling-houses let with other land**

Subject to section 26 of this Act, a tenancy is not a protected tenancy if the dwelling-house which is subject to the tenancy is let together with land other than the site of the dwelling-house.

## **7 Payments for board or attendance**

- (1) A tenancy is not a protected tenancy if under the tenancy the dwelling-house is bona fide let at a rent which includes payments in respect of board or attendance.
- (2) For the purposes of subsection (1) above, a dwelling-house shall not be taken to be bona fide let at a rent which includes payments in respect of attendance unless the amount of rent which is fairly attributable to attendance, having regard to the value of the attendance to the tenant, forms a substantial part of the whole rent.

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## **8 Lettings to students**

- (1) A tenancy is not a protected tenancy if it is granted to a person who is pursuing, or intends to pursue, a course of study provided by a specified educational institution and is so granted either by that institution or by another specified institution or body of persons.
- (2) In subsection (1) above "specified" means specified, or of a class specified, for the purposes of this section by regulations made by the Secretary of State by statutory instrument.
- (3) A statutory instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **9 Holiday lettings**

A tenancy is not a protected tenancy if the purpose of the tenancy is to confer on the tenant the right to occupy the dwelling-house for a holiday.

## **10 Agricultural holdings**

A tenancy is not a protected tenancy if the dwelling-house is comprised in an agricultural holding (within the meaning of the Agricultural Holdings Act 1948) and is occupied by the person responsible for the control (whether as tenant or as servant or agent of the tenant) of the farming of the holding.

## **11 Licensed premises**

A tenancy of a dwelling-house which consists of or comprises premises licensed for the sale of intoxicating liquors for consumption on the premises shall not be a protected tenancy, nor shall such a dwelling-house be the subject of a statutory tenancy.

## **12 Resident landlords**

- (1) Subject to subsection (2) below, a tenancy of a dwelling-house granted on or after 14th August 1974 shall not be a protected tenancy at any time if—
  - (a) the dwelling-house forms part only of a building and that building is not a purpose-built block of flats; and
  - (b) the tenancy was granted by a person who, at the time that he granted it, occupied as his residence another dwelling-house which also forms part of that building; and
  - (c) subject to paragraph 1 of Schedule 2 to this Act, at all times since the tenancy was granted the interest of the landlord under the tenancy has belonged to a person who, at the time he owned that interest, occupied as his residence another dwelling-house which also formed part of that building.
- (2) This section does not apply to a tenancy of a dwelling-house which forms part of a building if—
  - (a) the tenancy is granted to a person who, immediately before it was granted, was a protected or statutory tenant of that dwelling-house or of any other dwelling-house in that building, or
  - (b) the tenancy is a tenancy for a term of years certain and is granted to a person who, immediately before it was granted, was the tenant under an earlier

tenancy of that dwelling-house or any other dwelling-house in that building and, by virtue of this section or of section 5A of the Rent Act 1968 (which is superseded by this section), that earlier tenancy was not a protected tenancy for the purposes of this Act or, as the case may be, of the Act of 1968.

(3) For the purposes of subsection (2) above, a tenancy shall be treated as being for a term of years certain notwithstanding that it is liable to determination by re-entry or on the happening of any event other than the giving of notice by the landlord to determine the term.

(4) Schedule 2 to this Act shall have effect for the purpose of supplementing this section.

### **13 Landlord's interest belonging to Crown**

(1) A tenancy shall not be a protected tenancy at any time when the interest of the landlord under that tenancy belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster or to the Duchy of Cornwall, or to a government department or is held in trust for Her Majesty for the purposes of a government department.

(2) A person shall not at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord would at that time belong or be held as mentioned in subsection (1) above.

### **14 Landlord's interest belonging to local authority, etc.**

A tenancy shall not be a protected tenancy at any time when the interest of the landlord under that tenancy belongs to—

- (a) the council of a county;
- (b) the council of a district or, in the application of this Act to the Isles of Stilly, the Council of the Isles of Stilly;
- (c) the Greater London Council, the council of a London borough or the Common Council of the City of London;
- (d) the Commission for the New Towns ;
- (e) a development corporation established by an order made, or having effect as if made, under the New Towns Act 1965 ; or
- (f) the Development Board for Rural Wales;

nor shall a person at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord would belong at that time to any of those bodies.

### **15 Landlord's interest belonging to housing association, etc.**

(1) A tenancy in respect of which any of the conditions specified in subsection (4) below is fulfilled shall not be a protected tenancy at any time when the interest of the landlord under that tenancy belongs to a housing association falling within subsection (3) below ; nor shall a person at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord would belong at that time to such a housing association.

(2) A tenancy shall not be a protected tenancy at any time when the interest of the landlord under that tenancy belongs to—

- (a) the Housing Corporation; or
- (b) a housing trust which is a charity within the meaning of the Charities Act 1960;

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nor shall a person at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord would belong at that time to any of those bodies.

- (3) A housing association falls within this subsection if—
- (a) it is for the time being registered in the register of housing associations established under section 13 of the Housing Act 1974 ; or
  - (b) it has made an application to the Housing Corporation, before 1st April 1975, for registration in that register and the application has not been disposed of by the Corporation; or
  - (c) it is for the time being specified in an order made by the Secretary of State under section 80 of the Housing Finance Act 1972 or paragraph 23 of Schedule 1 to the Housing Rents and Subsidies Act 1975; or
  - (d) it is a registered society within the meaning of section 74 of the Industrial and Provident Societies Act 1965 and its rules restrict membership to persons who are tenants or prospective tenants of the association and preclude the granting or assignment of tenancies to persons other than members.

In this subsection " housing association" has the same meaning as in section 189(1) of the Housing Act 1957.

- (4) The conditions referred to in subsection (1) above are—
- (a) that the dwelling-house was provided by the housing association with assistance under section 2 of the Housing &c. Act 1923, section 93(3) of the Housing Act 1936 or section 119(3) of the Housing Act 1957 (powers of local authorities to assist housing associations generally);
  - (b) that the dwelling-house was provided by the housing association in pursuance of an arrangement under section 29 of the Housing Act 1930, section 27 of the Housing Act 1935, section 94 of the Housing Act 1936, or section 120 of the Housing Act 1957 (local authority arrangements for provision of housing);
  - (c) that the dwelling-house was provided or improved by the housing association in accordance with arrangements under section 31 of the Housing Act 1949 or section 121 of the Housing Act 1957 (local authority arrangements for improvement of housing);
  - (d) that the dwelling-house was comprised in a scheme approved for the purpose of section 75 of the Housing Finance Act 1972;
  - (e) that the dwelling-house was comprised in a housing project approved for the purposes of section 29 of the Housing Act 1974;
  - (f) that the housing association is a registered society within the meaning of section 74 of the Industrial and Provident Societies Act 1965 and the provision of the dwelling-house forms part of the purposes for which its business is mainly conducted.
- (5) In subsection (2) above " housing trust" means a corporation or body of persons which—
- (a) is required by the terms of its constituent instrument to devote the whole of its funds, including any surplus which may arise from its operations, to the following purposes, that is to say, the provision of houses for persons the majority of whom are in fact members of the working classes, and other purposes incidental thereto; or
  - (b) is required by the terms of its constituent instrument to devote the whole or substantially the whole of its funds to charitable purposes and in fact devotes

the whole or substantially the whole of its funds to the purposes set out in paragraph (a) of this subsection.

- (6) In subsection (5) above " house " includes—
- (a) any yard, garden, outhouses and appurtenances belonging thereto or usually enjoyed therewith; and
  - (b) any part of a building which is occupied or intended to be occupied as a separate dwelling.

## **16 Landlord's interest belonging to housing co-operative**

A tenancy shall not be a protected tenancy at any time when the interest of the landlord under that tenancy belongs to a housing co-operative, as defined in paragraph 9 of Schedule 1 to the Housing Rents and Subsidies Act 1975 (housing subsidy where local authority housing functions are exercised by such co-operatives) and the dwelling-house is comprised in an agreement to which that paragraph applies.

### *Controlled and regulated tenancies*

## **17 Controlled tenancies**

- (1) A protected or statutory tenancy of a dwelling-house is a controlled tenancy for the purposes of this Act if—
- (a) the rateable value of the dwelling-house on 7th November 1956 (determined under Part I of Schedule 3 to this Act) did not exceed, if it was in the metropolitan police district or the City of London, £40 or, if it was elsewhere, £30, and
  - (b) the tenancy or, in the case of a statutory tenancy, the preceding contractual tenancy, was created by a lease or agreement coming into operation before 6th July 1957 or is or was a tenancy to which subsection (3), (4) or (5) below applies.
- (2) A tenancy of a dwelling-house is a controlled tenancy and not a tenancy at a low rent if, notwithstanding that the rent is less than two-thirds of the rateable value of the dwelling-house on the appropriate day—
- (a) the rent payable under the tenancy is not less than two-thirds of the 1939 rateable value of the dwelling-house, as determined under Part II of Schedule 3 ; and
  - (b) apart from section 5 of this Act, the tenancy would be a controlled tenancy.
- (3) This subsection applies to a protected tenancy created by a lease or agreement coming into operation after the commencement of this Act if—
- (a) it is granted to a person who, immediately before it was granted, was the tenant of any premises under a controlled tenancy, and
  - (b) the circumstances are such that the premises comprised in the controlled tenancy referred to in paragraph (a) above and the premises comprised in the protected tenancy granted to the person in question are the same, or that one of those premises consists of or includes part of the other premises.
- (4) Where a controlled tenancy of a dwelling-house comes to an end on the landlord recovering possession of the dwelling-house by virtue of section 101 of this Act, this

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subsection applies to a protected tenancy created by a lease or agreement coming into operation on or after the commencement of this Act which is—

- (a) a tenancy of the whole or any part of the premises comprised in the previous controlled tenancy, and
- (b) the first such tenancy created after the recovery of possession.

(5) This subsection applies to a protected tenancy created by a lease or agreement, coming into operation on or after 6th July 1957 but before the commencement of this Act, which by virtue of—

- (a) sub-paragraph (1) of paragraph 4 of Schedule 2 to the Rent Act 1968 (provision corresponding to subsection (3) above);
- (b) sub-paragraph (2) of that paragraph (provision corresponding to subsection (4) above); or
- (c) sub-paragraph (3) of that paragraph (which preserved the effect of provisions of the Rent Act 1957 corresponding to subsections (3) and (4) above),

was a controlled tenancy for the purposes of the Rent Act 1968.

(6) Where a controlled tenancy is followed by a statutory tenancy of the same dwelling-house and that statutory tenancy is itself a controlled tenancy, the two shall be treated for the purposes of this Act as together constituting one controlled tenancy.

(7) A tenancy of a dwelling-house is not a controlled tenancy if—

- (a) it is a long tenancy or, in the case of a statutory tenancy, the preceding contractual tenancy was a long tenancy; or
- (b) the dwelling-house is one which consists, and consists only, of premises which by virtue of the date of their construction or conversion are excluded by subsection (8) below from being the subject of a controlled tenancy; or
- (c) it is a protected furnished tenancy or statutory furnished tenancy; or
- (d) it has ceased to be a controlled tenancy by virtue of section 35 of the Housing Finance Act 1972 (decontrol of tenancies of dwelling-houses which on 31st March 1972 had a rateable value exceeding, in Greater London, £69, or elsewhere, £34); or
- (e) it has ceased to be a controlled tenancy by virtue of Part III of the Housing Act 1969, Part III of the Housing Finance Act 1972 or Part VIII of this Act (decontrol of tenancies of dwellings in good repair and provided with standard amenities); or
- (f) it is a regulated tenancy by virtue of section 18(3) of, or paragraph 13 of Schedule 24 to, this Act (decontrol on statutory tenancy passing to second successor).

(8) Premises which—

- (a) were erected after 29th August 1954, or
- (b) are separate and self-contained premises produced by conversion, after that date, of other premises, with or without the addition of premises erected after that date,

are excluded from being the subject of a controlled tenancy unless they consist of a dwelling-house provided by works in respect of which a grant became payable under section 20 of the Housing Act 1949 or section 30 of the Housing (Financial Provisions) Act 1958 (improvement grants).



- (9) For the purposes of subsection (8) above premises shall be treated as converted or erected after 29th August 1954 if the conversion or erection was completed after that date, notwithstanding that it may have been begun on or before that date.

## **18 Regulated tenancies**

- (1) Subject to sections 24(3) and 143 of this Act, a "regulated tenancy" is, for the purposes of this Act, a protected or statutory tenancy which is not (either because it never was or because it has ceased to be) a controlled tenancy.
- (2) Where a regulated tenancy is followed by a statutory tenancy of the same dwelling-house, the two shall be treated for the purposes of this Act as together constituting one regulated tenancy.
- (3) If, on the death of a statutory tenant of a dwelling-house whose statutory tenancy was a controlled tenancy, a person becomes statutory tenant of that dwelling-house by virtue of paragraph 6 or 7 of Schedule 1 to this Act, that person's statutory tenancy shall be a regulated tenancy and not a controlled tenancy.
- (4) Schedule 17 to this Act shall apply to a tenancy which has become a regulated tenancy by virtue of—
- (a) subsection (3) above, or
  - (b) paragraph 5 of Schedule 2 to the Rent Act 1968 (which is superseded by subsection (3) above).

### *Restricted contracts*

## **19 Restricted contracts**

- (1) A contract to which this section applies is, in this Act, referred to as a "restricted contract".
- (2) Subject to section 144 of this Act, this section applies to a contract, whether entered into before or after the commencement of this Act, whereby one person grants to another person, in consideration of a rent which includes payment for the use of furniture or for services, the right to occupy a dwelling as a residence.
- (3) A contract is not a restricted contract if the dwelling falls within one of the Classes set out in subsection (4) below.
- (4) Where alternative rateable values are mentioned in this subsection, the higher applies if the dwelling is in Greater London and the lower applies if it is elsewhere.

### *Class D*

The appropriate day in relation to the dwelling falls or fell on or after 1st April 1973 and the dwelling on the appropriate day has or had a rateable value exceeding £1,500 or £750.

### *Class E*

The appropriate day in relation to the dwelling fell before, 1st April 1973 and the dwelling—

- (a) on the appropriate day had a rateable value exceeding £400 or £200, and
- (b) on 1st April 1973 had a rateable value exceeding £1,500 or £750.

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- (5) A contract is not a restricted contract if—
- (a) it creates a regulated tenancy; or
  - (b) under the contract the interest of the lessor belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster or to the Duchy of Cornwall or to a government department, or is held in trust for Her Majesty for the purposes of a government department ; or
  - (c) it is a contract for the letting of any premises at a rent which includes payment in respect of board if the value of the board to the lessee forms a substantial proportion of the whole rent;
  - (d) it is a protected occupancy as defined in the Rent (Agriculture) Act 1976 ; or
  - (e) it creates a tenancy to which Part VI of this Act applies.
- (6) Subject to subsections (3) to (5) above, and to paragraph 17 of Schedule 24 to this Act, a contract falling within subsection (2) above and relating to a dwelling which consists of only part of a house is a restricted contract whether or not the lessee is entitled, in addition to exclusive occupation of that part, to the use in common with any other person of other rooms or accommodation in the house.
- (7) No right to occupy a dwelling for a holiday shall be treated for the purposes of this section as a right to occupy it as a residence.
- (8) In this section—
- " dwelling " means a house or part of a house;
  - " lessee " means the person to whom is granted, under a restricted contract, the right to occupy the dwelling in question as a residence and any person directly or indirectly deriving title from the grantee; and
  - " lessor " means the person who, under a restricted contract, grants to another the right to occupy the dwelling in question as a residence and any person directly or indirectly deriving title from the grantor; and
  - " services " includes attendance, the provision of heating or lighting, the supply of hot water and any other privilege or facility connected with the occupancy of a dwelling, other than a privilege or facility requisite for the purposes of access, cold water supply or sanitary accommodation.

## **20 Certain unfurnished tenancies to be treated as restricted contracts**

If and so long as a tenancy is, by virtue only of section 12 of this Act, precluded from being a protected tenancy it shall be treated as a restricted contract notwithstanding that the rent may not include payment for the use of furniture or for services.

### *Shared accommodation*

## **21 Tenant sharing accommodation with landlord**

Where under any contract—

- (a) a tenant has the exclusive occupation of any accommodation, and
- (b) the terms on which he holds the accommodation include the use of other accommodation in common with his landlord or in common with his landlord and other persons, and

- (c) by reason only of the circumstances mentioned in paragraph (b) above, or by reason of those circumstances and the operation of section 12 of this Act, the accommodation referred to in paragraph (a) above is not a dwelling-house let on a protected tenancy,

the contract is a restricted contract notwithstanding that the rent does not include payment for the use of furniture or for services.

## **22 Tenant sharing accommodation with person other than landlord**

- (1) Where a tenant has the exclusive occupation of any accommodation (" the separate accommodation ") and—

- (a) the terms as between the tenant and his landlord on which he holds the separate accommodation include the use of other accommodation (" the shared accommodation ") in common with another person or other persons, not being or including the landlord, and

- (b) by reason only of the circumstances mentioned in paragraph (a) above, the separate accommodation would not, apart from this section, be a dwelling-house let on or subject to a protected or statutory tenancy,

the separate accommodation shall be deemed to be a dwelling-house let on a protected tenancy or, as the case may be, subject to a statutory tenancy and the following provisions of this section shall have effect.

- (2) For the avoidance of doubt it is hereby declared that where, for the purpose of determining the rateable value of the separate accommodation, it is necessary to make an apportionment under this Act, regard is to be had to the circumstances mentioned in subsection (1)(a) above.
- (3) While the tenant is in possession of the separate accommodation (whether as a protected or statutory tenant), any term or condition of the contract of tenancy terminating or modifying, or providing for the termination or modification of, his right to the use of any of the shared accommodation which is living accommodation shall be of no effect.
- (4) Where the terms and conditions of the contract of tenancy are such that at any time during the tenancy the persons in common with whom the tenant is entitled to the use of the shared accommodation could be varied, or their number could be increased, nothing in subsection (3) above shall prevent those terms and conditions from having effect so far as they relate to any such variation or increase.
- (5) Without prejudice to the enforcement of any order made under subsection (6) below, while the tenant is in possession of the separate accommodation, no order shall be made for possession of any of the shared accommodation, whether on the application of the immediate landlord of the tenant or on the application of any person under whom that landlord derives title, unless a like order has been made, or is made at the same time, in respect of the separate accommodation; and the provisions of section 98(1) of this Act shall apply accordingly.
- (6) On the application of the landlord, the county court may make such order either—
  - (a) terminating the right of the tenant to use the whole or any part of the shared accommodation other than living accommodation, or
  - (b) modifying his right to use the whole or any part of the shared accommodation, whether by varying the persons or increasing the number of persons entitled to the use of that accommodation, or otherwise,

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as the court thinks just.

- (7) No order shall be made under subsection (6) above so as to effect any termination or modification of the rights of the tenant which, apart from subsection (3) above, could not be effected by or under the terms of the contract of tenancy.
- (8) In this section " living accommodation " means accommodation of such a nature that the fact that it constitutes or is included in the shared accommodation is (or, if the tenancy has ended, was) sufficient, apart from this section, to prevent the tenancy from constituting a protected tenancy of a dwelling-house.

#### *Sublettings*

### **23 Certain sublettings not to exclude any part of sub-lessor's premises from protection**

- (1) Where the tenant of any premises, consisting of a house or part of a house, has sublet a part but not the whole of the premises, then, as against his landlord or any superior landlord, no part of the premises shall be treated as not being a dwelling-house let on or subject to a protected or statutory tenancy by reason only that—
  - (a) the terms on which any person claiming under the tenant holds any part of the premises include the use of accommodation in common with other persons; or
  - (b) part of the premises is let to any such person at a rent which includes payments in respect of board or attendance.
- (2) Nothing in this section shall affect the rights against, and liabilities to, each other of the tenant and any person claiming under him, or of any 2 such persons.

#### *Business premises*

### **24 Premises with a business use**

- (1) Subject to section 11 of this Act, the fact that part of the premises comprised in a dwelling-house is used as a shop or office or for business, trade or professional purposes shall not prevent the dwelling-house from being let on or subject to a controlled tenancy.
- (2) Part II of the Landlord and Tenant Act 1954 (which gives security of tenure to business tenants) shall not apply to a tenancy where the property comprised therein is let under a tenancy which either is a controlled tenancy or would be such a tenancy if it were not a tenancy at a low rent.
- (3) A tenancy shall not be a regulated tenancy if it is a tenancy to which Part II of the Landlord and Tenant Act 1954 applies (but this provision is without prejudice to the application of any other provision of this Act to a sub-tenancy of any part of the premises comprised in such a tenancy).

*Miscellaneous*

**25 Rateable value and meaning of " appropriate day "**

- (1) Except where this Act otherwise provides, the rateable value on any day of a dwelling-house shall be ascertained for the purposes of this Act as follows:—
  - (a) if the dwelling-house is a hereditament for which a rateable value is then shown in the valuation list, it shall be that rateable value ;
  - (b) if the dwelling-house forms part only of such a hereditament or consists of or forms part of more than one such hereditament, its rateable value shall be taken to be such value as is found by a proper apportionment or aggregation of the rateable value or values so shown.
- (2) Any question arising under this section as to the proper apportionment or aggregation of any value or values shall be determined by the county court, and the decision of the county court shall be final.
- (3) In this Act "the appropriate day"—
  - (a) in relation to any dwelling-house which, on 23rd March 1965, was or formed part of a hereditament for which a rateable value was shown in the valuation list then in force, or consisted or formed part of more than one such hereditament, means that date, and
  - (b) in relation to any other dwelling-house, means the date on which such a value is or was first shown in the valuation list.
- (4) Where, after the date which is the appropriate day in relation to any dwelling-house, the valuation list is altered so as to vary the rateable value of the hereditament of which the dwelling-house consists or forms part and the alteration has effect from a date not later than the appropriate day, the rateable value of the dwelling-house on the appropriate day shall be ascertained as if the value shown in the valuation list on the appropriate day had been the value shown in the list as altered.
- (5) This section applies in relation to any other land as it applies in relation to a dwelling-house.

**26 Land and premises let with dwelling-house**

- (1) For the purposes of this Act, any land or premises let together with a dwelling-house shall, unless it consists of agricultural land exceeding 2 acres in extent, be treated as part of the dwelling-house.
- (2) For the purposes of subsection (1) above " agricultural land " has the meaning set out in section 26(3)(a) of the General Rate Act 1967 (exclusion of agricultural land and premises from liability for rating).

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## PART II

### RENTS UNDER CONTROLLED TENANCIES

#### *Rent limit*

#### **27 Rent limit for controlled tenancies**

- (1) Subject to this Part of this Act, the rent recoverable for any rental period from the tenant under a controlled tenancy shall not exceed the following limit, that is to say a rent of which the annual rate is equal to the aggregate of—
  - (a) the 1956 gross value of the dwelling, determined in accordance with Schedule 4 to this Act and multiplied by the appropriate factor;
  - (b) the annual amount, ascertained in accordance with Schedule 5 to this Act, of any rates for the basic rental period, being rates borne by the landlord or a superior landlord; and
  - (c) such annual amount as may have been (or may be) agreed in writing between the landlord and the tenant or determined by the county court to be a reasonable charge for any services for the tenant provided by the landlord or a superior landlord during the basic rental period or for any furniture which, under the terms of the tenancy, the tenant was (or is) entitled to use during that period.
- (2) The appropriate factor referred to in subsection (1)(a) above shall be determined as follows:—
  - (a) in any case where the responsibility for repairs is as specified in Part I of Schedule 6 to this Act, the appropriate factor shall be that specified in that Part of that Schedule, and
  - (b) in any other case, the appropriate factor shall be 2.
- (3) The limit on the rent recoverable under a controlled tenancy for any rental period (in this Part of this Act referred to as "the rent limit") shall be subject—
  - (a) to adjustment from time to time under sections 29 to 32 of this Act and paragraph 4(1) of Schedule 20 to this Act, and
  - (b) to reductions as provided by Part II of Schedule 6 to this Act, in case of disrepair.
- (4) Where under a controlled tenancy current on 6th July 1957, the rent recoverable for the basic rental period exceeded what would have been the rent limit for that period if ascertained under subsection (1) above, then, subject to subsection (3) above, the rent limit shall be the rent recoverable for that period.

#### *Revision of rent and rent limits*

#### **28 Procedure for increasing rents**

- (1) If the rent for the time being recoverable under a controlled tenancy is less than the rent limit it may be increased up to that limit in accordance with this section.
- (2) Subject to—
  - (a) Part II of Schedule 6 to this Act, and

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- (b) paragraph 4 of Schedule 20 to this Act,  
the rent may be increased as mentioned in subsection (1) above by the service by the landlord on the tenant of a notice of increase in the prescribed form, specifying the amount of the increase.
- (3) The increase shall not have effect with respect to any rental periods beginning before such date as may be specified in the notice which, except in a case authorised by section 29(2), 31 or 32(5) of this Act, shall be a date not earlier than 3 months after the service of the notice.
- (4) The total of the increases which may be specified in any notice or notices of increase as taking effect less than 9 months after service of the first notice (excluding any increases which, under section 29(3), 31(10) or 32(5) of this Act, are to be disregarded) shall not exceed 37 ½ pence per week, but a notice may specify more than one date and amount.
- (5) Except in so far as may be necessary for giving effect to an adjustment under section 29 or 32 of this Act, a notice of increase shall be of no effect if given at a time when—
- (a) the dwelling is within a clearance area under the Housing Act 1957 or is or forms part of premises with respect to which a demolition order or closing order under that Act has been made and has not ceased to be in force ; or
  - (b) works of repair remain unexecuted which were required to be executed—
    - (i) by an order relating to the dwelling made under section 94 of the Public Health Act 1936 (nuisance orders where local authority abatement notices are disregarded) against the landlord or any person receiving rent as agent for the landlord; or
    - (ii) by a notice relating to the dwelling given to the landlord or any such person under section 9 of the Housing Act 1957 (notices to repair houses unfit for human habitation).
- (6) Except in so far as may be necessary for giving effect to an adjustment under section 29 or 32 of this Act, if the date specified in a notice of increase in accordance with subsection (3) above falls at a time when the condition specified in paragraph (a) or (b) of subsection (5) above is fulfilled, no increase shall be recoverable by virtue of the notice for any rental period beginning at any such time.

## **29 Adjustment with respect to rates borne by landlord**

- (1) Where any rates in respect of the dwelling are borne by the landlord or a superior landlord, then, for any rental period for which the amount of the rates, ascertained in accordance with Schedule 5 to this Act, differs from the amount, so ascertained, of the rates for the basic rental period, the rent limit shall be increased or decreased by the amount of the difference.
- (2) In so far as a notice of increase relates to an increase of rent authorised by this section, the date specified in the notice may be any date not earlier than 6 weeks before the service of the notice and, if it is earlier than the service of the notice, any rent underpaid shall become due on the day after the service of the notice.
- (3) Any increase of rent authorised by this section shall be disregarded for the purposes of section 28(4) of this Act.

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### **30 Adjustment with respect to services and furniture**

- (1) Where, for any rental period, there is with respect to—
  - (a) the provision of services for the tenant by the landlord or a superior landlord, or
  - (b) the use of furniture by the tenant under the terms of the tenancy,or any circumstances relating thereto any difference, in comparison with the basic rental period, such as to affect the amount of the rent which it is reasonable to charge, the rent limit shall be increased or decreased by an appropriate amount.
- (2) Where, for any rental period, the rent limit is increased by an appropriate amount under subsection (1) above, the rent for that period shall, notwithstanding anything in section 28 of this Act and without the service of any notice, be increased by the like amount.
- (3) Any question whether, or by what amount, the rent limit is increased or decreased by virtue of subsection (1) above shall be determined by agreement in writing between the landlord and the tenant or by the county court.
- (4) Any determination under subsection (3) above—
  - (a) may be made so as to relate to past rental periods; and
  - (b) shall have effect with respect to rental periods subsequent to the periods to which it relates until revoked or varied by any such agreement as is referred to in subsection (3) or by the county court.

### **31 Increase for repairs**

- (1) If repairs have been effected to a dwelling which is subject to a controlled tenancy, the rent limit under the controlled tenancy for rental periods beginning after the completion of the repairs shall be increased by the appropriate amount.
- (2) If repairs have been effected to premises part of which is subject to a controlled tenancy (other than repairs to the part of the premises subject to the tenancy), and the landlord claims that benefit accrues to that part of the premises consisting of the dwelling subject to the controlled tenancy, the rent limit under the controlled tenancy for rental periods beginning after the completion of the repairs may be increased, in accordance with subsection (6) below, by the appropriate amount.
- (3) In this section—

" the appropriate amount " means—

  - (a) subject to subsection (6) below, in a case to which subsection (1) above applies, 12 ½ per cent. per annum of the expenditure on the repairs; and
  - (b) in a case to which subsection (2) applies, 12 ½ per cent. per annum of a proportion of the expenditure on the repairs determined in accordance with subsection (6) below;

" expenditure on the repairs " means the amount expended on the repairs by the landlord or any superior landlord or any person from whom the landlord or any superior landlord derives title.
- (4) This section does not apply to repairs for which the tenant is responsible or to repairs completed before 6th April 1973.
- (5) Where a grant paid or payable under—
  - (a) Part I of the Housing Act 1969 ; or



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- (b) section 61, 65 or 71 of the Housing Act 1974,  
is such as to cover the whole or any part of the cost of repairs, the reference in subsection (3) above to the amount expended on the repairs shall be construed as a reference to that amount diminished by the amount of the grant.
- (6) The appropriate amount—
- (a) in a case to which subsection (1) above applies, but where the tenant claims that benefit accrues not only to the dwelling subject to the controlled tenancy but also to other premises of the landlord or a superior landlord, and
- (b) in any case to which subsection (2) above applies,
- is 12 ½ per cent. per annum of only so much of the expenditure on the repairs as may be determined, by agreement in writing between the landlord and the tenant or by the county court, to be properly apportionable to the dwelling, having regard to the benefit accruing, from the carrying out of the repairs, to the dwelling and to the other premises benefited by them. Any such determination may be made so as to relate to past rental periods and if made by the county court shall be final.
- (7) If—
- (a) the landlord serves a notice of increase of rent by virtue of this section, and
- (b) the tenant requests him in writing, not later than 3 months after service of the notice, to supply him with information showing how he has calculated the expenditure on the repairs,
- it shall be the landlord's duty, not later than one month after the date of the request, to supply the tenant with copies of such accounts, receipts and other documents as are reasonably necessary for that purpose.
- (8) A request under subsection (7) above shall be deemed to be duly made to a landlord if it is served on any agent of the landlord named as such in a rent book or other similar document or on the person who receives the rent on behalf of the landlord; and it shall be the duty of a person on whom a request is so served to forward it as soon as may be to the landlord.
- (9) If any person without reasonable excuse fails to perform any duty imposed on him by subsection (7) or (8) above, he shall be guilty of an offence and liable to a fine not exceeding £200.
- (10) In so far as a notice of increase relates to an increase of rent authorised by this section, the date specified in the notice may be any date after the service of the notice, and any such increase shall be disregarded for the purposes of section 28(4) of this Act.
- (11) Where an offence under subsection (9) above which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.
- (12) Where the affairs of a body corporate are managed by its members, subsection (11) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

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### **32 Increase for improvements**

- (1) If an improvement has been effected in a dwelling and the improvement was completed after 5th July 1957 then, subject to—
- (a) section 33 of this Act, and
  - (b) paragraph 4 of Schedule 20 to this Act,
- the rent limit under any controlled tenancy of the dwelling for rental periods beginning after the completion of the improvement shall be increased by the appropriate percentage per annum of the amount expended on the improvement by the landlord or any superior landlord or any person from whom the landlord or any superior landlord derives title.
- (2) The appropriate percentage shall be determined as follows:—
- (a) if the improvement was completed before 24th November 1961, it is 8 per cent.; and
  - (b) if the improvement was completed on or after that date then, subject to subsection (3) below, it is 12 ½ per cent.
- (3) If an improvement completed on or after 24th November 1961 was carried out in reliance on a consent granted before that date by a tenant under the controlled tenancy, the appropriate percentage is 8 per cent., and not 12 ½ per cent.
- (4) Subsection (3) above shall not apply where the consent was in writing and contained an acknowledgement (however expressed) that the rent could be increased on account of the improvement to a stated amount which was at least the maximum of the rent limit as it would then have been if increased, in accordance with subsection (1) above, on the basis that the appropriate percentage was 12 ½ per cent.
- (5) In so far as a notice of increase relates to an increase of rent authorised by this section, the date specified in the notice may be any date after the service of the notice, and any such increase shall be disregarded for the purposes of section 28(4) of this Act.
- (6) Where in pursuance of a proposal made on the ground of a change in the occupier or circumstances of occupation, the gross value which (under Schedule 4 to this Act) is material in determining the 1956 gross value of a dwelling in which an improvement has been effected has been varied so as to take account of the state of the dwelling at a date after 5th July 1957, then, in relation to that dwelling, a reference to that date shall be substituted for the reference in subsection (1) above to 5th July 1957.

### **33 Grant-aided improvements etc.**

- (1) Where, in respect of an improvement—
- (a) a grant has been made under—
    - (i) section 20 of the Housing Act 1949 (improvement grants),
    - (ii) section 30 of the Housing (Financial Provisions) Act 1958 (improvement grants),
    - (iii) section 4 of the House Purchase and Housing Act 1959 (standard grants),
    - (iv) section 15 of the Airports Authority Act 1965 (grants towards cost of sound-proofing),
    - (v) Part I of the Housing Act 1969 (improvement grants and standard grants),
    - (vi) section 29A of the Civil Aviation Act 1971,

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- (vii) regulations under section 20 of the Land Compensation Act 1973 (sound-proofing of buildings affected by public works), or
- (viii) section 61 or 65 of the Housing Act 1974 (improvement grants and intermediate grants); or

- (b) a repayment has been made under section 12 of the Clean Air Act 1956 (adaptation of fireplaces in private dwellings);

the reference in section 32(1) of this Act to the amount expended on the improvement shall be construed as a reference to that amount diminished by the amount of the grant or repayment.

- (2) Where an improvement is effected in a dwelling in compliance with an immediate improvement notice or a final improvement notice within the meaning of Part II of the Housing Act 1964 or an improvement notice within the meaning of Part VIII of the Housing Act 1974 (compulsory improvement of dwellings to provide standard amenities) or in compliance with an undertaking accepted under either of those Parts, and
  - (a) the landlord, or a predecessor in title of the landlord, is the person who expended money on the improvement, and
  - (b) a standard grant under section 4 of the House Purchase and Housing Act 1959 or Part I of the Housing Act 1969 or an intermediate grant under section 65 of the Housing Act 1974 in respect of the improvement, although obtainable, has not been obtained,

the reference in section 32(1) of this Act to the amount expended on the improvement shall be construed as a reference to that amount diminished by the amount of the standard grant or intermediate grant which could have been obtained in respect of the improvement.

- (3) In a case falling within subsection (2) above, the local authority in whose district the dwelling is situated shall, at the request in writing of the landlord or the tenant, give him an estimate in writing of what the amount of the standard or intermediate grant would have been if it had been obtained.
- (4) In any proceedings relating to an increase of rent authorised by section 32 of this Act in a case falling within subsection (2) above, it shall be assumed, until the contrary is proved, that a standard grant or, as the case may be, intermediate grant was obtainable in respect of the improvement and, for the purposes of any such proceedings, an estimate under subsection (3) above shall be sufficient evidence of what the amount of that grant would have been.
- (5) In this section "local authority" means the council of a district or of a London borough or the Common Council of the City of London.

### **34 Private street works to count as improvements**

- (1) This section applies where a dwelling which is the subject of a controlled tenancy has access to a street on which works have been carried out under—
  - (a) section 174, 189 or 190 of the Highways Act 1959 (certain authorities to execute street works in accordance with the Codes of 1875 and 1892), or
  - (b) the corresponding provisions of any local Act.
- (2) The amount—

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- (a) of any expenditure incurred after 5th July 1957 by the landlord or a superior landlord in the carrying out of the works in question, or
  - (b) of any liability incurred after that date by the landlord or a superior landlord in respect of those works to the authority by whom they were carried out,
- shall be treated (whether or not apart from this section it would be so treated) as expenditure incurred by the landlord or superior landlord on an improvement as mentioned in section 32(1) of this Act.
- (3) Subsection (2)(b) above applies whether the liability mentioned in that subsection is dischargeable in a lump sum or by instalments, but, for the purposes of this section, interest shall be excluded in determining the amount of any liability which is dischargeable by instalments.
  - (4) If benefit accrues from the carrying out of the works not only to the dwelling but also to other premises of the landlord or superior landlord, the amount to be treated as mentioned in subsection (2) above shall be so much only of the expenditure or liability as may be determined, by agreement in writing between the landlord and the tenant or by the county court, to be properly apportionable to the dwelling, having regard to the benefit accruing, from the carrying out of the works, to the dwelling and to the other premises.
  - (5) Any appointment made by the county court under subsection (4) above shall be final.
  - (6) For the purposes of this section the amount of any expenditure shall be treated as diminished by the amount of any contribution paid in respect of that expenditure under any enactment.

### **35 Tenant's right to challenge amount of expenditure on improvements or repairs**

- (1) A tenant on whom a notice specifying an increase authorised by section 31 or 32 of this Act is served may, subject to paragraph 1(7) of Schedule 20 to this Act and not later than one month after the service of the notice or such longer time as the court may allow, apply to the county court for an order cancelling or reducing the increase on the ground—
  - (a) in the case of work carried out in pursuance of a notice under section 9 of the Housing Act 1957 (repair notices), that a greater amount was expended on it than was reasonable, or
  - (b) in any other case, that the work was unnecessary or that a greater amount was expended on it than was reasonable,and the court may make an order accordingly which may relate not only to future but also to past rental periods.
- (2) No application shall be made under this section on the ground that any work was unnecessary if—
  - (a) any such grant as is referred to in section 31(5) or 33(1)(a) of this Act has been made in respect of the work, or
  - (b) a tenant under the controlled tenancy consented in writing to the work and the consent contained an acknowledgement (however expressed) that the rent could be increased on account of the work.
- (3) No application shall be made under this section in relation to any increase authorised by virtue of section 34 of this Act.

- (4) In this section references to " work " shall be construed—
  - (a) in relation to a notice specifying an increase authorised by section 31 of this Act, as references to the improvement in question, and
  - (b) in relation to a notice specifying an increase authorised by section 32 of this Act, as references to the repairs in question.
- (5) In this section " improvement", in addition to having the meaning given by section 43 of this Act, shall be construed in accordance with paragraph 1(6) of Schedule 20 to this Act.

### **36 Variations of rent during protected tenancies**

- (1) Neither a notice of increase nor section 30 of this Act shall operate to increase the rent under a controlled tenancy for any rental period which begins at a time when the controlled tenancy is a protected tenancy, except in so far as may be consistent with the terms of the tenancy.
- (2) Where a notice of increase is served during the currency of a protected tenancy which could, by a notice to quit served by the landlord at the same time, be brought to an end before the date or the earliest date specified in the notice of increase, the notice of increase shall operate to convert the protected tenancy into a statutory tenancy as from that date.
- (3) If, in the case of a controlled tenancy which was current on 6th July 1957,—
  - (a) the basic rental period began at a time when the controlled tenancy was a protected tenancy, and
  - (b) the rent recoverable for the basic rental period included an increase agreed or determined under section 40 of the Housing Repairs and Rents Act 1954 (increase for rise in cost of services provided under pre-1939 lettings) in respect of services which the landlord was not under the terms of the tenancy liable to provide,then, if those services are withheld in whole or in part during any rental period beginning during the currency of the protected tenancy, the rent recoverable for that period shall be decreased by an appropriate amount.
- (4) Any question whether, or by what amount, the recoverable rent is decreased by virtue of subsection (3) above shall be determined by agreement in writing between the landlord and the tenant or by the county court.
- (5) Any determination under subsection (4) above—
  - (a) may be made so as to relate to past rental periods; and
  - (b) shall have effect with respect to rental periods subsequent to the periods to which it relates until revoked or varied by any such agreement as is referred to in subsection (4) above or by the county court.
- (6) Subject to subsections (3) and (4) above, nothing in this Part of this Act shall affect the operation of any lease or agreement in so far as it provides for a reduction of rent during the currency of a protected tenancy.

### **37 Errors and misrepresentations in notices of increase**

- (1) If the county court is satisfied that any error or omission in a notice of increase is due to a bona fide mistake on the part of the landlord, the court may by order amend the notice

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by correcting any errors or supplying any omission therein which, if not corrected or supplied, would render the notice invalid and, if the court so directs, the notice as so amended shall have effect and be deemed to have had effect as a valid notice.

- (2) Any such amendment of a notice of increase may be made on such terms and conditions with respect to arrears of rent or otherwise as appear to the court to be just and reasonable.
- (3) No increase of rent which becomes payable by reason of an amendment of a notice of increase under subsection (1) above shall be recoverable in respect of any rental period which ended more than 6 months before the date of the order making the amendment.
- (4) If a notice of increase contains any statement or representation which is false or misleading in any material respect, the landlord shall be liable to a fine not exceeding £50 unless he proves that the statement was made innocently and without intent to deceive.

#### *Enforcement provisions*

### **38 Recovery from landlord of sums paid in excess of recoverable rent, etc.**

- (1) Where a tenant has paid on account of rent any amount which, by virtue of this Part of this Act, is irrecoverable by the landlord, the tenant who paid it shall be entitled to recover that amount from the landlord who received it or his personal representatives.
- (2) Any amount which a tenant is entitled to recover under subsection (1) above may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.
- (3) No amount which a tenant is entitled to recover under subsection (1) above shall be recoverable at any time after the expiry of 2 years from the date of payment.
- (4) Any person who, in any rent book or similar document, makes an entry showing or purporting to show any tenant as being in arrears in respect of any sum on account of rent which is irrecoverable by virtue of this Part of this Act shall be liable to a fine not exceeding £50, unless he proves that, at the time of the making of the entry, the landlord had a bona fide claim that the sum was recoverable.
- (5) If, where any such entry has been made by or on behalf of any landlord, the landlord, on being requested by or on behalf of the tenant to do so, refuses or neglects to cause the entry to be deleted within 7 days, the landlord shall be liable to a fine not exceeding £50, unless he proves that, at the time of the neglect or refusal to cause the entry to be deleted, he had a bona fide claim that the sum was recoverable.

### **39 Determination by court of recoverable rent of sublet part of dwelling-house subject to controlled tenancy**

- (1) Where, in any proceedings for possession, in such circumstances as are specified in Case 10 in Schedule 15 to this Act, of a dwelling-house subject to a controlled tenancy—
  - (a) the sublet part in question is subject to a controlled tenancy, and
  - (b) it appears to the court that no determination of the recoverable rent of the sublet part has previously been made by the county court,

the court shall make such a determination, whether or not an order is made for possession of the dwelling-house.

- (2) Subsection (3) below shall apply where the county court has determined the recoverable rent of a dwelling-house which is subject to a controlled tenancy and is itself a sublet part of another dwelling-house subject to a controlled tenancy (in this section referred to as the "superior tenancy").
- (3) If, after the determination referred to in subsection (2) above, the rent charged by the tenant under the superior tenancy for the sublet part is in excess of the recoverable rent of that part, the tenant shall be guilty of an offence unless he proves—
  - (a) that he did not know and could not by reasonable inquiry have ascertained that the rent charged by him was in excess of the recoverable rent; or
  - (b) that the excess was solely due to an accidental miscalculation.
- (4) A person guilty of an offence under this section shall be liable to a fine not exceeding £100.

#### **40 Rectification of rent book in light of determination of recoverable rent**

Where, in any proceedings, the recoverable rent of a dwelling-house subject to a controlled tenancy is determined by a court, then, on the application of the tenant (whether in those or in any subsequent proceedings) the court may call for the production of the rent book or any similar document relating to the dwelling-house and may direct the registrar or clerk of the court to correct any entries showing, or purporting to show, the tenant as being in arrears in respect of any sum which the court has determined to be irrecoverable.

#### *General provisions*

#### **41 Service of notices, etc.**

- (1) Any notice, certificate or other document required or authorised to be served under this Part of this Act may be served either—
  - (a) by delivering it to the person on whom it is to be served, or
  - (b) by leaving it at the usual or last known place of abode of that person, or
  - (c) by sending it by the recorded delivery service or by registered post in a prepaid letter addressed to that person at his usual or last known place of abode, or
  - (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it, by the recorded delivery service or by registered post, in a prepaid letter addressed to the secretary or clerk of the company or body at that office, or
  - (e) if it is not practicable after reasonable inquiry to ascertain the name or address of an owner, lessee or occupier of land on whom it should be served, by addressing it to him by the description of "owner" or "lessee" or "occupier" of the premises (naming them) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

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- (2) Without prejudice to the generality of subsection (1) above, that subsection shall apply to the service, by virtue of section 151 of this Act, of any notice, certificate or other document as is mentioned in subsection (1) above on an agent of the landlord or a person receiving the rent.

#### **42 Regulations**

- (1) The Secretary of State may make regulations prescribing forms for notices, certificates and other documents required or authorised under this Part of this Act and requiring such notices, certificates and documents to contain such information as may be specified in the regulations.
- (2) Any such regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **43 Interpretation of Part II**

- (1) In this Part of this Act, except where the context otherwise requires,—
- " appropriate factor " means the number by which the 1956 gross value is to be multiplied in determining the rent limit;
  - " basic rental period " means the rental period comprising 6th July 1957 or, in the case of a controlled tenancy beginning after that date, the first rental period of the tenancy;
  - " dwelling " means, in relation to a controlled tenancy, the aggregate of the premises comprised in the tenancy;
  - " improvement " includes structural alteration, extension or addition and the provision of additional fixtures or fittings but does not include anything done by way of decoration or repair;
  - " notice of increase " means a notice of increase under section 28 of this Act;
  - " prescribed " means prescribed by regulations under section 42 of this Act, and references to a prescribed form include references to a form substantially to the same effect as the prescribed form ;
  - " recoverable rent " means rent which, under a controlled tenancy, is or was for the time being recoverable, having regard to the provisions of this Part of this Act;
  - " rent limit " has the meaning assigned to it by section 27(3) of this Act;
  - " tenant ", in relation to a landlord, and " sub-tenant ", in relation to a tenant, mean respectively immediate tenant and immediate sub-tenant;
  - " 1956 gross value ", in relation to a dwelling, means that value as determined in accordance with Schedule 4 to this Act.
- (2) Any reference in this Part of this Act to rent does not include any sums recoverable as rent under section 16 of the Landlord and Tenant Act 1927 (which enables landlords to recover as rent sums in respect of increases in taxes, rates or fire premiums ascribable to improvements made by tenants), other than—
- (a) sums so recoverable in respect of increases in rates, or
  - (b) sums referable to improvements executed by the tenant before 1st April 1956, or
  - (c) sums referable to improvements executed by him after that date but affecting the 1956 gross value by reason of a proposal made before 1st April 1957.



- (3) In determining the amount of any rent for the purposes of this Part of this Act, no account shall be taken of any deduction falling to be made under Schedule 1 to the Landlord and Tenant (Rent Control) Act 1949 (which provided in certain cases for the recovery of premiums by deduction from rent).
- (4) Except in so far as the context otherwise requires, references in this Part of this Act to rates, in respect of a dwelling, include references to such proportion of any rates in respect of a hereditament of which the dwelling forms part as may be agreed in writing between the landlord and the tenant or determined by the county court.
- (5) Any apportionment of rates made by the county court for the purposes of this Part of this Act shall be final.

### **PART III**

#### **RENTS UNDER REGULATED TENANCIES**

##### *Regulation of rent*

#### **44 Limit of rent during contractual periods**

- (1) Where a rent for a dwelling-house is registered under Part IV of this Act, the rent recoverable for any contractual period of a regulated tenancy of the dwelling-house shall be limited to the rent so registered.

This subsection is subject to the following provisions of this Act : subsection (4) below, sections 55 and 71(3), paragraph 1(3) of Schedule 7, Schedule 9 and paragraph 3 of Schedule 20.

- (2) Where a limit is imposed by subsection (1) above on the rent recoverable in relation to any contractual period of a regulated tenancy, the amount by which the rent payable under the tenancy exceeds that limit shall, notwithstanding anything in any agreement, be irrecoverable from the tenant.
- (3) In this Part of this Act " contractual rent limit" means the limit specified in subsection (1) above.
- (4) Schedule 7 to this Act shall have effect for the purpose of providing a special rent limit in relation to certain tenancies which became regulated tenancies by virtue of section 14 of the Counter-Inflation Act 1973.

#### **45 Limit of rent during statutory periods**

- (1) Except as otherwise provided by this Part of this Act, where the rent payable for any statutory period of a regulated tenancy of a dwelling-house would exceed the rent recoverable for the last contractual period thereof, the amount of the excess shall, notwithstanding anything in any agreement, be irrecoverable from the tenant.
- (2) Where a rent for the dwelling-house is registered under Part IV of this Act, the following provisions shall apply with respect to the rent for any statutory period of a regulated tenancy of the dwelling-house:—

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- (a) if the rent payable for any statutory period would exceed the rent so registered, the amount of the excess shall, notwithstanding anything in any agreement, be irrecoverable from the tenant; and
- (b) if the rent payable for any statutory period would be less than the rent so registered, it may be increased up to the amount of that rent by a notice of increase served by the landlord on the tenant and specifying the date from which the increase is to take effect.

This subsection is subject to the following provisions of this Act: sections 55 and 71(3), paragraph 1(3) of Schedule 7, paragraph 10 of Schedule 8, paragraph 8(4) of Schedule 9 and paragraph 3 of Schedule 20.

- (3) The date specified in a notice of increase under subsection (2)(b) above shall not be earlier than the date on which the rent was registered nor earlier than 4 weeks before the service of the notice.
- (4) Where no rent for the dwelling-house is registered under Part IV of this Act, sections 46 to 48 of this Act shall have effect with respect to the rent recoverable for any statutory period under a regulated tenancy of the dwelling-house.

#### **46 Adjustment, with respect to rates, of recoverable rent for statutory periods before registration**

- (1) Where—
  - (a) section 45(4) of this Act applies, and
  - (b) any rates in respect of the dwelling-house are, or were during the last contractual period, borne by the landlord or a superior landlord,
 then, for any statutory period for which the amount of the rates (ascertained in accordance with Schedule 5 to this Act) differs from the amount, so ascertained, of the rates for the last contractual period, the recoverable rent shall be increased or decreased by the amount of the difference.
- (2) Where the amount of the recoverable rent is increased by virtue of this section, the increase shall not take effect except in pursuance of a notice of increase served by the landlord on the tenant and specifying the increase and the date from which it is to take effect.
- (3) The date specified in a notice of increase under subsection (2) above shall be not earlier than 6 weeks before the service of the notice, and if it is earlier than the service of the notice any rent unpaid shall become due on the day after the service of the notice.

#### **47 Adjustment, with respect to services and furniture, of recoverable rent for statutory periods before registration**

- (1) Where section 45(4) of this Act applies and for any statutory period there is with respect to—
  - (a) the provision of services for the tenant by the landlord or a superior landlord, or
  - (b) the use of furniture by the tenant,
 or any circumstances relating thereto any difference, in comparison with the last contractual period, such as to affect the amount of the rent which it is reasonable to charge, the recoverable rent for the statutory period shall be increased or decreased by an appropriate amount.

- (2) Any question whether, or by what amount, the recoverable rent for any period is increased or decreased by virtue of this section shall be determined by agreement in writing between the landlord and the tenant or by the county court; and any such determination—
- (a) may be made so as to relate to past statutory periods; and
  - (b) shall have effect with respect to statutory periods subsequent to the periods to which it relates until revoked or varied by any such agreement as is referred to in this subsection or by the county court.

**48 Increase, on account of improvements, of recoverable rent for statutory periods before registration**

- (1) If, in a case where section 45(4) of this Act applies—
- (a) an improvement has been effected in a dwelling-house, and
  - (b) the improvement was completed—
    - (i) after 7th December 1965, and
    - (ii) after the time as from which the rent under the regulated tenancy was agreed,

then, subject to subsection (6) below, the recoverable rent for any statutory period beginning after the completion of the improvement shall be increased by 12 ½ per cent. per annum of the amount expended on the improvement by the landlord or any superior landlord or any person from whom the landlord or any superior landlord derives title.

- (2) Where, in respect of an improvement—
- (a) a grant has been made under—
    - (i) section 15 of the Airports Authority Act 1965 or section 29A of the Civil Aviation Act 1971 (grants towards cost of sound-proofing), or
    - (ii) regulations under section 20 of the Land Compensation Act 1973 (sound-proofing of buildings affected by public works), or
  - (b) a repayment has been made under section 12 of the Clean Air Act 1956 (adaptation of fireplaces in private dwellings),

the amount expended on the improvement shall, for the purposes of subsection (1) above, be treated as diminished by the amount of the grant or repayment.

- (3) Where the amount of the recoverable rent is increased by virtue of this section, the increase shall not take effect except in pursuance of a notice of increase served by the landlord on the tenant and specifying the increase and the date, which may be any date after the service of the notice, from which it is to take effect.
- (4) A tenant on whom a notice of increase specifying an increase authorised by this section is served may, not later than one month after the service of the notice or such longer time as the court may allow, apply to the county court for an order cancelling or reducing the increase on the ground—
- (a) that the improvement was unnecessary, or
  - (b) that a greater amount was expended on it than was reasonable,

and the court may make an order accordingly which may relate not only to future but also to past statutory periods.

This subsection is subject to the following provisions of this Act: subsection (5) below, section 50(6) and paragraph 1(7) of Schedule 20.

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- (5) No application may be made under subsection (4) above if—
  - (a) a grant has been made in respect of the improvement under any of the enactments mentioned in subsection (2)(a) above, or
  - (b) the tenant in writing consented to the improvement and acknowledged (in whatever terms) that the rent could be increased on account of the improvement.
- (6) Subsection (1) above does not apply to any improvements with respect to which a grant under—
  - (a) Part I of the Housing Act 1969, or
  - (b) Part VII of the Housing Act 1974, is payable or has been paid.
- (7) In this section "improvement" in addition to having the meaning given by section 61 of this Act, shall be construed in accordance with paragraph 1(6) of Schedule 20 to this Act.

#### **49 Notices of increase**

- (1) Any reference in this section to a notice of increase is a reference to a notice of increase under section 45(2), 46(2) or 48(3) of this Act.
- (2) A notice of increase must be in the prescribed form.
- (3) Notwithstanding that a notice of increase relates to statutory periods, it may be served during a contractual period.
- (4) Where a notice of increase is served during a contractual period and the protected tenancy could, by a notice to quit served by the landlord at the same time, be brought to an end before the date specified in the notice of increase, the notice of increase shall operate to convert the protected tenancy into a statutory tenancy as from that date.
- (5) If the county court is satisfied that any error or omission in a notice of increase is due to a bona fide mistake on the part of the landlord, the court may by order amend the notice by correcting any errors or supplying any omission therein which, if not corrected or supplied, would render the notice invalid and, if the court so directs, the notice as so amended shall have effect and be deemed to have had effect as a valid notice.
- (6) Any amendment of a notice of increase under subsection (5) above may be made on such terms and conditions with respect to arrears of rent or otherwise as appear to the court to be just and reasonable.
- (7) No increase of rent which becomes payable by reason of an amendment of a notice of increase under subsection (5) above shall be recoverable in respect of any statutory period which ended more than 6 months before the date of the order making the amendment.

#### **50 Private street works to count as improvements**

- (1) This section applies where any dwelling-house which is the subject of a regulated tenancy has access to a street on which works have been carried out under—
  - (a) section 174, 189 or 190 of the Highways Act 1959 (certain authorities to execute street works in accordance with the Codes of 1875 and 1892), or
  - (b) the corresponding provisions of any local Act.

- (2) The amount—
- (a) of any expenditure incurred after 7th December 1965 by the landlord or a superior landlord in the carrying out of the works in question, or
  - (b) of any liability incurred after that date by the landlord or a superior landlord in respect of those works to the authority by whom they were carried out,
- shall be treated (whether or not apart from this section it would be so treated) as expenditure incurred by the landlord or superior landlord on an improvement effected in the dwelling-house.
- (3) Subsection (2)(b) above applies whether the liability mentioned in that subsection is dischargeable in a lump sum or by instalments, but for the purposes of this section interest shall be excluded in determining the amount of any liability which is dischargeable by instalments.
- (4) If benefit accrues from the carrying out of the works not only to the dwelling-house but also to other premises of the landlord or superior landlord, then for the purposes of this section the amount to be treated as expenditure on an improvement effected in the dwelling-house shall be so much only of the expenditure or liability as may be determined by agreement in writing between the landlord and the tenant or by the county court.
- (5) For the purposes of this section, the amount of any expenditure shall be treated as diminished by the amount of any contribution made in respect of that expenditure under any enactment.
- (6) No application may be made under section 48(4) of this Act in relation to an increase authorised by virtue of this section.

*Rent agreements with tenants having security of tenure*

**51 Protection of tenants with security of tenure**

- (1) In this Part of this Act a "rent agreement with a tenant having security of tenure" means—
- (a) an agreement increasing the rent payable under a protected tenancy which is a regulated tenancy, or
  - (b) the grant to the tenant under a regulated tenancy, or to any person who might succeed him as a statutory tenant, of another regulated tenancy of the dwelling-house at a rent exceeding the rent under the previous tenancy.
- (2) Where any rates in respect of the dwelling-house are borne by the landlord or a superior landlord, any increase of rent shall be disregarded for the purposes of the definition in subsection (1) above if the increase is no more than one corresponding to an increase in the rates borne by the landlord or a superior landlord in respect of the dwelling-house.
- (3) If—
- (a) a rent agreement with a tenant having security of tenure takes effect on or after the commencement of this Act, and was made at a time when no rent was registered for the dwelling-house under Part IV of this Act, and
  - (b) it is not an agreement to which section 52 of this Act applies,
- the requirements of subsection (4) below shall be observed as respects the agreement

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- (4) The requirements are that—
- (a) the agreement is in writing signed by the landlord and the tenant, and
  - (b) the document containing the agreement contains a statement, in characters not less conspicuous than those used in any other part of the agreement—
    - (i) that the tenant's security of tenure under this Act will not be affected if he refuses to enter into the agreement, and
    - (ii) that entry into the agreement will not deprive the tenant or landlord of the right to apply at any time to the rent officer for the registration of a fair rent under Part IV of this Act,
 or words to that effect, and
  - (c) the statement mentioned in paragraph (b) above is set out at the head of the document containing the agreement.

## **52 Protection: special provisions following conversion**

- (1) This section applies where a protected or statutory tenancy of a dwelling-house has become a regulated tenancy by virtue of—
- (a) Part VIII of this Act, section 43 of the Housing Act 1969 or Part III of the Housing Finance Act 1972 (conversion of controlled tenancies into regulated tenancies); or
  - (b) section 18(3) of this Act or paragraph 5 of Schedule 2 to the Rent Act 1968 (conversion on death of first successor),
- and in this section " the conversion " means the time when the tenancy became a regulated tenancy.
- (2) If a rent agreement with a tenant having security of tenure of the dwelling-house takes effect—
- (a) on or after the commencement of this Act, and after the conversion, and
  - (b) at a time when no rent is registered for the dwelling-house under Part IV of this Act,
- the requirements of subsection (6) below shall be observed as respects the agreement.
- (3) This section shall not apply to any agreement where the tenant is neither the person who, at the time of the conversion, was the tenant, nor a person who might succeed the tenant at that time as a statutory tenant.
- (4) Where this section, or section 44 of the Housing Finance Act 1972 (which is superseded by this section), has applied to any agreement, this section shall not apply to any subsequent agreement relating to the dwelling-house which takes effect more than 3 years after the first such agreement took effect.
- (5) Where a rent is registered for the dwelling-house and the registration is subsequently cancelled, this section shall not apply to the agreement submitted to the rent officer in connection with the cancellation nor to any agreement which takes effect after the cancellation.
- (6) The requirements mentioned in subsection (2) above are that not later than 28 days before the date when the agreement takes effect—
- (a) the landlord gives to the local authority, at the offices of the authority, a document in a prescribed form, signed by the landlord and the tenant, and containing the prescribed particulars as respects the agreement and the

- dwelling-house to which it relates, and a statement in characters not less conspicuous than those used in any other part of the document—
- (i) that the tenant's security of tenure under this Act will not be affected if he refuses to enter into the agreement, and
  - (ii) that entry into the agreement will not deprive the tenant or landlord of the right to apply at any time to the rent officer for the registration of a fair rent under this Act,
- or words to that effect; and
- (b) the landlord has served a copy of the document on the tenant.
- (7) Not later than the expiry of 21 days beginning with the date on which the document is given to the local authority in accordance with this section, the authority shall serve on the landlord, and on the tenant, a notice—
- (a) acknowledging receipt of the document, and
  - (b) stating that the rent of the dwelling-house is not to be increased for any period beginning before the expiry of a period of 28 days beginning with the date on which the document was given to the local authority.
- (8) Any document given to the local authority in accordance with this section shall be open to public inspection without charge from 7 days after receipt.
- (9) The local authority may withdraw the right of inspection at the expiry of a period of 3 years beginning with the date when the agreement (or if this section taken together with section 44 of the Housing Finance Act 1972, which is superseded by this section, has applied to more than one agreement relating to the dwelling-house, the first of them) took effect.
- (10) No stamp duty shall be chargeable on any document executed in accordance with this section.
- (11) In this section " local authority " means—
- (a) a council of a district or of a London borough,
  - (b) the Common Council of the City of London, or
  - (c) the Council of the Isles of Stilly.

### **53 Protection where grant-aided improvement is carried out**

- (1) This section applies where a grant under Part I of the Housing Act 1969 or Part VII of the Housing Act 1974 has been approved in respect of works to be carried out in a dwelling-house subject to a regulated tenancy.
- (2) If a rent agreement with a tenant having security of tenure of the dwelling-house takes effect—
- (a) on or after the commencement of this Act, and in the period beginning with the time when the tenant's consent to the works was sought by the landlord and ending one year after the completion of the works, and
  - (b) at a time when no rent is registered for the dwelling-house under Part IV of this Act,
- and the increase of rent effected by the agreement is wholly or partly to take account of the carrying out of the works, the requirements of subsection (4) below shall be observed as respects the agreement.

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- (3) The provisions of this section are without prejudice to the requirements imposed by section 51 of this Act.
- (4) The requirements mentioned in subsection (2) above are that the statement in the document containing the agreement—
  - (a) says that a grant has been approved, and
  - (b) explains that, if a rent were to be registered following improvements for which a grant was payable, the rent increase up to the registered rent would be phased as follows:—
    - (i) if the increase exceeded £1.50 per week, the rent would be increased by 3 annual increments each of one-third of the total increase;
    - (ii) if the rent increase did not exceed £1.50 per week, the rent would be increased by annual increments of up to £0.50 per week up to the registered rent.

#### **54 Failure to comply with provisions for protection of tenants**

- (1) If, in the case of a variation of the terms of a regulated tenancy, there is a failure to observe any of the requirements of section 51, 52(6) or 53 of this Act, any excess of the rent payable under the terms as varied over the terms without the variation shall be irrecoverable from the tenant.
- (2) If, in the case of the grant of a tenancy, there is a failure to observe any of those requirements, any excess of the rent payable under the tenancy so granted (for any contractual or any statutory period of the tenancy) over the previous limit shall be irrecoverable from the tenant.
- (3) In subsection (2) above the " previous limit" shall be taken to be the amount which (taking account of any previous operation of this section or of section 46 of the Housing Finance Act 1972, which is superseded by this section) was recoverable by way of rent for the last rental period of the previous tenancy of the dwelling-house, or which would have been so recoverable if all notices of increase authorised by this Act, the Rent Act 1968 and section 37(3) of the Act of 1972 had been served.
- (4) A default which consists only in delay in complying with the requirements of paragraph (a) of section 52(6) of this Act shall only affect rent for any rental period beginning before the expiry of a period of 28 days beginning with the date when those requirements are complied with.
- (5) A default in complying with paragraph (b) of section 52(6) of this Act shall not apply to rent for any rental period beginning after the default is made good.

#### *Phasing of rent increases*

#### **55 General provision for phasing of rent increases**

- (1) Where the rent of a dwelling-house qualifies for phasing under this section—
  - (a) a notice of increase of the rent for any statutory period, or part of a statutory period, falling within the period of delay imposed by Schedule 8 to this Act may increase it to the extent permitted by that Schedule;
  - (b) the rent for any contractual period, or part of a contractual period, falling within the period of delay shall not exceed the amount to which the rent



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could have been increased in accordance with Schedule 8 for a corresponding statutory period or part of a statutory period.

- (2) A notice of increase which purports to increase rent which qualifies for phasing under this section further than permitted by Schedule 8 shall have effect to increase it to the extent so permitted but no further.
- (3) The rent of a dwelling-house qualifies for phasing under this section if—
  - (a) a rent is registered for the dwelling-house under Part IV of this Act; and
  - (b) the special phasing provisions of section 89 of, and Schedule 9 to, this Act do not apply to it; and
  - (c) the tenancy is a regulated tenancy which—
    - (i) was subsisting at 10th March 1975 ; or
    - (ii) was subsisting at the date of registration; or
    - (iii) was not subsisting at the date of registration but was granted after that date to a person to whom subsection (4) below applies.
- (4) This subsection applies to a person who, at the date when the tenancy was granted, was either—
  - (a) the tenant under a previous regulated tenancy of the dwelling-house, or a person who might succeed the tenant as a statutory tenant, or
  - (b) a statutory tenant of a dwelling-house, within the meaning of the Rent (Agriculture) Act 1976, whose rent qualified for phasing under section 15 of that Act, or a person who might succeed such a tenant as a statutory tenant by succession, within the meaning of that Act.
- (5) Nothing in this section or in Schedule 8 shall prevent or limit any increase in rent by virtue of section 71(4) of this Act (variable rents).
- (6) In this section " notice of increase " means a notice under section 45(2) of this Act.

## **56 Phasing of rent increases after certain improvements**

Schedule 9 to this Act shall have effect for securing that, on first registration of a rent after an improvement with respect to which a grant under—

- (a) Part I of the Housing Act 1969, or
- (b) Part VII of the Housing Act 1974,

is payable or has been paid, an increase in rent may, in certain circumstances, be recovered only in stages.

### *Enforcement provisions*

## **57 Recovery from landlord of sums paid in excess of recoverable rent, etc.**

- (1) Where a tenant has paid on account of rent any amount which, by virtue of this Part of this Act, is irrecoverable by the landlord, the tenant who paid it shall be entitled to recover that amount from the landlord who received it or his personal representatives.
- (2) Any amount which a tenant is entitled to recover under subsection (1) above may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.

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- (3) No amount which a tenant is entitled to recover under subsection (1) above shall be recoverable at any time after the expiry of 2 years from the date of payment.
- (4) Any person who, in any rent book or similar document, makes an entry showing or purporting to show any tenant as being in arrears in respect of any sum on account of rent which is irrecoverable by virtue of this Part of this Act shall be liable to a fine not exceeding £50, unless he proves that, at the time of the making of the entry, the landlord had a bona fide claim that the sum was recoverable.
- (5) If, where any such entry has been made by or on behalf of any landlord, the landlord on being requested by or on behalf of the tenant to do so, refuses or neglects to cause the entry to be deleted within 7 days, the landlord shall be liable to a fine not exceeding £50, unless he proves that, at the time of the neglect or refusal to cause the entry to be deleted, he had a bona fide claim that the sum was recoverable.

## **58 Rectification of rent books in light of determination of recoverable rent**

Where, in any proceedings, the recoverable rent of a dwelling-house subject to a regulated tenancy is determined by a court, then, on the application of the tenant (whether in those or in any subsequent proceedings), the court may call for the production of the rent book or any similar document relating to the dwelling-house and may direct the registrar or clerk of the court to correct any entries showing, or purporting to show, the tenant as being in arrears in respect of any sum which the court has determined to be irrecoverable.

### *General provisions*

## **59 Adjustment for differences in lengths of rental periods**

In ascertaining for the purposes of this Part of this Act whether there is any difference with respect to rents or rates between one rental period and another (whether of the same tenancy or not) or the amount of any such difference, any necessary adjustment shall be made to take account of periods of different lengths; and for the purposes of such an adjustment a period of one month shall be treated as equivalent to one-twelfth of a year and a period of a week as equivalent to one-fifty-second of a year.

## **60 Regulations**

- (1) The Secretary of State may make regulations—
  - (a) prescribing the form of any notice or other document to be given or used in pursuance of this Part of this Act; and
  - (b) prescribing anything required or authorised to be prescribed by this Part of this Act.
- (2) Any such regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **61 Interpretation of Part III**

- (1) In this Part of this Act, except where the context otherwise requires—

" contractual period " means a rental period of a regulated tenancy which is a period beginning before the expiry or termination of the protected tenancy ;

" contractual rent limit " has the meaning assigned to it by section 44(3) of this Act;

" improvement " includes structural alteration, extension or addition and the provision of additional fixtures or fittings, but does not include anything done by way of decoration or repair;

" prescribed " means prescribed by regulations under section 60 of this Act and references to a prescribed form include references to a form substantially to the same effect as the prescribed form ;

" recoverable rent " means rent which, under a regulated tenancy, is or was for the time being recoverable, having regard to the provisions of this Part of this Act;

" rent agreement with a tenant having security of tenure " has the meaning assigned to it by section 51 of this Act;

" statutory period " means any rental period of a regulated tenancy which is not a contractual period.

- (2) References in this Part of this Act to rates, in respect of a dwelling-house, include references to such proportion of any rates in respect of a hereditament of which the dwelling-house forms part as may be agreed in writing between the landlord and the tenant or determined by the county court

## PART IV

### REGISTRATION OF RENTS UNDER REGULATED TENANCIES

#### 62 Registration areas

- (1) The registration areas for the purpose of this Part of this Act are the areas of the following local authorities:—
- (a) the councils of counties,
  - (b) the councils of London boroughs, and
  - (c) the Common Council of the City of London.
- (2) For the purposes of this Part of this Act—
- (a) the area of the Common Council of the City of London shall be deemed to include the Inner Temple and the Middle Temple, and
  - (b) the Isles of Stilly shall be a registration area and the Council of the Isles of Stilly shall be the local authority for that registration area.

#### 63 Schemes for appointment of rent officers

- (1) The Secretary of State shall for every registration area make, after consultation with the local authority, a scheme providing for the appointment by the proper officer of the local authority—
- (a) of such number of rent officers for the area as may be determined by or in accordance with the scheme, and
  - (b) of deputy rent officers to exercise the functions of rent officers when rent officers are absent or incapacitated.

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- (2) A scheme under this section—
- (a) shall provide for the payment by the local authority to rent officers and deputy rent officers of remuneration and allowances in accordance with scales approved by the Secretary of State with the consent of the Treasury;
  - (b) shall prohibit the dismissal of a rent officer or deputy rent officer except by the proper officer of the local authority on the direction, or with the consent, of the Secretary of State;
  - (c) shall require the local authority to provide for the rent officers office accommodation and clerical and other assistance;
  - (d) shall allocate, or confer on the proper officer of the local authority the duty of allocating, work as between the rent officers and shall confer on the proper officer the duty of supervising the conduct of rent officers and deputy rent officers.
- (3) For the purposes of any local Act scheme, within the meaning of section 8 of the Superannuation Act 1972, rent officers and deputy rent officers appointed in pursuance of a scheme under this section shall be deemed to be officers in the employment of the local authority for whose area the scheme is made ; and for the purposes of—
- (a) Part III of the Social Security Pensions Act 1975, and
  - (b) the Social Security Act 1975,
- they shall be deemed to be in that employment under a contract of service.
- (4) References in this Part of this Act to the rent officer are references to any rent officer appointed for any area who is authorised to act in accordance with a scheme under this section.
- (5) A scheme under this section may be varied or revoked by a subsequent scheme made thereunder.
- (6) The Secretary of State shall, in respect of each financial year, make to any local authority incurring expenditure which is of a kind mentioned in subsection (7) below, a grant equal to that expenditure.
- (7) The expenditure mentioned in subsection (6) above is any expenditure—
- (a) attributable to this section, or
  - (b) incurred in respect of pensions, allowances or gratuities payable to or in respect of rent officers and deputy rent officers (appointed in pursuance of a scheme under this section) by virtue of regulations under section 7 of the Superannuation Act 1972 (superannuation of persons employed in local government service).
- (8) Any expenditure incurred by the Secretary of State by virtue of subsection (6) above shall be paid out of money provided by Parliament.

## **64 Default powers of Secretary of State**

- (1) If the Secretary of State is of opinion that a local authority have failed to carry out any function conferred on them by a scheme under section 63 of this Act he may, after such enquiry as he thinks fit, by order revoke the scheme and, without consulting the local authority, make another scheme under that section.
- (2) A scheme made by virtue of subsection (1) above may confer functions otherwise exercisable by the local authority or the proper officer of the local authority on a person

appointed by the Secretary of State and that person may, if another local authority consent, be that other local authority or, as the case may be, the proper officer of that other local authority.

- (3) If the Secretary of State is of opinion that the proper officer of the local authority has failed to carry out any functions conferred on the proper officer by a scheme under section 63 he may (after consultation with the local authority) exercise his power under subsection (5) of that section by making a scheme providing for all or any of the functions otherwise exercisable by the proper officer to be exercised by some other person.
- (4) A scheme made by virtue of this section may contain such incidental and transitional provisions as appear to the Secretary of State to be necessary or expedient.

## **65 Rent assessment committees**

Rent assessment committees shall be constituted in accordance with Schedule 10 to this Act.

## **66 Register of rents**

- (1) The rent officer for any area shall prepare and keep up to date a register for the purposes of this Part of this Act and shall make the register available for inspection in such place or places and in such manner as may be provided by the scheme made for the area under section 63 of this Act.
- (2) The register shall contain, in addition to the rent payable under a regulated tenancy of a dwelling-house—
  - (a) the prescribed particulars with regard to the tenancy; and
  - (b) a specification of the dwelling-house.
- (3) A copy of an entry in the register certified under the hand of the rent officer or any person duly authorised by him shall be receivable in evidence in any court and in any proceedings.
- (4) A person requiring such a certified copy shall be entitled to obtain it on payment of the prescribed fee.

## **67 Application for registration of rent**

- (1) An application for the registration of a rent for a dwelling-house may be made to the rent officer by the landlord or the tenant, or jointly by the landlord and the tenant, under a regulated tenancy of the dwelling-house.
- (2) Any such application must be in the prescribed form and contain the prescribed particulars in addition to the rent which it is sought to register.
- (3) Subject to subsection (4) below, where a rent for a dwelling-house has been registered under this Part of this Act, no application by the tenant alone or by the landlord alone for the registration of a different rent for that dwelling-house shall be entertained before the expiry of 3 years from the relevant date (as defined in subsection (5) below) except on the ground that, since that date, there has been such a change in—
  - (a) the condition of the dwelling-house (including the making of any improvement therein),

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- (b) the terms of the tenancy,
  - (c) the quantity, quality or condition of any furniture provided for use under the tenancy (deterioration by fan-wear and tear excluded), or
  - (d) any other circumstances taken into consideration when the rent was registered or confirmed,
- as to make the registered rent no longer a fair rent.
- (4) Notwithstanding anything in subsection (3) above, an application such as is mentioned in that subsection which is made by the landlord alone and is so made within the last 3 months of the period of 3 years referred to in that subsection may be entertained notwithstanding that that period has not expired.
  - (5) In this section and sections 68 and 69 of this Act " the relevant date ", in relation to a rent which has been registered under this Part of this Act, means:—
    - (a) where on an application for the registration of a different rent the registered rent has been confirmed, the date of that application or, if there was more than one such application, the date of the last of them;
    - (b) where on an application under section 8 of the Housing Rents and Subsidies Act 1975 a rent is substituted for the rent previously registered, the date as from which the substituted rent takes effect; and
    - (c) in any other case, the date on which the registration of rent took effect.
  - (6) No application for the registration of a rent for a dwelling-house shall be entertained at a time when there is in operation, with respect to that dwelling-house, a condition relating to rent imposed under any of the following enactments:—
    - (a) section 3 of the Housing (Financial Provisions) Act 1938 ;
    - (b) section 46(1) of the Housing (Financial Provisions) Act 1958 ; or
    - (c) section 104(3) of the Housing Act 1957.
  - (7) Subject to section 69(4) of this Act, the provisions of Part I of Schedule 11 to this Act shall have effect with respect to the procedure to be followed on applications for the registration of rents.

## **68 Application to rent officer by local authority**

- (1) A local authority may apply to the rent officer for consideration of the fair rent for any dwelling-house within their area for which a rent may be or has been registered under this Part of this Act.
- (2) If on the application the rent officer is satisfied that the rent, or the highest rent, payable for the dwelling-house under any lease or agreement exceeds what in his opinion is a fair rent, he shall register a rent for the dwelling-house.
- (3) The rent officer may under subsection (2) above take account of the rent payable under any lease or agreement whether or not that exceeds the recoverable rent and whether or not the lease or agreement has taken effect.
- (4) Where a rent for a dwelling-house has been registered under this Part of this Act, no application under this section shall be entertained before the expiry of 3 years from the relevant date (as denned in section 67(5) of this Act) except on the ground that, since that date, there has been such a change in—
  - (a) the condition of the dwelling-house (including the making of any improvement therein);

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- (b) the terms of the tenancy ;
  - (c) the quantity, quality or condition of any furniture provided for use under the tenancy (deterioration by fair wear and tear excluded), or
  - (d) any other circumstances taken into consideration when the rent was registered or confirmed,
- as to make the registered rent no longer a fair rent.
- (5) For the purposes of section 67(5)(a), a case where the rent officer does not register a rent on an application under this section shall not be treated as a confirmation of any rent already registered.
  - (6) Section 67(6) of this Act shall apply to an application under this section as it applies to an application for the registration of a rent.
  - (7) Regulations shall be made under section 74 of this Act prescribing the procedure on an application under this section, and the regulations shall prescribe the notices to be given to, and the rights to make representations of, the landlord and tenant.
  - (8) The regulations shall confer on the landlord and the tenant a right to object to the determination of a rent by the rent officer on an application under this section and, on receipt of such an objection in circumstances prescribed by the regulations, shall provide for the reference of the matter to a rent assessment committee.
  - (9) In this section " local authority " means a local authority to whom section 149 of this Act applies.

## **69 Certificates of fair rent**

- (1) A person intending—
  - (a) to provide a dwelling-house by the erection or conversion of any premises or to make any improvements in a dwelling-house, or
  - (b) to let on a regulated tenancy a dwelling-house which is not for the time being subject to such a tenancy and which satisfies the condition either—
    - (i) that no rent for it is registered under this Part of this Act, or
    - (ii) that a rent is so registered but not less than 3 years have elapsed since the relevant date (as defined in section 67(5) of this Act),may apply to the rent officer for a certificate (to be known as a certificate of fair rent) specifying a rent which, in the opinion of the rent officer, would be a fair rent under a regulated tenancy of the dwelling-house or, as the case may be, of the dwelling-house after the erection or conversion or after the completion of the improvements.
- (2) The regulated tenancy to which the application for the certificate of fair rent relates shall be assumed to be a tenancy on such terms as may be specified in the application and, except in so far as other terms are so specified, on the terms that the tenant would be liable for internal decorative repairs, but no others, and that no services or furniture would be provided for him.
- (3) Schedule 12 to this Act shall have effect with respect to applications for certificates of fair rent.
- (4) Subject to section 67(6) of this Act, where a certificate of fair rent has been issued in respect of a dwelling-house, an application for the registration of a rent for the dwelling-house in accordance with the certificate may be made within 3 years of the date of the certificate either—

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- (a) by the landlord under such a regulated tenancy of the dwelling-house as is specified in the certificate; or
  - (b) by a person intending to grant such a regulated tenancy of the dwelling-house;
- and in lieu of the provisions of Part I of Schedule 11 to this Act, the provisions of Part II of that Schedule shall have effect with respect to an application so made.
- (5) In this section "improvement", in addition to having the meaning given by section 75 of this Act, shall be construed in accordance with paragraph 2(2) of Schedule 20 to this Act.

## **70 Determination of fair rent**

- (1) In determining, for the purposes of this Part of this Act, what rent is or would be a fair rent under a regulated tenancy of a dwelling-house, regard shall be had to all the circumstances (other than personal circumstances) and in particular to—
- (a) the age, character, locality and state of repair of the dwelling-house, and
  - (b) if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture.
- (2) For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.
- (3) There shall be disregarded—
- (a) any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof;
  - (b) any improvement carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant under the regulated tenancy or any predecessor in title of his;
  - (c) the provision in the locality after the material date of any new amenity or the improvement after that date of any amenity already existing in the locality, where the amenity is provided or improved—
    - (i) at the cost of a person other than the landlord or a superior landlord or a predecessor in title of the landlord or a superior landlord, or
    - (ii) by a body of a public nature which is a superior landlord, in the exercise of functions of a public nature;
  - (d) any deterioration after the material date in the amenities of the locality (including the disappearance of any of them) other than a deterioration attributable to any act or omission of the landlord or a superior landlord or a predecessor in title of the landlord or a superior landlord; and
  - (e) if any furniture is provided for use under the regulated tenancy, any improvement to the furniture by the tenant under the regulated tenancy or any predecessor in title of his or, as the case may be, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him, or any sub-tenant of his.
- (4) In this section "improvement" includes the replacement of any fixture or fitting.
- (5) In subsection (3)(c) and (d) above "the material date" means—



- (a) where a rent is registered under this Part of this Act, the relevant date, as defined in section 67(5) of this Act, and
- (b) where no rent is registered under this Part, 8th March 1971.

## **71 Amount to be registered as rent**

- (1) The amount to be registered as the rent of any dwelling-house shall include any sums payable by the tenant to the landlord for the use of furniture or for services, whether or not those sums are separate from the sums payable for the occupation of the dwelling-house or are payable under separate agreements.
- (2) Where any rates in respect of a dwelling-house are borne by the landlord or a superior landlord, the amount to be registered under this Part of this Act as the rent of the dwelling-house shall be the same as if the rates were not so borne; but the fact that they are so borne shall be noted on the register.
- (3) Where subsection (2) above applies, the amount of the rates for any rental period, ascertained in accordance with Schedule 5 to this Act—
  - (a) shall, subject to paragraphs 1(4) and 4(3) of Schedule 9 to this Act, be added to the limit imposed by section 44(1) of this Act or, in relation to any such contractual period as is mentioned in paragraph (b) of section 55(1) of this Act, to the limit imposed by that paragraph ; and
  - (b) if the rental period is a statutory period, as defined in section 61 of this Act, shall be recoverable, without service of any notice of increase, in addition to the sums recoverable from the tenant apart from this subsection.
- (4) Where, under a regulated tenancy, the sums payable by the tenant to the landlord include any sums varying according to the cost from time to time of—
  - (a) any services provided by the landlord or a superior landlord, or
  - (b) any works of maintenance or repair carried out by the landlord or a superior landlord,

the amount to be registered under this Part of this Act as rent may, if the rent officer is satisfied or, as the case may be, the rent assessment committee are satisfied, that the terms as to the variation are reasonable, be entered as an amount variable in accordance with those terms.

## **72 Effect of registration of rent**

- (1) Unless the rent officer or, as the case may be, the rent assessment committee determine that it shall take effect as from a later date, the registration of any rent for a dwelling-house shall take effect—
  - (a) in a case where (by virtue of subsection (4) of section 67 of this Act) an application is made before the expiry of the period of three years referred to in subsection (3) of that section, as from the first day after the expiry of that period of 3 years;
  - (b) in a case where, on an application under section 8 of the Housing Rents and Subsidies Act 1975, a new rent has been substituted for the rent previously registered, as from the date as from which the registration of the rent for which the new registered rent was substituted took effect; and
  - (c) in any other case, as from the date of the application.

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- (2) The date from which the registration takes effect shall be entered in the register and as from that date any previous registration of a rent for the dwelling-house shall cease to have effect.
- (3) Where a valid notice of increase under any provision of Part III of this Act has been served on a tenant and, in consequence of the registration of a rent, part but not the whole of the increase specified in the notice becomes irrecoverable from the tenant, the registration shall not invalidate the notice, but the notice shall, as from the date from which the registration takes effect, have effect as if it specified such part only of the increase as has not become irrecoverable.

### **73 Cancellation of registration of rent**

- (1) An application may be made in accordance with this section for the cancellation of the registration of a rent for a dwelling-house where—
  - (a) a rent agreement as respects the dwelling-house takes effect, or is to take effect, after the expiration of a period of 3 years beginning with the relevant date (as defined in section 67(5) of this Act), and
  - (b) the period for which the tenancy has effect cannot end, or be brought to an end by the landlord (except for non-payment of rent or a breach of the terms of the tenancy), earlier than 12 months after the date of the application, and
  - (c) the application is made jointly by the landlord and the tenant under the agreement.
- (2) The rent agreement may be one providing that the agreement does not take effect unless the application for cancellation of registration is granted.
- (3) An application under this section must be in the prescribed form and contain the prescribed particulars, and must be accompanied by a copy of the rent agreement.
- (4) If the rent officer is satisfied that the rent, or the highest rent, payable under the rent agreement does not exceed a fair rent for the dwelling-house, he shall cancel the registration.
- (5) Where under the terms of the rent agreement the sums payable by the tenant to the landlord include any sums varying according to the cost from time to time of any services provided by the landlord or a superior landlord, or of any works of maintenance or repair carried out by the landlord or a superior landlord, the rent officer shall not cancel the registration unless he is satisfied that those terms are reasonable.
- (6) The cancellation shall not take effect until the date when the agreement takes effect; and if the cancellation is registered before that date, the date on which it is to take effect shall be noted on the register.
- (7) The cancellation of the registration shall be without prejudice to a further registration of a rent at any time after cancellation.
- (8) The rent officer shall notify the applicants of his decision to grant, or to refuse, any application under this section.
- (9) In this section "rent agreement" means—
  - (a) an agreement increasing the rent payable under a protected tenancy which is a regulated tenancy, or

- (b) where a regulated tenancy is terminated, and a new regulated tenancy is granted at a rent exceeding the rent under the previous tenancy, the grant of the new tenancy.

## **74 Regulations**

- (1) The Secretary of State may make regulations—
  - (a) prescribing the form of any notice, application, register or other document to be given, made or used in pursuance of this Part of this Act;
  - (b) regulating the procedure to be followed by rent officers and rent assessment committees ; and
  - (c) prescribing anything required or authorised to be prescribed by this Part of this Act.
- (2) Regulations under subsection (1)(b) above may contain provisions modifying the following provisions of this Act:—
  - (a) Section 67, 69 or 72 ;
  - (b) Part I or II of Schedule 11 ;
  - (c) Schedule 12;but no regulations containing such provisions shall have effect unless approved by a resolution of each House of Parliament.
- (3) Regulations made under this section shall be made by statutory instrument which, except in a case falling within subsection (2) above, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **75 Interpretation of Part IV**

- (1) In this Part of this Act, except where the context otherwise requires—
  - " improvement " includes structural alteration, extension or addition and the provision of additional fixtures or fittings, but does not include anything done by way of decoration or repair;
  - " prescribed " means prescribed by regulations under section 74 of this Act, and references to a prescribed form include references to a form substantially to the same effect as the prescribed form.
- (2) References in this Part of this Act to rates, in respect of a dwelling-house, include references to such proportion of any rates in respect of a hereditament of which the dwelling-house forms part as may be agreed in writing between the landlord and the tenant or determined by the county court.

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## PART V

### RENTS UNDER RESTRICTED CONTRACTS

#### *Rent tribunals*

#### **76 Rent tribunals**

- (1) There shall continue to be a tribunal (in this Act referred to as a "rent tribunal") for each area which is a district for the purposes of this Part of this Act and Schedule 13 to this Act shall have effect with respect to rent tribunals.
- (2) Each of the following areas is a district for the purposes of this Part of this Act:—
  - (a) a non-metropolitan county;
  - (b) a metropolitan district;
  - (c) a London borough; and
  - (d) the City of London which, for this purpose, shall include the Inner Temple and the Middle Temple.
- (3) The Secretary of State may direct—
  - (a) that an area consisting of the whole or part of any 2 or more of the districts referred to in subsection (2) above shall be treated as a single district for the purposes of this Part of this Act; or
  - (b) that different parts of any such district as is referred to in that subsection shall be treated as separate districts for those purposes.

#### *Control of rents*

#### **77 Reference of contracts to rent tribunals and obtaining by them of information**

- (1) Either the lessor or the lessee under a restricted contract or the local authority may refer the contract to the rent tribunal for the district in question.
- (2) Where a restricted contract is referred to a rent tribunal under subsection (1) above they may, by notice in writing served on the lessor, require him to give to them, within such period (not less than 7 days from the date of the service of the notice) as may be specified in the notice, such information as they may reasonably require regarding such of the prescribed particulars relating to the contract as are specified in the notice.
- (3) If, within the period specified in a notice under subsection (2) above, the lessor fails without reasonable cause to comply with the provisions of the notice he shall be liable on a first conviction to a fine not exceeding £50 and on a second or subsequent conviction to a fine not exceeding £100.
- (4) Proceedings for an offence under this section shall not be instituted otherwise than by the local authority.

#### **78 Powers of rent tribunals on reference of contracts**

- (1) Where a restricted contract is referred to a rent tribunal and the reference is not, before the tribunal have entered upon consideration of it, withdrawn by the party or authority who made it, the tribunal shall consider it.

- (2) After making such inquiry as they think fit and giving to—
  - (a) each party to the contract, and
  - (b) if the general management of the dwelling is vested in and exercisable by a housing authority, that authority,  
an opportunity of being heard or, at his or their option, of submitting representations in writing, the tribunal, subject to subsections (3) and (4) below,—
    - (i) shall approve the rent payable under the contract, or
    - (ii) shall reduce or increase the rent to such sum as they may, in all the circumstances, think reasonable, or
    - (iii) may, if they think fit in all the circumstances, dismiss the reference, and shall notify the parties and the local authority of their decision.
- (3) On the reference of a restricted contract relating to a dwelling for which a rent is registered under Part IV of this Act, the rent tribunal may not reduce the rent payable under the contract below the amount which would be recoverable from the tenant under a regulated tenancy of the dwelling.
- (4) An approval, reduction or increase under this section may be limited to rent payable in respect of a particular period.
- (5) In subsection (1) above "housing authority" means a council which is a local authority for the purposes of Part V of the Housing Act 1957.

## **79 Register of rents under restricted contracts**

- (1) The local authority shall prepare and keep up to date a register for the purposes of this Part of this Act and shall make the register available for inspection in such place or places and in such manner as the Secretary of State may direct.
- (2) The register shall be so prepared and kept up to date as to contain, with regard to any contract relating to a dwelling situated in the area of the local authority and under which a rent is payable which has been approved, reduced or increased under section 78 of this Act, entries of—
  - (a) the prescribed particulars with regard to the contract;
  - (b) a specification of the dwelling to which the contract relates; and
  - (c) the rent as approved, reduced or increased by the rent tribunal, and, in a case in which the approval, reduction or increase is limited to rent payable in respect of a particular period, a specification of that period.
- (3) Where any rates in respect of a dwelling are borne by the lessor or any person having any title superior to that of the lessor, the amount to be entered in the register under this section as the rent payable for the dwelling shall be the same as if the rates were not so borne; but the fact that they are so borne shall be noted in the register.
- (4) It shall be the duty of the rent tribunal when, under section 78(2) of this Act, they notify the local authority of their decision in a case, to furnish to the local authority such particulars as are requisite for enabling them to discharge their functions under subsections (1) to (3) above.

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- (5) A copy of an entry in the register certified under the hand of an officer duly authorised in that behalf by the local authority shall be receivable in evidence in any court and in any proceedings.
- (6) A person requiring such a certified copy shall be entitled to obtain it on payment of the prescribed fee.

## **80 Reconsideration of rent after registration**

- (1) Where the rent payable for any dwelling has been entered in the register under section 79 of this Act the lessor or the lessee or the local authority may refer the case to the rent tribunal for reconsideration of the rent so entered.
- (2) Where the rent under a restricted contract has been registered under section 79 of this Act, a rent tribunal shall not be required to entertain a reference, made otherwise than by the lessor and the lessee jointly, for the registration of a different rent for the dwelling concerned before the expiry of the period of 3 years beginning on the date on which the rent was last considered by the tribunal, except on the ground that, since that date, there has been such a change in—
  - (a) the condition of the dwelling,
  - (b) the furniture or services provided,
  - (c) the terms of the contract, or
  - (d) any other circumstances taken into consideration when the rent was last considered,as to make the registered rent no longer a reasonable rent.

## **81 Effect of registration of rent**

- (1) Where the rent payable for any dwelling is entered in the register under section 79 of this Act, it shall not be lawful to require or receive on account of rent for that dwelling under a restricted contract payment of any amount in excess of the rent so registered—
  - (a) in respect of any period subsequent to the date of the entry, or
  - (b) where a particular period is specified in the register, in respect of that period.
- (2) Where subsection (3) of section 79 applies, the amount entered in the register under that section shall be treated for the purposes of this section as increased for any rental period by the amount of the rates for that period, ascertained in accordance with Schedule 5 to this Act.
- (3) Where any payment has been made or received in contravention of this section, the amount of the excess shall be recoverable by the person by whom it was paid.
- (4) Any person who requires or receives any payment in contravention of this section shall be liable to a fine not exceeding £100 or to imprisonment for a term not exceeding 6 months or both, and, without prejudice to any other method of recovery, the court by which a person is found guilty of an offence under this subsection may order the amount paid in excess to be repaid to the person by whom the payment was made.
- (5) Proceedings for an offence under this section shall not be instituted otherwise than by the local authority.

*Miscellaneous and general*

**82 Jurisdiction of rent tribunals**

Where a restricted contract is referred to a rent tribunal under this Part, or Part VII, of this Act and—

- (a) the contract relates to a dwelling consisting of or comprising part only of a hereditament, and
- (b) no apportionment of the rateable value of the hereditament has been made under section 25 of this Act,

then, unless the lessor in the course of the proceedings requires that such an apportionment shall be made and, within 2 weeks of making the requirement, brings proceedings in the county court for the making of the apportionment, the rent tribunal shall have jurisdiction to deal with the reference if it appears to them that, had the apportionment been made, they would have had jurisdiction.

**83 Local authorities for Part V**

- (1) For the purposes of this Part of this Act, the local authority shall be—
  - (a) in a district or London borough, the council of the district or borough in question, and
  - (b) in the City of London, the Common Council.
- (2) The local authority shall have power to publish information regarding the provisions of this Part, and sections 103 to 106, of this Act.

**84 Regulations**

The Secretary of State may by statutory instrument make regulations—

- (a) with regard to the tenure of office of chairmen and other members of rent tribunals ;
- (b) with regard to proceedings before rent tribunals under this Part, and Part VII, of this Act;
- (c) for prescribing anything which is required by this Part of this Act to be prescribed ; and
- (d) generally for carrying into effect the provisions of this Part, and sections 103 to 106, of this Act.

**85 Interpretation of Part V**

- (1) In this Part of this Act, except where the context otherwise requires,—
  - " dwelling " means a house or part of a house ;
  - " lessee " means the person to whom is granted, under a restricted contract, the right to occupy the dwelling in question as a residence and any person directly or indirectly deriving title from the grantee;
  - " lessor " means the person who, under a restricted contract, grants to another the right to occupy the dwelling in question as a residence and any person directly or indirectly deriving title from the grantor;
  - " register " means the register kept by the local authority in pursuance of section 79 of this Act;

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" rent tribunal " has the meaning assigned to it by section 76(1) of this Act;  
 " services " includes attendance, the provision of heating or lighting, the supply of hot water and any other privilege or facility connected with the occupancy of a dwelling, other than a privilege or facility requisite for the purposes of access, cold water supply or sanitary accommodation.

- (2) References in this Part of this Act to a party to a contract include references to any person directly or indirectly deriving title from such a party.
- (3) Where separate sums are payable by the lessee of any dwelling to the lessor for any two or more of the following:—
- (a) occupation of the dwelling,
  - (b) use of furniture, and
  - (c) services,
- any reference in this Part of this Act to " rent " in relation to that dwelling is a reference to the aggregate of those sums and, where those sums are payable under separate contracts, those contracts shall be deemed to be one contract.
- (4) The references in sections 79(3) and 81(2) of this Act to rates, in respect of a dwelling, include references to such proportion of any rates in respect of a hereditament of which the dwelling forms part as may be agreed in writing between the lessor and the lessee or determined by the county court.

## PART VI

### RENT LIMIT FOR DWELLINGS LET BY HOUSING ASSOCIATIONS, HOUSING TRUSTS AND THE HOUSING CORPORATION

#### *Registration of rents*

#### **86 Tenancies to which Part VI applies**

- (1) In this Part of this Act " housing association tenancy " means a tenancy to which this Part of this Act applies.
- (2) This Part of this Act applies to a tenancy where—
- (a) the interest of the landlord under that tenancy belongs to a housing association or housing trust, or to the Housing Corporation, and
  - (b) the tenancy would be a protected tenancy but for section 15 or 16 of this Act, and is not a tenancy to which Part II of the Landlord and Tenant Act 1954 applies.
- (3) In this Part of this Act " housing association " has the meaning assigned to it for the purposes of the Housing Act 1957 by section 189(1) of that Act, except that it does not include any association which is a registered society within the meaning of section 74 of the Industrial and Provident Societies Act 1965 and whose rules—
- (a) restrict membership to persons who are tenants or prospective tenants of the association, and
  - (b) preclude the granting or assigning of tenancies to persons other than members.
- (4) In this Part of this Act " housing trust " means a corporation or body of persons which—



- (a) is required by the terms of its constituent instrument to devote the whole of its funds, including any surplus which may arise from its operations, to the following purposes, that is to say, the provision of houses for persons the majority of whom are in fact members of the working classes, and other purposes incidental thereto; or
  - (b) is required by the terms of its constituent instrument to devote the whole or substantially the whole of its funds to charitable purposes and in fact devotes the whole or substantially the whole of its funds to the purposes set out in paragraph (a) of this subsection.
- (5) In subsection (4) above " house " includes—
- (a) any yard, garden, outhouses and appurtenances belonging thereto or usually enjoyed therewith; and
  - (b) any part of a building which is occupied or intended to be occupied as a separate dwelling.

## **87 Rents to be registrable**

- (1) There shall be a part of the register under Part IV of this Act in which rents may be registered for dwelling-houses which are let, or are, or are to be, available for letting, under a housing association tenancy.
- (2) In relation to that part of the register the following (and no other) provisions of this Act:—
- (a) sections 67, 69 and 70,
  - (b) section 71, except subsection (3), and
  - (c) Schedules 11 and 12,
- shall apply in relation to housing association tenancies, and in their application to such tenancies shall have effect as if for any reference in those provisions to a regulated tenancy there were substituted a reference to a housing association tenancy.
- (3) Registration in that part of the register shall take effect on the date of registration (subject to paragraph 10 of Schedule 24 to this Act).
- (4) From the date of registration any previous registration of a rent for the dwelling-house shall cease to have effect.
- (5) Where by virtue of subsection (4) of section 67 of this Act (as modified by subsection (2) above)—
- (a) an application is made before the expiry of the period of 3 years referred to in subsection (3) of that section, and
  - (b) a new rent is registered before the expiry of that period of 3 years,
- the references in subsections (3) and (4) above, in subsections (2) and (3) of section 89, and the last reference in section 90(2), of this Act, to the date of registration shall be construed as references to the first day after the expiry of that period of 3 years.
- (6) A rent registered in any part of the register for a dwelling-house which becomes, or ceases to be, one subject to a housing association tenancy, shall be as effective as if it were registered in any other part of the register.

### *Rent limit*

#### **88 Rent limit**

- (1) Where the rent payable under a tenancy would exceed the rent limit determined in accordance with this Part of this Act, the amount of the excess shall be irrecoverable from the tenant.
- (2) Where a rent for the dwelling-house is registered, then, subject to sections 89 and 90 of this Act, the rent limit is the rent so registered.
- (3) Where any rates in respect of the dwelling-house are borne by the landlord, or a superior landlord, the amount of those rates for any rental period, ascertained in accordance with Schedule 5 to this Act, shall be added to the limit imposed by subsection (2) above, and in this Part of this Act references to the amount of the registered rent include any amount to be added under this subsection.
- (4) Where no rent for the dwelling-house is registered, then, subject to subsection (5) below, the rent limit shall be determined as follows:—
  - (a) if the lease or agreement creating the tenancy was made before 1st January 1973, the rent limit is the rent recoverable under the tenancy, as varied by any agreement made before that date (but not as varied by any later agreement);
  - (b) if paragraph (a) above does not apply, and, not more than 3 years before the tenancy began, the dwelling-house was subject to another tenancy (whether before 1973 or later) the rent limit is the rent recoverable under that other tenancy (or, if there was more than one, the last of them) for the last rental period thereof;
  - (c) if paragraphs (a) and (b) above do not apply, the rent limit is the rent payable under the terms of the lease or agreement creating the tenancy (and not the rent so payable under those terms as varied by any subsequent agreement).
- (5) The reference in subsection (4)(b) above to another tenancy includes, in addition to a housing association tenancy, a regulated tenancy—
  - (a) which subsisted at any time after 1st April 1975; and
  - (b) under which, immediately before it came to an end, the interest of the landlord belonged to a housing association.
- (6) Where for any period there is a difference between the amount (if any) of the rates borne by the landlord or a superior landlord in respect of the dwelling-house and the amount (if any) so borne in the rental period on which the rent limit is based, the rent limit under this Part of this Act shall be increased or decreased by the amount of the difference.
- (7) A tenancy commencing (whether before or after the coming into force of this Act) while there is in operation a condition imposed under any of the following enactments:—
  - (a) section 2 of the Housing (Financial Provisions) Act 1924;
  - (b) section 3 of the Housing (Financial Provisions) Act 1938 or section 46(1) of the Housing (Financial Provisions) Act 1958;
  - (c) section 23 of the Housing Act 1949; and
  - (d) section 3 of the Housing Act 1952 or section 104(3) of the Housing Act 1957;

(which impose rent limits on tenancies of subsidised private houses) shall be disregarded for the purposes of subsection (4)(b) above in determining the rent limit under any subsequent tenancy of the dwelling-house.

## **89 Phasing of progression to registered rent**

- (1) This section applies where a rent is registered for a dwelling-house (whether it is the first or any subsequent registration) unless at the date of registration there is no tenant and no person to whom a tenancy has been granted.
- (2) The rent limit shall progress from the rent limit immediately before the date of registration to the registered rent in stages, and—
  - (a) for any rental period beginning in the first stage, the rent limit shall be the rent limit immediately before the date of registration plus £075 per week, or the registered rent, whichever is the less ;
  - (b) for any rental period beginning in the second or any subsequent stage, the rent limit shall be the rent payable for the first rental period of the last previous stage plus £0.75 per week, or the registered rent, whichever is the less.
- (3) The first stage shall last for 52 weeks from the date of registration, or from the beginning of the first rental period for which the rent is first increased (by any amount) on or after that date, whichever is the later.
- (4) Any subsequent stage shall last 52 weeks from the end of the last previous stage, or from the beginning of the first rental period for which the rent is first increased (by any amount) after the end of the last previous stage, whichever is the later.
- (5) If a tenancy of the dwelling-house is granted at any time when—
  - (a) the rent limit is less than the registered rent, and
  - (b) the tenant is neither the person who, at the time when the previous tenancy (or the last previous tenancy) ended, was the tenant under that tenancy nor a member of that tenant's family who resided with him,the registered rent shall become the rent limit from the beginning of the new tenancy, and the stages by which the rent limit was to progress shall terminate.
- (6) The registration of a lower or higher rent during the progression from the rent limit in force before the prior registration shall not alter the stages by which the rent limit is to progress.
- (7) If a higher rent is registered in the 52 weeks beginning with the first rental period for which the rent is increased up to the rent registered on the prior registration, the first stage in the progression from that rent up to the later registered rent shall not begin until the end of that period of 52 weeks.
- (8) If for any rental period beginning after the date of registration there is a difference between the amount (if any) of the rates borne by the landlord or a superior landlord in respect of the dwelling-house and the amount (if any) so borne immediately before the date of registration, any limit imposed by this section for that rental period shall be increased or decreased by the amount of the difference, but not so as to enable any rent to be increased above the rent limit under section 88 of this Act.
- (9) An increase of rent made solely to reflect an increase in the amount of rates borne by the landlord or a superior landlord shall be disregarded for the purposes of subsections (3) and (4) above.

## **90 Previous rent limit exceeding registered rent: special rent limit**

- (1) Where the rent limit for a dwelling-house immediately before the date of registration of a rent for that dwelling-house exceeded the rent so registered, the registration shall be provisional only until it takes effect in accordance with this section.
- (2) If—
  - (a) no application is made under this section to the Secretary of State before—
    - (i) the expiration of a period of 28 days beginning with the date of registration or,
    - (ii) where a rent determined by a rent assessment committee is registered in substitution for a rent determined by the rent officer, and it is lower than the rent for which it is substituted, the expiration of a period of 28 days beginning with the date of registration of the substituted rent, or
  - (b) an application duly made to the Secretary of State under this section is refused, the registration shall cease to be provisional, and shall take effect as from the date of registration.
- (3) The Secretary of State may, on an application made to him within the relevant period of 28 days mentioned in subsection (2)(a) above, grant the application and direct that the rent limit for the dwelling-house shall be such amount as is specified in the direction, being an amount not more than the said previous rent limit, but more than the rent which is provisionally registered.

The Secretary of State may include in a direction under this subsection such conditions as he thinks fit, and if any condition is not complied with the direction shall cease to have effect.
- (4) The period for which the direction has effect shall begin with the date of the provisional registration, and the date when, subject to subsection (5) and (6) below, that period is to end shall be specified in the direction, being a date not more than 3 years and 6 months from the date of the provisional registration.
- (5) The direction shall cease to have effect—
  - (a) if on a subsequent application for registration a different rent is registered for the dwelling-house, and that rent is equal to or exceeds the rent specified in the direction, or
  - (b) the rent assessment committee determine a rent in substitution for the rent registered by the rent officer, and that rent is equal to or exceeds the rent specified in the direction, or
  - (c) the applicant ceases to be the landlord of the dwelling-house.
- (6) Subject to subsection (5) above, if on the date specified as the end of the period under subsection (4) above a subsequent application for registration is pending, the direction shall continue in force until that application has been disposed of by the rent officer.
- (7) When the period for which a direction has effect ends, and the provisional registration is not superseded by a new registration under subsection (5)(a) or (b) above, the registration shall cease to be provisional and except for the purposes of section 67 of this Act shall take effect at the time when the period ends.
- (8) The rent officer shall notify the tenant of any case where a registration is by virtue of this section a provisional registration.

- (9) This section applies whether the registration mentioned in subsection (1) above is the first or any subsequent registration and, in the case of a subsequent registration, whether or not the rent limit immediately before the date of registration was that fixed by a direction under this section.
- (10) A confirmation of a rent by the rent officer shall be treated for the purposes of this section as a registration of a rent which, whether or not it is a provisional registration, supersedes the registration in force prior to the confirmation.

## **91 Special rent limit: procedure on application**

- (1) An application under section 90 of this Act shall be in such form as the Secretary of State may direct either generally or in any particular case, and the applicant shall give notice of the application to the rent officer, and shall take all reasonable steps to give notice of the application to the tenant of each dwelling-house which would be affected by a direction given on the application.
- (2) The Secretary of State in entertaining the application—
- shall take into consideration the information about the finances of the applicant given to him on the application, and any further information given by the applicant at his request, and
  - shall not give a direction unless he is satisfied that the direction is necessary having regard to the applicant's normal sources of income, and to the expenditure (including loan charges) which in his opinion it is reasonable for the applicant to incur in the exercise of housing functions.
- (3) The Secretary of State shall give notice in writing of his decision on the application to the applicant and to the rent officer and, where the decision is to grant the application, the notice shall include particulars of the direction given on the application.
- (4) The rent officer shall note in the register—
- any application notified to him by the applicant, and
  - any direction given and the period for which it is effective, and
  - any decision of the Secretary of State not to grant an application.
- (5) The applicant shall take all reasonable steps to notify the tenant of each dwelling-house affected of any case where the Secretary of State decides to grant or not to grant an application and, where the decision is to grant the application, the notice shall include particulars of the direction given on the application.
- (6) In this section—
- " housing functions " means constructing, improving or managing or facilitating or encouraging the construction or improvement of dwellings, the provision of dwellings by conversion and the acquisition of dwellings, and includes functions which are supplemental or incidental to any of those functions,
- " loan charges " includes any loan charges made by a housing association (including charges for debt management) whether in respect of borrowing from any capital fund kept by the housing association, or in respect of borrowing between accounts kept by the housing association for different functions, or otherwise.

### *Conversion to regulated tenancies*

## **92 Conversion of housing association tenancies into regulated tenancies**

- (1) If at any time, by virtue of subsections (1) and (3) of section 15 of this Act, a tenancy ceases to be one to which this Part of this Act applies and becomes a protected tenancy, that tenancy shall be a regulated tenancy and the housing association which is the landlord under that tenancy shall give notice in writing to the tenant, in such form as may be prescribed, informing him that his tenancy is no longer excluded from protection under this Act.
- (2) If, without reasonable excuse, a housing association fails to give notice to a tenant under subsection (1) above within the period of 21 days beginning on the day on which his tenancy becomes a protected tenancy, the association shall be liable to a fine not exceeding £100.
- (3) Where an offence under subsection (2) above committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager or secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (4) Schedule 14 to this Act shall have effect for supplementing this section.
- (5) In this section—
  - " housing association " has the same meaning as in section 189(1) of the Housing Act 1957 ; and
  - " prescribed " means prescribed by order made by the Secretary of State.
- (6) The power of the Secretary of State to make an order under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) An order under this section may be varied or revoked by a subsequent order.

### *Miscellaneous*

## **93 Increase of rent without notice to quit**

- (1) Subject to subsections (2) and (3) below, where a housing association tenancy is a weekly or other periodical tenancy, the rent payable to the housing association or, as the case may be, the housing trust or the Housing Corporation (in this section called "the landlord") may, without the tenancy being terminated, be increased with effect from the beginning of any rental period by a written notice of increase given by the landlord to the tenant—
  - (a) not later than 4 weeks before the beginning of the rental period (or any earlier date on which the payment of rent in respect of that period falls to be made), and
  - (b) not later than the time when a notice to quit would have to be served if it were to be effective to terminate the tenancy at the beginning of the said rental period.

- (2) Where notice of increase is given under subsection (1) above for the beginning of a rental period and the tenancy continues into that period, the notice shall nevertheless not have effect if the tenancy is terminated by notice given by the tenant in accordance with the provisions (express or implied) of the tenancy and—
  - (a) the notice to terminate the tenancy is given before the end of the period of 2 weeks following the date on which the notice of increase is given, or such longer period as may be allowed by the notice of increase, and
  - (b) the date on which the tenancy is made to terminate is not later than the earliest day on which the tenancy could be terminated by a notice given by the tenant on the last day of that period.
- (3) A notice of increase under subsection (1) above shall not be valid unless it tells the tenant of his right to terminate the tenancy and of the steps to be taken by him if he wishes to do so, and it also gives him the dates by which, if the increase is not to be effective, notice to terminate the tenancy must be received by the landlord and the tenancy be made to terminate.
- (4) This section shall apply to a tenancy notwithstanding that the letting took place before the coming into force of this Act.
- (5) Nothing in this section shall authorise any rent to be increased above the rent limit, and any reference in section 88 of this Act to the variation by agreement of the rent recoverable under a tenancy shall include a reference to variation under this section.

#### **94 Recovery from landlord of sums paid in excess of recoverable rent, etc.**

- (1) Where a tenant has paid on account of rent any amount which, by virtue of this Part of this Act, is irrecoverable by the landlord, the tenant who paid it shall be entitled to recover that amount from the landlord who received it or his personal representatives.
- (2) Any amount which a tenant is entitled to recover under subsection (1) above may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.
- (3) No amount which a tenant is entitled to recover under subsection (1) above shall be recoverable at any time after the expiry of 2 years from the date of payment.
- (4) Any person who, in any rent book or similar document, makes an entry showing or purporting to show any tenant as being in arrears in respect of any sum on account of rent which is irrecoverable by virtue of this Part of this Act shall be liable to a fine not exceeding £50, unless he proves that, at the time of the making of the entry, the landlord had a bona fide claim that the sum was recoverable.
- (5) If, where any such entry has been made by or on behalf of any landlord, the landlord on being requested by or on behalf of the tenant to do so, refuses or neglects to cause the entry to be deleted within 7 days, the landlord shall be liable to a fine not exceeding £50, unless he proves that, at the time of the neglect or refusal to cause the entry to be deleted, he had a bona fide claim that the sum was recoverable.

#### **95 Duty of landlord to supply statement of rent under previous tenancy**

- (1) Where the rent payable under a tenancy is subject to the rent limit specified in section 88(4)(b) of this Act, the landlord shall, on being so requested in writing by the

tenant, supply him with a statement in writing of the rent which was payable for the last rental period of the other tenancy referred to in that subsection.

- (2) If, without reasonable excuse, a landlord who has received such a request—
- (a) fails to supply the statement referred to in subsection (1) above within 21 days of receiving the request, or
  - (b) supplies a statement which is false in any material particular,
- he shall be liable on a first conviction to a fine not exceeding £50 and, on a second or subsequent conviction, to a fine not exceeding £100.
- (3) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager or secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

## 96 Supplemental

- (1) Where a rent determined by a rent assessment committee is registered in substitution for a rent determined by the rent officer, the date of registration shall be deemed for the purposes of this Part of this Act to be the date on which the rent determined by the rent officer was registered.
- (2) A landlord shall not by virtue of subsection (1) above be entitled to recover any rent for a rental period beginning before the date when the rent determined by the rent assessment committee was registered.
- (3) A county court shall have jurisdiction, either in the course of any proceedings relating to a dwelling-house or on an application made for the purpose by the landlord or the tenant, to determine any question as to the rent limit under this Part of this Act, or as to any matter which is or may become material for determining any such question.
- (4) In ascertaining for the purposes of this Part of this Act whether there is any difference with respect to rents or rates between one rental period and another (whether of the same tenancy or not) or the amount of any such difference, any necessary adjustments shall be made to take account of periods of different lengths.
- (5) For the purposes of such an adjustment a period of one month shall be treated as equivalent to one-twelfth of a year and a period of a week as equivalent to one-fifty-second of a year.

## 97 Interpretation of Part VI

- (1) In this Part of this Act, except where the context otherwise requires—
  - " housing association ", " housing association tenancy " and " housing trust "
  - have the meanings assigned to them by section 86 of this Act; and
  - " tenancy " means a housing association tenancy.
- (2) In this Part of this Act references to registration are, subject to section 87(5) of this Act and unless the context otherwise requires, references to registration pursuant to section 87.



- (3) It is hereby declared that any power of giving directions conferred on the Secretary of State by this Part of this Act includes power to vary or revoke directions so given.

## PART VII

### SECURITY OF TENURE

#### *Limitations on recovery of possession of dwelling-houses let on protected tenancies or subject to statutory tenancies*

#### **98 Grounds for possession of certain dwelling-houses**

- (1) Subject to this Part of this Act, a court shall not make an order for possession of a dwelling-house which is for the time being let on a protected tenancy or subject to a statutory tenancy unless the court considers it reasonable to make such an order and either—
- (a) the court is satisfied that suitable alternative accommodation is available for the tenant or will be available for him when the order in question takes effect, or
  - (b) the circumstances are as specified in any of the Cases in Part I of Schedule 15 to this Act
- (2) If, apart from subsection (1) above, the landlord would be entitled to recover possession of a dwelling-house which is for the time being let on or subject to a regulated tenancy, the court shall make an order for possession if the circumstances of the case are as specified in any of the Cases in Part II of Schedule 15.
- (3) Part III of Schedule 15 shall have effect in relation to Case 9 in that Schedule and for determining the relevant date for the purposes of the Cases in Part II of that Schedule.
- (4) Part IV of Schedule 15 shall have effect for determining whether, for the purposes of subsection (1)(a) above, suitable alternative accommodation is or will be available for a tenant.

#### **99 Grounds for possession of certain dwelling-houses let to agricultural workers, etc.**

- (1) This section applies to any protected or statutory tenancy which—
- (a) if it were a tenancy at a low rent, and
  - (b) if (where relevant) any earlier tenancy granted to the tenant, or to a member of his family, had been a tenancy at a low rent,
- would be a protected occupancy or statutory tenancy as defined in the Rent (Agriculture) Act 1976.
- (2) Notwithstanding anything in section 98 of this Act, the court shall not make an order for possession of a dwelling-house which is for the time being let on or subject to a tenancy to which this section applies unless the court considers it reasonable to make such an order and the circumstances are as specified in any of the Cases (except Case 8) in Part I of Schedule 15 to this Act or in either of the Cases in Schedule 16 to this Act.

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*Status: This is the original version (as it was originally enacted).*

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- (3) If, apart from subsection (2) above, the landlord would be entitled to recover possession of a dwelling-house which is for the time being let on or subject to a tenancy to which this section applies, the court shall make an order for possession if the circumstances are as specified in any of the Cases (except Cases 16 to 18) in Part II of Schedule 15 to this Act.

#### **100 Extended discretion of court in claims for possession of certain dwelling-houses**

- (1) Subject to subsection (5) below, a court may adjourn, for such period or periods as it thinks fit, proceedings for possession of a dwelling-house which is let on a protected tenancy or subject to a statutory tenancy.
- (2) On the making of an order for possession of such a dwelling-house, or at any time before the execution of such an order (whether made before or after the commencement of this Act), the court, subject to subsection (5) below, may—
- (a) stay or suspend execution of the order, or
  - (b) postpone the date of possession,
- for such period or periods as the court thinks fit.
- (3) Any such adjournment as is referred to in subsection (1) above and any such stay, suspension or postponement as is referred to in subsection (2) above may be made subject to such conditions with regard to payment by the tenant of arrears of rent, rent or mesne profits and otherwise as the court thinks fit.
- (4) If any such conditions as are referred to in subsection (3) above are complied with, the court may, if it thinks fit, discharge or rescind any such order as is referred to in subsection (2) above.
- (5) This section shall not apply if the circumstances are as specified in any of the Cases in Part II of Schedule 15.

#### **101 Overcrowded dwelling-houses**

- (1) At any time when a dwelling-house to which this section applies is overcrowded, within the meaning of the Housing Act 1957, in such circumstances as to render the occupier guilty of an offence, nothing in this Part of this Act shall prevent the immediate landlord of the occupier from obtaining possession of the dwelling-house.
- (2) This section applies to a dwelling-house which consists of premises used as a separate dwelling by members of the working classes or of a type suitable for such use.

#### **102 Compensation for misrepresentation or concealment in Cases 8 and 9**

Where, in such circumstances as are specified in Case 8 or Case 9 in Schedule 15 to this Act, a landlord obtains an order for possession of a dwelling-house let on a protected tenancy or subject to a statutory tenancy and it is subsequently made to appear to the court that the order was obtained by misrepresentation or concealment of material facts, the court may order the landlord to pay to the former tenant such sum as appears sufficient as compensation for damage or loss sustained by that tenant as a result of the order.

### *Restricted contracts*

#### **103 Notice to quit served after reference of contract to rent tribunal**

- (1) If, after a restricted contract has been referred to a rent tribunal by the lessee or the local authority under section 77 or 80 of this Act, a notice to quit the dwelling to which the contract relates is served by the lessor on the lessee at any time before the decision of the tribunal is given or within the period of 6 months thereafter, then, subject to sections 105 and 106 of this Act, the notice shall not take effect before the expiry of that period.
- (2) In a case falling within subsection (1) above,—
  - (a) the rent tribunal may, if they think fit, direct that a shorter period shall be substituted for the period of 6 months specified in that subsection ; and
  - (b) if the reference to the rent tribunal is withdrawn, the period during which the notice to quit is not to take effect shall end on the expiry of 7 days from the withdrawal of the reference.

#### **104 Application to tribunal for security of tenure where notice to quit is served**

- (1) Subject to sections 105 and 106(3) of this Act, where—
  - (a) a notice to quit a dwelling the subject of a restricted contract has been served, and
  - (b) the restricted contract has been referred to a rent tribunal under section 77 or 80 of this Act (whether before or after the service of the notice to quit) and the reference has not been withdrawn, and
  - (c) the period at the end of which the notice to quit takes effect (whether by virtue of the contract, of section 103 of this Act or of this section) has not expired,the lessee may apply to the rent tribunal for the extension of that period.
- (2) Where an application is made under this section, the notice to quit to which the application relates shall not have effect before the determination of the application unless the application is withdrawn.
- (3) On an application under this section, the rent tribunal, after making such inquiry as they think fit and giving to each party an opportunity of being heard or, at his option, of submitting representations in writing, may direct that the notice to quit shall not have effect until the end of such period, not exceeding 6 months from the date on which the notice to quit would have effect apart from the direction, as may be specified in the direction.
- (4) If the rent tribunal refuse to give a direction under this section,—
  - (a) the notice to quit shall not have effect before the expiry of 7 days from the determination of the application; and
  - (b) no subsequent application under this section shall be made in relation to the same notice to quit.
- (5) On coming to a determination on an application under this section, the rent tribunal shall notify the parties of their determination.

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*Status: This is the original version (as it was originally enacted).*

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### **105 Notices to quit served by owner-occupiers**

Where a person who has occupied a dwelling as a residence (in this section referred to as " the owner-occupier ") has, by virtue of a restricted contract, granted the right to occupy the dwelling to another person and—

- (a) at or before the time when the right was granted (or, if it was granted before 8th December 1965, not later than 7th June 1966) the owner-occupier has given notice in writing to that other person that he is the owner-occupier within the meaning of this section, and
- (b) if the dwelling is part of a house, the owner-occupier does not occupy any other part of the house as his residence,

neither section 103 nor 104 of this Act shall apply where a notice to quit the dwelling is served if, at the time the notice is to take effect, the dwelling is required as a residence for the owner-occupier or any member of his family who resided with him when he last occupied the dwelling as a residence.

### **106 Reduction of period of notice on account of lessee's default**

(1) Subsections (2) and (3) below apply where a restricted contract has been referred to a rent tribunal and the period at the end of which a notice to quit will take effect has been determined by virtue of section 103 of this Act or extended under section 104.

(2) If, in a case where this subsection applies, it appears to the rent tribunal, on an application made by the lessor for a direction under this section,—

- (a) that the lessee has not complied with the terms of the contract, or
- (b) that the lessee or any person residing or lodging with him has been guilty of conduct which is a nuisance or annoyance to adjoining occupiers or has been convicted of using the dwelling, or allowing the dwelling to be used, for an immoral or illegal purpose, or
- (c) that the condition of the dwelling has deteriorated owing to any act or neglect of the lessee or any person residing or lodging with him, or
- (d) that the condition of any furniture provided for the use of the lessee under the contract has deteriorated owing to any ill-treatment by the lessee or any person residing or lodging with him,

the rent tribunal may direct that the period referred to in subsection (1) above shall be reduced so as to end at a date specified in the direction.

(3) No application may be made under section 104 of this Act with respect to a notice to quit if a direction has been given under subsection (2) above reducing the period at the end of which the notice is to take effect.

(4) In any case where—

- (a) a notice to quit a dwelling which is the subject of a restricted contract has been served, and
- (b) the period at the end of which the notice to quit takes effect is for the time being extended by virtue of section 103 or 104 of this Act, and
- (c) at some time during that period the lessor institutes proceedings in the county court for the recovery of possession of the dwelling, and
- (d) in those proceedings the county court is satisfied that any of paragraphs (a) to (d) of subsection (2) above applies,

the court may direct that the period referred to in paragraph (b) above shall be reduced so as to end at a date specified in the direction.

### *Miscellaneous*

#### **107 Interpretation of Part VII**

- (1) In this Part of this Act, except where the context otherwise requires—
  - " dwelling " means a house or part of a house;
  - " lessee " means the person to whom is granted, under a restricted contract, the right to occupy the dwelling in question as a residence and any person directly or indirectly deriving title from the grantee; and
  - " lessor " means the person who, under a restricted contract, grants to another the right to occupy the dwelling in question as a residence and any person directly or indirectly deriving title from the grantor.
- (2) References in this Part of this Act to a party to a contract include references to any person directly or indirectly deriving title from such a party.

### **PART VIII**

#### CONVERSION OF CONTROLLED TENANCIES INTO REGULATED TENANCIES

##### *Dwelling-houses in good repair and provided with standard amenities*

#### **108 Conversion of controlled tenancies**

- (1) This section shall have effect with respect to a controlled tenancy of a dwelling-house which is certified by the local authority, on the application of the landlord, to satisfy the following conditions:—
  - (a) that it is provided with all the standard amenities for the exclusive use of its occupants ;
  - (b) that it is in good repair, having regard to its age, character and locality and disregarding internal decorative repair; and
  - (c) that it is in all other respects fit for human habitation.
- (2) On the issue of the certificate the tenancy shall cease to be a controlled tenancy and, except in the case mentioned in subsection (3) below, shall become a regulated tenancy.
- (3) If the controlled tenancy is one to which Part II of the Landlord and Tenant Act 1954 would apply, apart from section 24(2) of this Act, or would so apply if the controlled tenancy were a tenancy within the meaning of the Act of 1954, it shall, when it ceases to be a controlled tenancy, be treated as a tenancy continuing by virtue of section 24 of the Act of 1954 after the expiry of a term of years certain.
- (4) The conditions mentioned in subsection (1) above are in this Part of this Act referred to as the " qualifying conditions " and a certificate issued in accordance with this section as a " qualification certificate ".

### **109 Application for qualification certificate**

- (1) An application for a qualification certificate must state the name of the tenant under the controlled tenancy, and may be combined with an application for a grant under Part VII of the Housing Act 1974.
- (2) Before considering an application for a qualification certificate the local authority shall serve on the person named in the application as the tenant a copy of the application and, where subsection (3) below applies, the notice required by that subsection.
- (3) Subject to subsection (4) below and to section 110 of this Act, the local authority shall serve on the person so named a notice in the prescribed form—
  - (a) informing him that he may, within 28 days from the service of the notice or such other period as may be prescribed, make representations to the authority that the dwelling-house does not satisfy the qualifying conditions, and
  - (b) containing such other information or explanation of the effect of this Part of this Act as may be prescribed.
- (4) Subsection (3) above shall not apply where the local authority have approved an application for a grant under section 2(1) or 9(1) of the Housing Act 1969 or section 61(1) or 65(1) of the Housing Act 1974 in respect of a dwelling-house and the work specified in the application for the grant has been carried out.
- (5) Where, after considering any representations made in pursuance of subsection (3) above (where that subsection applies), the local authority are satisfied that the dwelling-house satisfies the qualifying conditions, they shall issue to the applicant a qualification certificate, but if they are not so satisfied they shall give notice to the applicant of their refusal of his application containing a written statement of their reasons for the refusal.
- (6) The local authority shall send a copy of the certificate or of the notice of refusal to the tenant.

### **110 Certificate of provisional approval**

- (1) If an application for a qualification certificate is made at a time when the dwelling-house lacks one or more of the standard amenities, the application must state what works are required for the qualifying conditions to be satisfied, and must be accompanied by plans and specifications of those works.
- (2) Where the application contains such a statement, section 109(3) of this Act shall not apply.
- (3) If it appears to the local authority that the dwelling-house will satisfy the qualifying conditions when the works specified in the application have been carried out, the local authority shall approve the application provisionally and shall issue to the applicant a certificate of provisional approval, and send a copy thereof to the tenant.
- (4) Where the local authority decide not to issue a certificate of provisional approval, they shall give the applicant a written statement of their reasons for the refusal, and the application for a qualification certificate shall be dismissed,
- (5) When it is shown to the satisfaction of the local authority, after issue of a certificate of provisional approval—
  - (a) that the works specified in the relevant application have been carried out, and

- (b) that the dwelling-house is then in the state in which it would be expected to be after the carrying out of the works,  
they shall issue the qualification certificate applied for (but without prejudice to their power of issuing a qualification certificate where the qualifying conditions are satisfied although the specified works have not been carried out in whole or in part).

### **111 Certificate of fair rent**

- (1) Where an application for a qualification certificate is, or is to be, made in respect of a dwelling-house which lacks one or more of the standard amenities, the applicant may apply for a certificate of fair rent. Schedule 12 to this Act shall have effect with respect to such an application.
- (2) The application shall be accompanied by plans and specifications of the works required for the qualifying conditions to be satisfied.
- (3) A certificate of fair rent issued on the application shall specify the rent which would be a fair rent under the regulated tenancy that might arise by virtue of section 108 of this Act if the works shown in the plans and specifications were carried out.
- (4) If the applicant for a qualification certificate has obtained a certificate of fair rent on an application under this section, and supplies to the local authority a copy of the certificate of fair rent, and—
  - (a) certifies to the local authority that the plans and specifications accompanying the application for the certificate of fair rent were the same as those which accompanied his application for a qualification certificate, or
  - (b) supplies to the local authority copies of the plans and specifications which accompanied his application for the certificate of fair rent,

the local authority shall, if they issue a qualification certificate, state that the landlord has complied with the provisions of this subsection as respects the certificate of fair rent, and shall also state whether the works specified in the plans and specifications accompanying the application for the certificate of fair rent have been carried out, and give particulars of any respect in which they have not been carried out.

### **112 Registration of rent**

- (1) Where a controlled tenancy of a dwelling-house has become a regulated tenancy on the issue of a qualification certificate, an application for the first registration of a rent for the dwelling-house shall be accompanied by a copy of the qualification certificate.
- (2) Where a certificate of fair rent has been issued under this Part of this Act and an application for the first registration of a rent for the dwelling-house is made not later than 2 years after the issue of the certificate of fair rent, Part III of Schedule 11 to this Act shall have effect with respect to the application instead of Part II.

### **113 Appeal to county court**

- (1) Within 28 days of the service on him under section 109(5) of this Act of a notice of refusal to grant a qualification certificate, or such longer period as the county court may allow, the applicant for a qualification certificate may appeal to the county court on the ground that the certificate ought to be issued; and on such an appeal the court may confirm the refusal, or order the local authority to issue the certificate.

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- (2) Within 28 days of the service on him under section 109(6) of this Act of a copy of a qualification certificate, or such longer period as the county court may allow, the tenant may appeal to the county court on either or both of the following grounds—
- (a) that the certificate ought not to have been issued ;
  - (b) that the certificate is invalid by reason of a failure to comply with any requirement of this Part of this Act or of some informality, defect or error ;
- and on any such appeal the court may confirm or quash the certificate.
- (3) If an appeal under subsection (2) above is on the ground mentioned in paragraph (b), the court shall confirm the certificate unless satisfied that the interests of the appellant have been substantially prejudiced by the facts relied on by him.
- (4) On an appeal under this section, the court—
- (a) shall have regard to the state of the dwelling-house at the time of the hearing as well as at the time of the issue or refusal of the certificate, and
  - (b) shall make no order for costs unless it appears to the court, having regard to the conduct of the parties and all other circumstances, that it would be equitable to do so.
- (5) Any certificate issued in pursuance of an order made under subsection (1) above shall be deemed to be issued on the date of the order.
- (6) Where a qualification certificate with respect to any dwelling-house is quashed by an order under this section after a rent for the dwelling-house has been registered in pursuance of this Part of this Act, the registration shall be deemed never to have had effect and the rent officer shall delete it on being informed of the order.

#### *Phasing of rent increases*

### **114 Phasing of rent increases after conversion**

Schedule 9 to this Act shall have effect for securing that, on first registration of a rent after the conversion of a controlled tenancy into a regulated tenancy, an increase in rent may, in certain circumstances, be recovered only in stages.

#### *Miscellaneous*

### **115 Converted tenancies: modification of Act**

Schedule 17 to this Act shall apply for the purpose of modifying the provisions of this Act in relation to a tenancy which has become a regulated tenancy by virtue of—

- (a) this Part of this Act, or
- (b) Part III of the Housing Finance Act 1972 (which is superseded by this Part).

### **116 Consent of tenant**

- (1) This section shall apply where a dwelling-house which is subject to a statutory tenancy (whether a controlled or regulated tenancy) does not satisfy the qualifying conditions and the works required for those conditions to be satisfied cannot be carried out without the consent of the tenant.



- (2) If the tenant is unwilling to give his consent, then, if the condition specified in paragraph (a), or the condition specified in paragraph (b), of subsection (3) below is satisfied, the county court may, on the application of the landlord, make an order empowering him to enter and carry out the works.
- (3) The condition is—
  - (a) that the works were specified in the application for a grant under Part I of the Housing Act 1969 or Part VII of the Housing Act 1974 and the application has been approved, or
  - (b) that the works are specified in a certificate issued by a local authority (which may be a certificate of provisional approval under this Part of this Act) and stating that the dwelling-house will satisfy the qualifying conditions when the works have been carried out.
- (4) An order under subsection (2) above may be made subject to such conditions as to the time at which the works are to be carried out and as to any provision to be made for the accommodation of the tenant and his household while they are carried out as the court may think fit.
- (5) Where such an order is made subject to any condition as to time, compliance with that condition shall be deemed to be also compliance with any condition imposed by the local authority under sections 4(4) or 10 of the Housing Act 1969 or section 82(1) of the Housing Act 1974.
- (6) In determining whether to make such an order and, if it is made, what (if any) conditions it should be subject to, the court shall have regard to all the circumstances and in particular to—
  - (a) any disadvantage to the tenant that might be expected to result from the works, and
  - (b) the accommodation that might be available for him whilst the works are carried out, and
  - (c) the age and health of the tenant,but the court shall not take into account the means or resources of the tenant.

## **117 Regulations**

- (1) The Secretary of State may make regulations for the purposes of this Part of this Act—
  - (a) prescribing the form of any notice, application, register or other document to be given, made or used in pursuance of this Part;
  - (b) regulating the procedure to be followed by rent officers and rent assessment committees ; and
  - (c) prescribing anything required or authorised to be prescribed by this Part.
- (2) Regulations under subsection (1)(b) above may contain provisions modifying Part III of Schedule 11 to this Act, but no regulations containing such provisions shall have effect unless approved by a resolution of each House of Parliament.
- (3) Regulations made under this section shall be made by statutory instrument which, except in a case falling within subsection (2) above, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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## **118 Interpretation of Part VIII**

- (1) In this Part of this Act, except where the context otherwise requires—
- " local authority "—
    - (a) in relation to any dwelling-house in an area which the Greater London Council have declared—
      - (i) a general improvement area (in accordance with section 28(1) of the Housing Act 1969); or
      - (ii) a housing action area (in accordance with section 49(2) of the Housing Act 1974); means the Greater London Council, to the exclusion of any other authority; and
    - (b) in any other case means—
      - (i) the council of a district or of a London borough;
      - (ii) the Common Council of the City of London; or
      - (iii) the Council of the Isles of Stilly ;
  - " prescribed " means prescribed by regulations under section 117 of this Act;
  - " qualification certificate " and " qualifying conditions " have the meanings assigned to them by section 108(4) of this Act;
  - " standard amenities " has the meaning assigned to it by section 58 of the Housing Act 1974.
- (2) Section 4 of the Housing Act 1957 (standard of fitness for human habitation) shall apply for the purposes of this Part of this Act.

## **PART IX**

### **PREMIUMS, ETC**

## **119 Prohibition of premiums and loans on grant of protected tenancies**

- (1) Any person who, as a condition of the grant, renewal or continuance of a protected tenancy, requires, in addition to the rent, the payment of any premium or the making of any loan (whether secured or unsecured) shall be guilty of an offence.
- (2) Any person who, in connection with the grant, renewal or continuance of a protected tenancy, receives any premium in addition to the rent shall be guilty of an offence.
- (3) A person guilty of an offence under this section shall be liable to a fine not exceeding £100.
- (4) The court by which a person is convicted of an offence under this section relating to requiring or receiving any premium may order the amount of the premium to be repaid to the person by whom it was paid.

## **120 Prohibition of premiums and loans on assignment of protected tenancies**

- (1) Subject to section 121 of this Act, any person who, as a condition of the assignment of a protected tenancy, requires the payment of any premium or the making of any loan (whether secured or unsecured) shall be guilty of an offence.

- (2) Subject to section 121 of this Act, any person who, in connection with the assignment of a protected tenancy, receives any premium shall be guilty of an offence.
- (3) Notwithstanding anything in subsections (1) and (2) above, an assignor of a protected tenancy of a dwelling-house may, if apart from this section he would be entitled to do so, require the payment by the assignee or receive from the assignee a payment—
  - (a) of so much of any outgoings discharged by the assignor as is referable to any period after the assignment takes effect;
  - (b) of a sum not exceeding the amount of any expenditure reasonably incurred by the assignor in carrying out any structural alteration of the dwelling-house or in providing or improving fixtures therein, being fixtures which, as against the landlord, he is not entitled to remove;
  - (c) where the assignor became a tenant of the dwelling-house by virtue of an assignment of the protected tenancy, of a sum not exceeding any reasonable amount paid by him to his assignor in respect of expenditure incurred by that assignor, or by any previous assignor of the tenancy, in carrying out any such alteration or in providing or improving any such fixtures as are mentioned in paragraph (b) above ; or
  - (d) where part of the dwelling-house is used as a shop or office, or for business, trade or professional purposes, of a reasonable amount in respect of any goodwill of the business, trade or profession, being goodwill transferred to the assignee in connection with the assignment or accruing to him in consequence thereof.
- (4) Without prejudice to subsection (3) above, the assignor shall not be guilty of an offence under this section by reason only that—
  - (a) any payment of outgoings required or received by him on the assignment was a payment of outgoings referable to a period before the assignment took effect; or
  - (b) any expenditure which he incurred in carrying out structural alterations of the dwelling-house or in providing or improving fixtures therein and in respect of which he required or received the payment of any sum on the assignment was not reasonably incurred ; or
  - (c) any amount paid by him as mentioned in subsection (3)(c) above was not a reasonable amount; or
  - (d) any amount which he required to be paid, or which he received, on the assignment in respect of goodwill was not a reasonable amount.
- (5) Notwithstanding anything in subsections (1) and (2) above, Part I of Schedule 18 to this Act shall have effect in relation to the assignment of protected tenancies which are regulated tenancies in cases where a premium was lawfully required or received at the commencement of the tenancy.
- (6) A person guilty of an offence under this section shall be liable to a fine not exceeding £100.
- (7) The court by which a person is convicted of an offence under this section relating to requiring or receiving any premium may order the amount of the premium, or so much of it as cannot lawfully be required or received under this section (including any amount which, by virtue of subsection (4) above, does not give rise to an offence), to be repaid to the person by whom it was paid.

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## **121 Tenancies which became regulated by virtue of Counter-Inflation Act 1973**

Part II of Schedule 18 to this Act shall have effect where a premium was lawfully required and paid on the grant, renewal or continuance of a regulated tenancy—

- (a) which was granted before 8th March 1973, and
- (b) which would not have been a regulated tenancy, but for section 14(1) of the Counter-Inflation Act 1973 (which brought certain tenancies of dwelling-houses with high rateable values within the protection of the Rent Act 1968).

## **122 Prohibition of premiums on grant or assignment of rights under restricted contracts**

- (1) This section applies in relation to any premises if—
  - (a) under Part V of this Act, a rent is registered for those premises in the register kept in pursuance of section 79 of this Act; and
  - (b) in a case where the approval, reduction or increase of the rent by the rent tribunal is limited to rent payable in respect of a particular period, that period has not expired.
- (2) Any person who, as a condition of the grant, renewal, continuance or assignment of rights under a restricted contract, requires the payment of any premium shall be guilty of an offence.
- (3) Nothing in subsection (2) above shall prevent a person from requiring—
  - (a) that there shall be paid so much of any outgoings discharged by a grantor or assignor as is referable to any period after the grant or assignment takes effect; or
  - (b) that there shall be paid a reasonable amount in respect of goodwill of a business, trade, or profession, where the goodwill is transferred to a grantee or assignee in connection with the grant or assignment or accrues to him in consequence thereof.
- (4) A person guilty of an offence under this section shall be liable to a fine not exceeding £100.
- (5) The court by which a person is convicted of an offence under this section may order the amount of the premium, or so much of it as cannot lawfully be required under this section, to be repaid to the person by whom it was paid.

## **123 Excessive price for furniture to be treated as premium**

Where the purchase of any furniture has been required as a condition of the grant, renewal, continuance or assignment—

- (a) of a protected tenancy, or
- (b) of rights under a restricted contract which relates to premises falling within section 122(1) of this Act,

then, if the price exceeds the reasonable price of the furniture, the excess shall be treated, for the purposes of this Part of this Act, as if it were a premium required to be paid as a condition of the grant, renewal, continuance or assignment of the protected tenancy or, as the case may be, the rights under the restricted contract.

## **124 Punishment of attempts to obtain from prospective tenants excessive prices for furniture**

- (1) Any person who, in connection with the proposed grant, renewal, continuance or assignment, on terms which require the purchase of furniture, of a protected tenancy—
  - (a) offers the furniture at a price which he knows or ought to know is unreasonably high, or otherwise seeks to obtain such a price for the furniture, or
  - (b) fails to furnish, to any person seeking to obtain or retain accommodation whom he provides with particulars of the tenancy, a written inventory of the furniture, specifying the price sought for each item,shall be liable to a fine not exceeding £100.
- (2) Where a local authority have reasonable grounds for suspecting that an offence under subsection (1)(a) above has been committed with respect to a protected tenancy or proposed protected tenancy of a dwelling-house, they may give notice to the person entitled to possession of the dwelling-house or his agent that, on such date as may be specified in the notice, which shall not be earlier than—
  - (a) 24 hours after the giving of the notice, or
  - (b) if the dwelling-house is unoccupied, the expiry of such period after the giving of the notice as may be reasonable in the circumstances,facilities will be required for entry to the dwelling-house and inspection of the furniture therein.
- (3) A notice under this section may be given by post.
- (4) Where a notice is given under this section, any person authorised by the local authority may avail himself of any facilities for such entry and inspection as are referred to in subsection (2) above which are provided on the specified date but shall, if so required, produce some duly authenticated document showing that he is authorised by the local authority.
- (5) If it is shown to the satisfaction of a justice of the peace, on sworn information in writing, that a person required to give facilities under this section has failed to give them, the justice may, by warrant under his hand, empower the local authority, by any person authorised by them, to enter the dwelling-house in question, if need be by force, and inspect the furniture therein.
- (6) A person empowered by or under the preceding provisions of this section to enter a dwelling-house may take with him such other persons as may be necessary and, if the dwelling-house is unoccupied, shall leave it as effectively secured against trespassers as he found it.
- (7) Any person who wilfully obstructs a person acting in pursuance of a warrant issued under subsection (5) above shall be liable on a first conviction to a fine not exceeding £20 and, on a second or subsequent conviction, to a fine not exceeding £50.
- (8) In this section "local authority" means the council of a district or of a London borough or the Common Council of the City of London.

## **125 Recovery of premiums and loans unlawfully required or received**

- (1) Where under any agreement (whether made before or after the commencement of this Act) any premium is paid after the commencement of this Act and the whole or any part of that premium could not lawfully be required or received under the preceding

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provisions of this Part of this Act, the amount of the premium or, as the case may be, so much of it as could not lawfully be required or received, shall be recoverable by the person by whom it was paid.

- (2) Nothing in section 119 or 120 of this Act shall invalidate any agreement for the making of a loan or any security issued in pursuance of such an agreement but, notwithstanding anything in the agreement for the loan, any sum lent in circumstances involving a contravention of either of those sections shall be repayable to the lender on demand.

## **126 Avoidance of requirements for advance payment of rent in certain cases**

- (1) Where a protected tenancy which is a regulated tenancy is granted, continued or renewed, any requirement that rent shall be payable—
- (a) before the beginning of the rental period in respect of which it is payable, or
  - (b) earlier than 6 months before the end of the rental period in respect of which it is payable (if that period is more than 6 months),
- shall be void, whether the requirement is imposed as a condition of the grant, renewal or continuance of the tenancy or under the terms thereof.
- (2) Any requirement avoided by subsection (1) above is, in this section, referred to as a "prohibited requirement".
- (3) Rent for any rental period to which a prohibited requirement relates shall be irrecoverable from the tenant.
- (4) Any person who purports to impose any prohibited requirement shall be liable to a fine not exceeding £100, and the court by which he is convicted may order any amount of rent paid in compliance with the prohibited requirement to be repaid to the person by whom it was paid.
- (5) Where a tenant has paid on account of rent any amount which, by virtue of this section, is irrecoverable the tenant shall be entitled to recover that amount from the landlord who received it or his personal representatives.
- (6) Any amount which a tenant is entitled to recover under subsection (5) above may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.
- (7) No amount which a tenant is entitled to recover under subsection (5) above shall be recoverable at any time after the expiry of 2 years from the date of payment.
- (8) Any person who, in any rent book or similar document makes an entry showing or purporting to show any tenant as being in arrears in respect of any sum on account of rent which is irrecoverable by virtue of this section shall be liable to a fine not exceeding £50, unless he proves that, at the time of the making of the entry, the landlord had a bona fide claim that the sum was recoverable.
- (9) If, where any such entry has been made by or on behalf of any landlord, the landlord on being requested by or on behalf of the tenant to do so, refuses or neglects to cause the entry to be deleted within 7 days, the landlord shall be liable to a fine not exceeding £50, unless he proves that, at the time of the neglect or refusal to cause the entry to be deleted, he had a bona fide claim that the sum was recoverable.

## **127 Allowable premiums in relation to certain long tenancies**

- (1) Where a tenancy is both a long tenancy within the meaning of Part I of the Landlord and Tenant Act 1954 and a protected tenancy, then—
  - (a) if the conditions specified in subsection (2) below are satisfied with respect to it, nothing in this Part of this Act or in Part VII of the Rent Act 1968 (provisions superseded by this Part) or the enactments replaced by the said Part VII shall apply or be deemed ever to have applied to the tenancy;
  - (b) if any of those conditions are not satisfied with respect to it, Part II of Schedule 18 to this Act shall apply and, if the tenancy was granted before the passing of this Act, be deemed always to have applied to it.
- (2) The conditions mentioned in subsection (1)(a) above are—
  - (a) that the tenancy is not, and cannot become, terminable within 20 years of the date when it was granted by notice given to the tenant; and
  - (b) that, unless the tenancy was granted before 25th July 1969 or was granted in pursuance of Part I of the Leasehold Reform Act 1967, the sums payable by the tenant otherwise than in respect of rates, services, repairs, maintenance or insurance are not, under the terms of the tenancy, varied or liable to be varied within 20 years of the date when it was granted nor, thereafter, more than once in any 21 years; and
  - (c) that assignment or underletting of the whole of the premises comprised in the tenancy is not precluded by the terms of the tenancy and, if it is subject to any consent, there is neither a term excluding section 144 of the Law of Property Act 1925 (no payment in nature of fine) nor a term requiring in connection with a request for consent the making of an offer to surrender the tenancy.
- (3) Where the condition specified in subsection (2)(b) above would be satisfied with respect to a sub-tenancy but for a term providing for one variation, within 20 years of the date when the sub-tenancy was granted, of the sums payable by the subtenant, that condition shall be deemed to be satisfied notwithstanding that term, if it is satisfied with respect to a superior tenancy of the premises comprised in the sub-tenancy (or of those and other premises).
- (4) Nothing in this section shall affect the recovery, in pursuance of any judgment given or order or agreement made before 20th May 1969, of any amount which it was not lawful to receive under the law in force at the time it was received.
- (5) In this section " grant " includes continuance and renewal.

## **128 Interpretation of Part IX**

- (1) In this Part of this Act, unless the context otherwise requires,—
  - " furniture " includes fittings and other articles; and
  - " premium " includes any fine or other like sum and any other pecuniary consideration in addition to rent.
- (2) For the avoidance of doubt it is hereby declared that nothing in this Part of this Act shall render any amount recoverable more than once.

## PART X

### MORTGAGES

#### 129 Mortgages to which Part X applies

- (1) This Part of this Act is concerned with mortgages which—
  - (a) were created before the relevant date, and
  - (b) are either controlled mortgages or regulated mortgages, as defined in sections 130 and 131 of this Act.
- (2) For the purposes of this Part of this Act, "relevant date"—
  - (a) in a case where, on 28th November 1967, land consisting of or including a dwelling-house was subject to a long tenancy which became a regulated tenancy on that date by virtue of section 39 of the Leasehold Reform Act 1967, means, in relation to that land, 28th November 1967;
  - (b) in a case where, on 22nd March 1973, land consisting of or including a dwelling-house was subject to a tenancy which became a regulated tenancy by virtue of section 14 of the Counter-Inflation Act 1973, means, in relation to that land, 22nd March 1973 ;
  - (c) in the case of land consisting of or including a dwelling-house subject to a regulated furnished tenancy, means, in relation to that land, 14th August 1974 ; and
  - (d) in any other case, means 8th December 1965.

#### 130 Controlled mortgages

For the purposes of this Part of this Act, a mortgage is a controlled mortgage at any time when, had neither the Rent Act 1968 nor this Act been passed, it would have been a mortgage to which the Increase of Rent and Mortgage Interest (Restrictions) Act 1920 would have applied (whether by virtue of the modification of that Act effected by Schedule 1 to the Rent and Mortgage Restrictions Act 1939 or otherwise).

#### 131 Regulated mortgages

- (1) Subject to subsection (2) below, a mortgage which falls within section 129(1)(a) of this Act but which is not a controlled mortgage is a regulated mortgage if—
  - (a) it is a legal mortgage of land consisting of or including a dwelling-house which is let on or subject to a regulated tenancy, and
  - (b) the regulated tenancy is binding on the mortgagee.
- (2) Notwithstanding that a mortgage falls within subsection (1) above, it is not a regulated mortgage if—
  - (a) the rateable value on the appropriate day of the dwelling house which falls within subsection (1)(a) above or, if there is more than one such dwelling-house comprised in the mortgage, the aggregate of the rateable values of those dwelling-houses on the appropriate day is less than one-tenth of the rateable value on the appropriate day of the whole of the land comprised in the mortgage, or



- (b) the mortgagor is in breach of covenant, but for this purpose a breach of the covenant for the repayment of the principal money otherwise than by instalments shall be disregarded.
- (3) Subsection (2)(a) above shall have effect, in the case of land consisting of or including a dwelling-house which on 22nd March 1973 was subject to a tenancy which became a regulated tenancy by virtue of section 14 of the Counter-Inflation Act 1973, as if for the reference to the appropriate day there were substituted a reference to 7th March 1973.
- (4) In this section " legal mortgage " includes a charge by way of legal mortgage.
- (5) Any reference in this Part of this Act to a regulated mortgage shall be construed in accordance with this section.

### **132 Powers of court to mitigate hardship to mortgagors under regulated mortgages**

- (1) The powers of the court under this section relate only to regulated mortgages, and those powers become exercisable in relation to such a mortgage only on an application made by the mortgagor within 21 days, or such longer time as the courts may allow, after the occurrence of one of the following events :—
    - (a) the rate of interest payable in respect of the mortgage is increased; or
    - (b) a rent for a dwelling-house comprised in the mortgage is registered under Part IV of this Act and the rent so registered is lower than the rent which was payable immediately before the registration ; or
    - (c) the mortgagee, not being a mortgagee who was in possession on the relevant date, demands payment of the principal money secured by the mortgage or takes any steps for exercising any right of foreclosure or sale or for otherwise enforcing his security.
- Paragraph (b) above shall not apply to a case falling within section 129(2)(b) of this Act.
- (2) If the court is satisfied on any such application that, by reason of the event in question and of the operation of this Act, the mortgagor would suffer severe financial hardship unless relief were given under this section, the court may by order make such provision—
    - (a) limiting the rate of interest,
    - (b) extending the time for the repayment of the principal money, or
    - (c) otherwise varying the terms of the mortgage or imposing any limitation or condition on the exercise of any right or remedy in respect thereof,as it thinks appropriate.
  - (3) Where the court makes an order under subsection (2) above in relation to a mortgage which comprises other land as well as a dwelling-house or dwelling-houses subject to a regulated tenancy the order may, if the mortgagee so requests, make provision for apportioning the money secured by the mortgage between that other land and the dwelling-house or dwelling-houses.
  - (4) Where such an apportionment is made, the other provisions of the order made by the court shall not apply in relation to the other land referred to in that subsection and the money secured by the other land, and the mortgage shall have effect for all purposes as two separate mortgages of the apportioned parts.

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- (5) Where the court has made an order under this section it may vary or revoke it by a subsequent order.
- (6) The court for the purposes of this section is a county court, except that where an application under subsection (1) above is made in pursuance of any step taken by the mortgagee in the High Court it is the High Court.

### **133 Restrictions applicable to controlled mortgages**

- (1) Part I of Schedule 19 to this Act shall have effect with respect to the interest rate on controlled mortgages, and Part II of that Schedule shall have effect, subject to subsection (2) below, with respect to the enforcement of the mortgagee's rights and remedies under a controlled mortgage.
- (2) Where the mortgagee under a controlled mortgage satisfies the county court that greater hardship would be caused if the restrictions imposed on the exercise of the mortgagee's rights and remedies by Part II of Schedule 19 continued to apply to the mortgage than if they were removed or modified, the court may by order allow him to exercise such of those rights and remedies as may be specified in the order, on such terms and conditions as may be so specified.
- (3) Where the county court has made an order under this section it may vary or revoke it by a subsequent order.

### **134 Apportionment of controlled mortgages**

- (1) Where a controlled mortgage comprises other land as well as a dwelling-house or dwelling-houses to which, immediately before 8th June 1968, the Increase of Rent and Mortgage Interest (Restrictions) Act 1920 applied, the mortgagee may apportion the principal money secured by the mortgage between that other land and the dwelling-house or dwelling-houses by giving one month's notice in writing to the mortgagor, stating the particulars of the apportionment.
- (2) At any time before the expiry of a month's notice given under subsection (1) above, the mortgagor may dispute the amounts apportioned by the notice and, in default of agreement, the apportionment of the principal money secured by the mortgage shall be determined by a single arbitrator appointed by the President of the Royal Institution of Chartered Surveyors.
- (3) Where a notice is given under subsection (1) above then, as from the expiry of the month's notice, this Part of this Act shall cease to apply to the mortgage in question so far as it relates to the other land referred to in subsection (1) above and the money secured by the other land, and the mortgage shall have effect for all purposes as two separate mortgages of the apportioned parts.

### **135 Recovery of sums paid in excess of permitted rate of interest under controlled mortgage**

- (1) Where a mortgagor under a controlled mortgage has paid on account of mortgage interest any amount which, by virtue of Schedule 19 to this Act, is irrecoverable by the mortgagee, the mortgagor who paid it shall be entitled to recover that amount from the mortgagee who received it or his personal representatives.

- (2) Any amount which a mortgagor is entitled to recover under subsection (1) above may, without prejudice to any other method of recovery, be deducted by the mortgagor from any mortgage interest payable by him to the mortgagee.
- (3) No amount which a mortgagor is entitled to recover under subsection (1) above shall be recoverable at any time after the expiry of 2 years from the date of payment.

### **136 Interpretation of Part X**

In this Part of this Act, except where the context otherwise requires—

- (a) " mortgagee " and " mortgagor " include any person from time to time deriving title under the original mortgagee or mortgagor; and
- (b) " legal mortgage " in relation to regulated mortgages, and " mortgage ", in relation to controlled mortgages, include any charge registered under the Land Registration Act 1925.

## **PART XI**

### **GENERAL**

#### *Sublettings*

### **137 Effect on sub-tenancy of determination of superior tenancy**

- (1) If a court makes an order for possession of a dwelling-house from—
  - (a) a protected or statutory tenant, or
  - (b) a protected occupier or statutory tenant as defined in the Rent (Agriculture) Act 1976,and the order is made by virtue of section 98(1) or 99(2) of this Act or, as the case may be, under Part I of Schedule 4 to that Act, nothing in the order shall affect the right of any sub-tenant to whom the dwelling-house or any part of it has been lawfully sublet before the commencement of the proceedings to retain possession by virtue of this Part of this Act, nor shall the order operate to give a right to possession against any such sub-tenant.
- (2) Where a statutorily protected tenancy of a dwelling-house is determined, either as a result of an order for possession or for any other reason, any sub-tenant to whom the dwelling-house or any part of it has been lawfully sublet shall, subject to this Act, be deemed to become the tenant of the landlord on the same terms as if the tenant's statutorily protected tenancy had continued.
- (3) Where a dwelling-house—
  - (a) forms part of premises which have been let as a whole on a superior tenancy but do not constitute a dwelling-house let on a statutorily protected tenancy; and
  - (b) is itself subject to a protected or statutory tenancy,then, from the coming to an end of the superior tenancy, this Act shall apply in relation to the dwelling-house as if, in lieu of the superior tenancy, there had been separate tenancies of the dwelling-house and of the remainder of the premises, for the like

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purposes as under the superior tenancy, and at rents equal to the just proportion of the rent under the superior tenancy.

In this subsection " premises " includes, if the sub-tenancy in question is a protected or statutory tenancy to which section 99 of this Act applies, an agricultural holding within the meaning of the Agricultural Holdings Act 1948.

- (4) In subsections (2) and (3) above " statutorily protected tenancy " means—
- (a) a protected or statutory tenancy;
  - (b) a protected occupancy or statutory tenancy as defined in the Rent (Agriculture) Act 1976 ; or
  - (c) if the sub-tenancy in question is a protected or statutory tenancy to which section 99 of this Act applies, a tenancy of an agricultural holding within the meaning of the Agricultural Holdings Act 1948.
- (5) Subject to subsection (6) below, a long tenancy of a dwelling-house which is also a tenancy at a low rent but which, had it not been a tenancy at a low rent, would have been a protected tenancy, shall be treated for the purposes of subsection (2) above as a statutorily protected tenancy.
- (6) Notwithstanding anything in subsection (5) above, subsection (2) above shall not have effect where the sub-tenancy in question was created (whether immediately or derivatively) out of a long tenancy falling within subsection (5) above and, at the time of the creation of the sub-tenancy—
- (a) a notice to terminate the long tenancy had been given under section 4(1) of the Landlord and Tenant Act 1954; or
  - (b) the long tenancy was being continued by section 3(1) of that Act;
- unless the sub-tenancy was created with the consent in writing of the person who at the time when it was created was the landlord, within the meaning of Part I of that Act.
- (7) This section shall apply equally where a protected occupier of a dwelling-house, or part of a dwelling-house, has a relevant licence as defined in the Rent (Agriculture) Act 1976, and in this section " tenancy " and all cognate expressions shall be construed accordingly.

### **138 Effect on furnished sub-tenancy of determination of superior unfurnished tenancy**

- (1) If, in a case where section 137(2) of this Act applies, the conditions mentioned in subsection (2) below are fulfilled, the terms on which the sub-tenant is, by virtue of section 137(2), deemed to become the tenant of the landlord shall not include any terms as to the provision by the landlord of furniture or services.
- (2) The conditions are:—
- (a) that the statutorily protected tenancy which is determined as mentioned in section 137(2) was neither a protected furnished tenancy nor a statutory furnished tenancy; and
  - (b) that, immediately before the determination of that statutorily protected tenancy, the sub-tenant referred to in section 137(2) was the tenant under a protected furnished tenancy or a statutory furnished tenancy; and
  - (c) that the landlord, within the period of 6 weeks beginning with the day on which the statutorily protected tenancy referred to in section 137(2) is

determined, serves notice on the sub-tenant that this section is to apply to his tenancy or statutory tenancy.

- (3) In this section " statutorily protected tenancy" has the meaning given to it, for the purposes of subsection (2) of section 137 of this Act, by subsection (4) of that section.

**139   Obligation to notify sublettings of dwelling-houses let on or subject to protected or statutory tenancies**

- (1) If the tenant of a dwelling-house let on or subject to a protected or statutory tenancy sublets any part of the dwelling-house on a protected tenancy, then, subject to subsection (2) below, he shall, within 14 days after the subletting, supply the landlord with a statement in writing of the subletting giving particulars of occupancy, including the rent charged.
- (2) Subsection (1) above shall not require the supply of a statement in relation to a subletting of any part of a dwelling-house if the particulars which would be required to be included in the statement as to the rent and other conditions of the subtenancy would be the same as in the last statement supplied in accordance with that subsection with respect to a previous subletting of that part.
- (3) A tenant who is required to supply a statement in accordance with subsection (1) above and who, without reasonable excuse—
- (a) fails to supply a statement, or
  - (b) supplies a statement which is false in any material particular,
- shall be liable to a fine not exceeding £25.
- (4) In this section—
- (a) " protected tenancy" includes a protected occupancy under the Rent (Agriculture) Act 1976 ;
  - (b) " statutory tenancy " includes a statutory tenancy under that Act.

*Fire Precautions*

**140   Modification of Act in relation to fire precautions**

Schedule 20 to this Act shall have effect for the purpose of modifying this Act in connection with certain provisions of the Fire Precautions Act 1971.

*Jurisdiction and procedure*

**141   County court jurisdiction**

- (1) A county court shall have jurisdiction, either in the course of any proceedings relating to a dwelling or on an application made for the purpose by the landlord or the tenant, to determine any question—
- (a) as to whether a tenancy is a protected tenancy or whether any person is a statutory tenant of a dwelling-house, or whether a mortgage is a controlled mortgage within the meaning of Part X of this Act; or
  - (b) as to the rent limit; or
  - (c) as to the rent actually recoverable under a controlled tenancy; or

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- (d) as to the application of Part V and sections 103 to 106 of this Act to a contract; or
  - (e) as to whether a protected, statutory or regulated tenancy is a protected, statutory or regulated furnished tenancy;
- or as to any matter which is or may become material for determining any such question.
- (2) In subsection (1) above "dwelling" and "the rent limit" have, in relation to a controlled tenancy, the same meanings as in Part II of this Act.
  - (3) A county court shall have jurisdiction to deal with any claim or other proceedings arising out of any of the provisions of this Act specified in subsection (5) below, notwithstanding that by reason of the amount of the claim or otherwise the case would not, apart from this subsection, be within the jurisdiction of a county court.
  - (4) If, under any of the provisions of this Act specified in subsection (5) below, a person takes proceedings in the High Court which he could have taken in the county court, he shall not be entitled to recover any costs.
  - (5) The provisions referred to in subsections (3) and (4) above are—
    - (a) Part II;
    - (b) in Part III, section 57 ;
    - (c) Part VII, except sections 98(2) and 101;
    - (d) in Part IX, sections 125 and 126;
    - (e) in Part X, sections 133(1), 134 and 135 ; and
    - (f) in this Part of this Act, sections 145 and 147.

#### **142 Rules as to procedure**

- (1) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purpose of giving effect to the provisions of this Act and may, by those rules or directions, provide for the conduct so far as desirable in private of any proceedings for the purposes of those provisions and for the remission of any fees.
- (2) The power vested in the Lord Chancellor by subsection (1) above may, when the Great Seal is in commission, be exercised by any Lord Commissioner.
- (3) The power conferred by subsection (1) above shall not be exercisable in relation to the following provisions of this Act:—
  - (a) Part IV, except section 75(2);
  - (b) Part V;
  - (c) Part VI;
  - (d) sections 103 to 106, except subsection (4).
- (4) Any rules made under this section shall be contained in a statutory instrument.

*Release from provisions of Act*

#### **143 Release from rent regulation**

- (1) Where the Secretary of State is satisfied with respect to every part of any area that the number of persons seeking to become tenants there—
  - (a) of dwelling-houses exceeding a specified rateable value, or

(b) of any class or description of dwelling-house or of dwelling-house exceeding a specified rateable value,

is not substantially greater than the number of such dwelling-houses in that part, he may by order provide that no such dwelling-house in the area shall be the subject of a regulated tenancy or the subject of a protected occupancy or statutory tenancy under the Rent (Agriculture) Act 1976.

- (2) An order under this section may contain such transitional provisions, including provisions to avoid or mitigate hardship, as appear to the Secretary of State to be desirable.
- (3) The power to make an order under this section shall be exercisable by statutory instrument and no such order shall have effect unless it is approved by a resolution of each House of Parliament.

#### **144 Release from restricted contract provisions**

- (1) The Secretary of State may by order provide that, as from such date as may be specified in the order, section 19 of this Act shall not apply to a dwelling the rateable value of which on such day as may be specified in the order exceeds such amount as may be so specified.
- (2) An order under this section—
  - (a) may be made so as to relate to the whole of England and Wales or to such area in England and Wales as may be specified in the order, and so as to apply generally or only to, or except to, such classes or descriptions of dwellings as may be specified in the order; and
  - (b) may contain such transitional provisions as appear to the Secretary of State to be desirable.
- (3) The power to make an order under this section shall be exercisable by statutory instrument and no such order shall have effect unless it is approved by a resolution of each House of Parliament.

#### **145 Rents of subsidised private houses**

- (1) This section applies to any condition mentioned in any of the enactments specified in subsection (2) below which limits the rent to be charged in respect of any dwelling.
- (2) The enactments referred to in subsection (1) above are—
  - (a) section 3 of the Housing (Financial Provisions) Act 1938;
  - (b) section 46 of the Housing (Financial Provisions) Act 1958;
  - (c) section 104 of the Housing Act 1957.
- (3) Subject to subsection (4) below, in so far as any condition to which this section applies limits the rent under a controlled tenancy, the condition shall limit, or as the case may be shall have effect as if it limited, that rent to the amount of the rent limit, within the meaning of Part II of this Act.
- (4) If any condition to which this section applies was imposed before 6th July 1957 and then limited the rent to an amount exceeding what would be the rent limit if ascertained under subsections (1) and (2) of section 27 of this Act, the rent limit under a controlled tenancy shall be that amount, subject to the provisions of subsection (3) of that section and of paragraph 7(2) of Schedule 6 to this Act.

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- (5) Schedule 21 to this Act shall have effect, to the extent therein specified, in relation to any condition to which this section applies which limits the rent under a tenancy which is not a controlled tenancy.

*Miscellaneous*

**146 Long tenancies at a low rent**

- (1) In determining whether a long tenancy was, at any time,—
- (a) a tenancy at a low rent within the meaning of the Rent Act 1968; or
  - (b) a tenancy to which, by virtue of section 12(7) of the Act of 1920, the Rent Acts did not apply ;

there shall be disregarded such part (if any) of the sums payable by the tenant as is expressed (in whatever terms) to be payable in respect of rates, services, repairs, maintenance, or insurance, unless it could not have been regarded by the parties as a part so payable.

- (2) In subsection (1) above—
- " long tenancy " means a tenancy granted for a term certain exceeding 21 years, other than a tenancy which is, or may become, terminable before the end of that term by notice given to the tenant;
  - " the Act of 1920 " means the Increase of Rent and Mortgage Interest (Restrictions) Act 1920 ; and
  - " the Rent Acts " means the Rent and Mortgage Interest Restrictions Acts 1920 to 1939.

**147 Restriction on levy of distress for rent**

- (1) No distress for the rent of any dwelling-house let on a protected tenancy or subject to a statutory tenancy shall be levied except with the leave of the county court; and the court shall, with respect to any application for such leave, have the same or similar powers with respect to adjournment, stay, suspension, postponement and otherwise as are conferred by section 100 of this Act in relation to proceedings for possession of such a dwelling-house.
- (2) Nothing in subsection (1) above shall apply to distress levied under section 137 of the County Courts Act 1959.

**148 Implied term in all protected tenancies**

It shall be a condition of a protected tenancy of a dwelling-house that the tenant shall afford to the landlord access to the dwelling-house and all reasonable facilities for executing therein any repairs which the landlord is entitled to execute.

*Supplemental*

**149 Powers of local authorities for purposes of giving information**

- (1) Any local authority to which this section applies shall have power—



- (a) to publish information, for the assistance of landlords and tenants and others, as to their rights and duties under—
    - (i) the Landlord and Tenant Act 1962,
    - (ii) the Protection from Eviction Act 1977,
    - (iii) section 90 of the Housing Finance Act 1972, and
    - (iv) this Act,and as to the procedure for enforcing those rights or securing the performance of those duties, and
  - (b) to publish information, for the assistance of owners and occupiers of dwelling-houses and others, as to their rights and duties under the Rent (Agriculture) Act 1976 and as to the procedure for enforcing those rights or securing the performance of those duties, and
  - (c) to make any such information as is mentioned in paragraph (a) or (b) above available in any other way, and
  - (d) to furnish particulars as to the availability, extent and character of alternative accommodation.
- (2) This section applies to the following local authorities:—
- (a) councils of districts and of London boroughs;
  - (b) the Common Council of the City of London ; and
  - (c) the Council of the Isles of Stilly.

## **150 Prosecution of offences**

- (1) Offences under this Act are punishable summarily.
- (2) Proceedings for an offence under this Act (other than one under section 31(9)) may be instituted by any local authority to which section 149 of this Act applies.

## **151 Service of notices on landlord's agents**

- (1) Any document required or authorised by this Act to be served by the tenant of a dwelling-house on the landlord thereof shall be deemed to be duly served on him if it is served—
  - (a) on any agent of the landlord named as such in the rent book or other similar document; or
  - (b) on the person who receives the rent of the dwelling-house.
- (2) Where a dwelling-house is subject to a regulated tenancy, subsection (1) above shall apply also in relation to any document required or authorised by this Act to be served on the landlord by a person other than the tenant.
- (3) If for the purpose of any proceedings (whether civil or criminal) brought or intended to be brought under this Act, any person serves upon any such agent or other person as is referred to in paragraph (a) or paragraph (b) of subsection (1) above a notice in writing requiring the agent or other person to disclose to him the full name and place of abode or place of business of the landlord, that agent or other person shall forthwith comply with the notice.
- (4) If any such agent or other person as is referred to in subsection (3) above fails or refuses forthwith to comply with a notice served on him under that subsection, he shall be liable to a fine not exceeding £25, unless he shows to the satisfaction of the court

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that he did not know, and could not with reasonable diligence have ascertained, such of the facts required by the notice to be disclosed as were not disclosed by him.

- (5) So far as this section relates to Part V or IX or sections 103 to 107, of this Act, references to a landlord and to a tenant shall respectively include references to a lessor and to a lessee as defined by section 85 of this Act.

## 152 Interpretation

- (1) In this Act, except where the context otherwise requires,—

" the appropriate day " has the meaning assigned to it by section 25(3) of this Act;

" controlled tenancy " shall be construed in accordance with section 17 of this Act;

" landlord " includes any person from time to time deriving title under the original landlord and also includes, in relation to any dwelling-house, any person other than the tenant who is, or but for Part VII of this Act would be, entitled to possession of the dwelling-house;

" let " includes " sublet " ;

" long tenancy " means a tenancy granted for a term of years certain exceeding 21 years, whether or not subsequently extended by act of the parties or by any enactment;

" protected furnished tenancy ", " regulated furnished tenancy " and " statutory furnished tenancy " mean a protected or, as the case may be, regulated or statutory tenancy—

(a) under which the dwelling-house concerned is bona fide let at a rent which includes payments in respect of furniture, and

(b) in respect of which the amount of rent which is fairly attributable to the use of furniture, having regard to the value of that use to the tenant, forms a substantial part of the whole rent;

" protected tenant " and " protected tenancy " shall be construed in accordance with section 1 of this Act;

" rates " includes water rates and charges but does not include an owner's drainage rate as defined in section 63(2)(a) of the Land Drainage Act 1976;

" rateable value " shall be construed in accordance with section 25 of this Act;

" regulated tenancy " shall be construed in accordance with section 18 of this Act;

" rent tribunal " has the meaning given by section 76(1) of this Act;

" rental period " means a period in respect of which a payment of rent falls to be made ;

" restricted contract " shall be construed in accordance with section 19 of this Act;

" statutory tenant " and " statutory tenancy " shall be construed in accordance with section 2 of this Act;

" tenant " includes statutory tenant and also includes a sub-tenant and any person deriving title under the original tenant or sub-tenant;

" tenancy " includes " sub-tenancy " ;

" tenancy at a low rent " has the meaning assigned to it by section 5 of this Act.

- (2) Except in so far as the context otherwise requires, any reference in this Act to any other enactment shall be taken as referring to that enactment as amended by or under any other enactment, including this Act.

### **153 Application to Isles of Scilly**

- (1) With the exception of Part V, and sections 103 to 106, of this Act (which do not apply to the Isles of Scilly) this Act applies to the Isles subject to such exceptions, adaptations and modifications as the Secretary of State may by order direct.
- (2) The power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) An order under this section may be varied or revoked by a subsequent order.

### **154 Application to Crown property**

- (1) Subject to sections 13 and 19(5)(b) of this Act this Act shall apply in relation to premises in which there subsists, or at any material time subsisted, a Crown interest as it applies in relation to premises in which no such interest subsists or ever subsisted.
- (2) In this section " Crown interest" means an interest which belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster or to the Duchy of Cornwall, or to a government department, or which is held in trust for Her Majesty for the purposes of a government department.

### **155 Modifications, amendments, transitional provisions, repeals etc.**

- (1) In relation to such protected and statutory tenancies in existence at the commencement of this Act as are specified in Schedule 22 thereto, the provisions of this Act specified in that Schedule shall have effect subject to the modifications so specified.
- (2) Subject to subsection (3) below, the enactments specified in Schedule 23 to this Act shall have effect subject to the amendments specified in that Schedule.
- (3) The savings and transitional provisions in Schedule 24 to this Act shall have effect.
- (4) The inclusion in this Act of any express saving, transitional provision or amendment shall not be taken as prejudicing the operation of section 38 of the Interpretation Act 1889 (which relates to the effect of repeals).
- (5) Subject to subsection (3) above, the enactments specified in Schedule 25 to this Act (which include enactments which were spent before the passing of this Act) are hereby repealed to the extent specified in the third column of that Schedule.

### **156 Short title, commencement and extent**

- (1) This Act may be cited as the Rent Act 1977.
- (2) This Act shall come into force on the expiry of the period of one month beginning with the date on which it is passed.
- (3) This Act does not extend to Scotland or Northern Ireland.