

1989 No. 2469 (S.168)

LANDLORD AND TENANT, SCOTLAND

The Limits on Rent Increases (Scotland) Order 1989

Made - - - - - *28th December 1989*

Laid before Parliament *12th January 1990*

Coming into force *5th February 1990*

The Secretary of State, in exercise of the powers conferred on him by section 33(1) and (2) of the Rent (Scotland) Act 1984(a), and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Limits on Rent Increases (Scotland) Order 1989 and shall come into force on 5th February 1990.

Interpretation

2. In this Order—

“the 1984 Act” means the Rent (Scotland) Act 1984;

“first period” means the period of 12 months beginning with the date of registration;

“noted amount” means the amount of the registered rent noted as fairly attributable to the provision of services under section 49(2)(b) of the 1984 Act;

“permitted increase” means the amount by which the rent for any first period or subsequent period may be increased calculated in accordance with article 5(2) or (3) of this Order as the case may be;

“previous rent limit” means, as the case may require and subject to article 3 of this Order, either—

(a) where the increase is the first to be made since the date of registration of the rent, the amount payable by way of rent on that date; or

(b) in all other cases, the amount payable by way of rent on the most recent anniversary of that date;

“registered” in relation to rent means registered under Part V of the 1984 Act and “registration” shall be construed accordingly; and

“subsequent period” means the period of 12 months beginning on the date of the first anniversary of the date of registration.

Calculation of previous rent limit

3. Where the previous rent limit included a noted amount as defined in article 2 of this Order the previous rent limit shall, for the purposes of article 5 of this Order, be reduced by the amount or amounts so payable.

(a) 1984 c.58; section 33(1) was amended by section 41(4) of the Housing (Scotland) Act 1988 (c.43).

Effect of notice of increase

4.—(1) Where a rent for a dwellinghouse under a regulated tenancy is registered on or after the date of commencement of this Order and the rent payable under the tenancy for any statutory period (or part thereof) is less than the amount so registered, it shall not be increased by a notice of increase under section 29(2)(b) of the 1984 Act except to the extent permitted by article 5 of this Order, and any such notice which purports to increase it further shall have effect to increase it to the extent so permitted but no further.

(2) Paragraph (1) of this article shall not affect any increase in respect of a noted amount within the meaning of article 2 of this Order.

Permitted increase

5.—(1) Subject to paragraph (4) of this article, the rent may be increased in any first period or subsequent period to the aggregate of the following:—

- (a) the amount of the previous rent limit, calculated in accordance with article 3 of this Order; and
- (b) the noted amount (if any) as defined in article 2 of this Order; and
- (c) the permitted increase, calculated in accordance with paragraph (2) or (3) of this article, as the case may be.

(2) The permitted increase in respect of the first period shall be the greatest of the following amounts:—

- (a) £104; or
- (b) one quarter of the previous rent limit, ascertained in accordance with article 3 of this Order; or
- (c) one half of the difference between the previous rent limit ascertained in accordance with article 3 of this Order and the registered rent.

(3) The permitted increase in respect of the subsequent period shall be such amount as is required to increase the previous rent limit calculated in accordance with article 3 of this Order to the registered rent.

(4) Nothing in this article—

- (a) shall permit the rent to be increased above the amount of the registered rent;
- (b) shall prevent or limit an increase in any sums in a rent which are variable by virtue of section 49(6) of the 1984 Act.

Restriction on rent increases in cases of further registration

6.—(1) Where, on or after the commencement of this Order—

- (a) a registration is superseded by another registration,
- (b) the new registration permits the rent to be increased above the amount payable under the former registration,
- (c) the new registration takes effect within 12 months of an increase in rent recoverable in respect of the former registration, and
- (d) the increase mentioned in sub-paragraph (c) above is less than the increase (in consequence of the new registration) permitted by virtue of article 5(4)(a) of this Order,

the total additional rental income in the period of 12 months (beginning with an anniversary of the date of the former registration) in which the new registration occurs shall not, by virtue of a permitted increase taking effect within 12 months of an increase which falls within sub-paragraph (d) of this paragraph, be increased above the permitted increase which, but for article 5(4)(a) of this Order, would have been recoverable in respect of that period.

(2) Where the circumstances specified in paragraph (1)(a) to (c) above apply and the date of registration of the former registration occurred before the commencement of this Order, the total additional rental income in the period of twelve months in which the new registration occurs shall not exceed the increase, calculated in accordance with article 5(2) or (3) of this Order, which would, but for this paragraph, be permitted.

Successive tenancies

7. Where—

- (a) a rent for a dwellinghouse which is subject to a regulated tenancy is registered; and
- (b) at a time when the rent payable under the tenancy is less than the registered rent the tenant, or any person who might succeed him as statutory tenant, becomes the tenant under a new regulated tenancy of the dwellinghouse,

the rent limit for any contractual period of the new regulated tenancy beginning before the registered rent becomes payable shall be the amount to which, if the first mentioned tenancy had continued, the rent payable thereunder could have increased in accordance with the provisions of this Order for a statutory period beginning at the same time.

New tenancies

8. This Order shall not apply to the rent under any regulated tenancy of a dwellinghouse which was granted after the date of registration of the rent if the person to whom it was granted was neither the tenant under any previous regulated tenancy of that dwellinghouse nor any person who might have succeeded such a tenant as a statutory tenant of the dwellinghouse.

Transitional

9. Where a rent has been registered before the date this Order comes into force but the full amount of the registered rent has not become payable by that date, the provisions of this Order shall apply to the next permitted increase which would have become due under the Increase of Rent Restriction (Scotland) Order 1980(a) as if it were a permitted increase due at the beginning of a first period under this Order.

10. Where a rent is registered before this Order comes into force in the circumstances specified in section 50(2) of the 1984 Act the date of registration shall be deemed to be the date of the first day after expiry of the period of three years mentioned in section 46(3) of the 1984 Act.

11. Where a rent has been registered by the rent officer before the commencement of this Order and a rent determined by a rent assessment committee is registered after the commencement of this Order in substitution for that rent, the provisions of section 33 of the 1984 Act shall have effect as if only the rent determined by the rent assessment committee had been registered; but the date of registration shall be deemed for the purposes of that section (but not for the purposes of section 29(3) of the 1984 Act) to be the date on which the rent determined by the rent officer was registered.

Supplemental

12. In ascertaining for the purpose of this Order whether there is any difference between amounts or what that difference is, such adjustments shall be made as may be necessary to take account of periods of different lengths; and for that purpose a month shall be treated as one twelfth and a week as one fifty-second of a year.

Revocation

13. The Increase of Rent Restriction (Scotland) Order 1980 is hereby revoked.

St. Andrew's House, Edinburgh
28th December 1989

James Douglas-Hamilton
Parliamentary Under Secretary of State,
Scottish Office

(a) S.I. 1980/1664.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 33(1) of the Rent (Scotland) Act 1984 provides that increases in registered rents are to be limited to amounts specified by order made by the Secretary of State. Subsection (1)(a) provides for specification of the maximum amount by which the total rent payable during a specified period may be increased. Subsection (1)(b) provides for restriction of the total additional rental income which may be recovered by the landlord during a specified period.

Article 5 of the Order provides that for the periods specified in the Order the rent cannot be increased beyond an amount equivalent to the previous rent limit plus an amount payable for the provision of services plus the increase permitted by the Order. In any event the rent cannot be increased beyond the registered rent.

Article 6 provides that where in certain cases a registered rent is superseded by a subsequent registration any increase in the additional rental income for any twelve month period is limited to the increase permitted by the Order.

For the purposes of increases in both rent under article 5 and additional rental income under article 6 the increases permitted by the Order are –

- (a) for the period of 12 months beginning with the date of registration, the greatest of the following amounts:–
 - (i) £104; or
 - (ii) one quarter of the previous rent limit; or
 - (iii) one half of the difference between the previous rent limit and the new registered rent, and
- (b) for the subsequent period of 12 months the amount which is required to increase the previous rent limit to the registered rent.

The Order also contains supplementary and transitional provisions and revokes the Increase of Rent Restriction (Scotland) Order 1980.

90p net

ISBN 0 11 098469 2

Printed in the United Kingdom by HMSO at Edinburgh Press

800 WO 0090 C11 1/90 452/4 19593 PS 8350958 (275543)