



Rent Act 1977

1977 CHAPTER 42

PART VI

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

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 subsituation 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—
 - (a) 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
 - (b) 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—
- (a) any application notified to him by the applicant, and
 - (b) any direction given and the period for which it is effective, and
 - (c) 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.