
STATUTORY INSTRUMENTS

1994 No. 568

HOUSING, ENGLAND AND WALES

The Rent Officers (Additional Functions) (Amendment) Order 1994

<i>Made</i>	- - - -	<i>6th March 1994</i>
<i>Laid before Parliament</i>		<i>11th March 1994</i>
<i>Coming into force</i>	- -	<i>1st April 1994</i>

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred upon them by section 121 of the Housing Act 1988(1) and of all other powers enabling them in that behalf, hereby make the following Order—

Citation and commencement

1. This Order may be cited as the Rent Officers (Additional Functions) (Amendment) Order 1994 and shall come into force on 1st April 1994.

Amendments to the 1990 Order

2. The Rent Officers (Additional Functions) Order 1990(2) is amended as follows —

(a) for paragraphs (3) and (4) of article 5(3) substitute—

“(3) No determination shall be made under paragraph 2A of Schedule 1 if the tenancy is of residential accommodation (within the meaning of regulation 7(3) of the Housing Benefit (General) Regulations 1987(4)) or a hostel (within the meaning of regulation 12A of those Regulations(5)).”;

(b) in Schedule 1—

(i) insert after paragraph 2—

“2A.—(1) The rent officer shall determine whether, in his opinion, the rent payable for the tenancy of the dwelling at the relevant time is exceptionally

(1) 1988 c 50; section 121 was amended by section 110(3) of the Local Government and Housing Act 1989 (c. 42).
(2) S.I.1990/428; relevant amending instrument is S.I. 1993/652.
(3) Paragraphs (3) and (4) were inserted by S.I. 1993/652.
(4) S.I. 1987/1971; relevant amending instrument is S.I. 1990/2564.
(5) Inserted by S.I. 1990/546 and amended by S.I. 1993/317.

high having regard to the levels of rent under assured tenancies in the registration area in which the dwelling is situated.

(2) In sub-paragraph (1)—

“registration area” has the same meaning as in Part IV of the Rent Act 1977(6), and

“rent payable for the tenancy” means—

- (a) where a determination is made under sub-paragraph (2) of paragraph 2, the rent determined under that sub-paragraph,
- (b) where no determination is so made and a determination is made under sub-paragraph (2) of paragraph 1, the rent determined under that sub-paragraph, and
- (c) in any other case, the rent payable under the tenancy.

(3) If the rent officer—

- (a) determines under sub-paragraph (1) that the rent is exceptionally high, and
- (b) is satisfied that, for the purposes of making comparisons, there is a sufficient number of dwellings in the same locality —
 - (i) which have the same number of bedrooms and other rooms suitable for living in as the dwelling, (or, in a case where the dwelling does not accord with the size criteria for the occupiers, the same number of such bedrooms and other rooms as do so accord),
 - (ii) which are in a reasonable state of repair, and
 - (iii) which are let on assured tenancies at rents which are not exceptionally high rents,

the rent officer shall also determine the highest rent, which is not an exceptionally high rent, for a tenancy of such a dwelling which a landlord might reasonably have been expected to obtain at the relevant time (on the same assumption as in paragraph 1(1)).

(4) When considering for the purposes of sub-paragraph (3) whether a rent is an exceptionally high rent, the rent officer shall have regard to the same matter as in sub-paragraph (1).

(5) In this paragraph “assured tenancy” has the same meaning as in Part I of the Housing Act 1988 except that it includes a tenancy which would be an assured tenancy but for paragraph 2 or 10 of Schedule 1 to that Act and a licence which would be an assured tenancy (within the extended meaning given by this paragraph) were it not a licence.”;

(ii) in paragraph 3(1) for “paragraph 1(2), 2(2) or (where no determination is to be made under paragraph 1(2)) paragraph 1(1)” substitute—

- “(a) paragraph 1(1) (where no determination is to be made under paragraph 1(2), 2(2) or 2A(3)),
- (b) paragraph 1(2) (where no determination is to be made under paragraph 2(2) or 2A(3)),
- (c) paragraph 2(2) (where no determination is to be made under paragraph 2A(3)), or

- (d) paragraph 2A(3)”;
- (iii) in paragraph 3(2) for “a determination under paragraph 1(2) or 2(2), means the rent determined under paragraph 1(2) or 2(2)” substitute “a determination under paragraph 1(2), 2(2) or 2A(3), means the rent determined under paragraph 1(2), 2(2) or 2A(3)”; and
- (iv) in paragraph 5 for “paragraph 1 or 3” substitute “paragraph 1, 2A or 3”; and
- (c) in paragraph 1(a) of Schedule 2 for “(within the meaning of Part II of the Social Security Act 1986)” substitute “(within the meaning of Part VII of the Social Security Contributions and Benefits Act 1992)”⁽⁷⁾.

Amendment of 1993 Order

3. Omit paragraph (c) of article 2 of the Rent Officers (Additional Functions (Amendment) Order 1993⁽⁸⁾ and the word “and” immediately preceding that paragraph.

Transitional provision

- 4.** The amendments made by this Order do not have effect in a case where —
- (a) an application is made for a determination before the date this Order comes into force, or
 - (b) an application is made for a re-determination where the determination was made before this Order comes into force.

Signed by authority of the Secretary of State

Department of the Environment
2nd March 1994

G.S.K. Young
Minister of State,

6th March 1994

John Redwood
Secretary of State for Wales

(7) 1992 c. 4.
(8) S.I. 1993/652.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Rent Officers (Additional Functions) Order 1990 which conferred functions on rent officers in connection with housing benefit and rent allowance subsidy.

The main amendment is in article 2(b)(i) of the Order and requires rent officers, if applied to by a local authority, to make determinations and re-determinations about whether the rent payable under a tenancy or licence of a dwelling is exceptionally high. Exceptions to the requirement are described in the amendment made by article 2(a). The Order also makes consequential amendments and removes spent provisions in the 1990 Order and in the Rent Officers (Additional Functions) (Amendment) Order 1993.