
STATUTORY INSTRUMENTS

1995 No. 2361 (S.175)

HOUSING, SCOTLAND

**The Rent Officers (Additional Functions)
(Scotland) Amendment Order 1995**

<i>Made</i>	- - - -	<i>6th September 1995</i>
<i>Laid before Parliament</i>		<i>11th September 1995</i>
<i>Coming into force</i>		
<i>for the purposes of articles 2 and 4</i>		<i>2nd October 1995</i>
<i>for all other purposes</i>		<i>2nd January 1996</i>

The Secretary of State, in exercise of the powers conferred upon him by section 70(1) and (2) of the Housing (Scotland) Act 1988(1) 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 Rent Officers (Additional Functions) (Scotland) Amendment Order 1995 and shall come into force for the purposes of articles 2 and 4 on 2nd October 1995 and for all other purposes on 2nd January 1996.

Amendments to 1990 Order

2. In the Rent Officers (Additional Functions) (Scotland) Order 1990(2)—

- (a) omit article 5(2)(3) (exclusion for certain assured tenancies);
- (b) after paragraph 6 of Schedule 1 insert—

“6A. Where the rent officer has made a determination under paragraph 2A(3) of the highest rent for an assured tenancy and the rent payable under the tenancy includes a payment which is ineligible for housing benefit under paragraph 1(a)(i) or 4 of Schedule 1 to the Housing Benefit (General) Regulations 1987 (charges for meals or fuel), the rent officer when giving notice of his determination to the local authority shall also state in the notice whether the rent determined by him—

(1) 1988 c. 43.

(2) S.I.1990/396; relevant amending instruments are S.I. 1991/533, 1994/582 and 1994/3108.

(3) Article 5(2) was amended by S.I. 1991/533.

- (a) includes a payment which would be ineligible for housing benefit under paragraph 1(a)(i) of Schedule 1 to the Housing Benefit (General) Regulations 1987; or
 - (b) includes a payment which would be ineligible for housing benefit under paragraph 4 of that Schedule; or
 - (c) includes both these payments.”⁽⁴⁾; and
- (c) omit paragraph 7(2) of Schedule 1⁽⁵⁾ (notification to local authority in article 5(2) cases).

Amendments to 1995 Order

3. In the Rent Officers (Additional Functions) (Scotland) Order 1995⁽⁶⁾—

- (a) after article 5(2) (cases where no determination to be made) insert—
 - “(3) If the rent officer becomes aware that an application is not one which gives rise to a duty to make a determination under article 3(1) whether by reason of this article or otherwise, the rent officer shall give the local authority notice to that effect.”;
- (b) in article 7 (revocations) omit “and” and after “Amendment No.2 Order 1994” insert “and article 2 of the Rent Officers (Additional Functions) (Scotland) Amendment Order 1995”; and
- (c) after paragraph 8(2) of Schedule 1 (notifications) insert—
 - “(2A) Where the rent officer has made a determination under paragraph 3(3) of the highest rent for an assured tenancy and the rent payable under the tenancy includes a payment which is ineligible for housing benefit under paragraph 1(a)(i) or 4 of Schedule 1 to the 1987 Regulations (charges for meals or fuel), the rent officer when giving notice of his determination to the local authority shall also state in the notice whether the rent determined by him—
 - (a) includes a payment which would be ineligible for housing benefit under paragraph 1(a)(i) of Schedule 1 to the 1987 Regulations; or
 - (b) includes a payment which would be ineligible for housing benefit under paragraph 4 of that Schedule; or
 - (c) includes both these payments.”.

Application

4. Any amendment made by article 2 of this Order does not have effect in a case where an application for a determination is made before the date on which the amendment comes into force.

St Andrew’s House,
Edinburgh
6th September 1995

Raymond S Robertson
Parliamentary Under Secretary of State, Scottish
Office

(4) Paragraph 2A of Schedule 1 to the 1990 Order was inserted by S.I. 1994/582 and amended by S.I. 1994/3108; paragraph 1(a)(i) of Schedule 1 to the 1987 Regulations (S.I. 1987/1971) was amended by S.I. 1988/1444.
 (5) Paragraph 7(2) was amended by S.I. 1991/533.
 (6) S.I. 1995/1643.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Rent Officers (Additional Functions) (Scotland) Order 1990 which conferred functions on rent officers, in connection with housing benefit and rent allowance subsidy, of making determinations and redeterminations of certain matters in respect of tenancies. It also amends the Rent Officers (Additional Functions) (Scotland) Order 1995 which will replace the 1990 Order on 2nd January 1996.

Article 2(a) amends the 1990 Order to remove an exclusion for assured tenancies with rents determined under the Housing (Scotland) Act 1988 and article 2(c) makes an amendment consequential on this.

Article 3(a) amends the 1995 Order to add a requirement for rent officers to notify local authorities where a determination requested by the authority is not one to which the Order applies. Both the 1990 and 1995 Orders are amended to add a requirement for rent officers, in cases where the rent under a tenancy has been determined to be unreasonably high, to give local authorities additional information if the rent under the tenancy includes a charge for meals or fuels. The amendment to the 1990 Order is made by article 2(b) and the amendment to the 1995 Order by article 3(c).

Article 3(b) inserts a reference to article 2 of this Order into the revocations article in the 1995 Order. Article 2 will thus cease to have effect, along with the 1990 Order which it amends, on 2nd January 1996.

The amendments to the 1990 Order come into force on 2nd October 1995 (subject to the transitional case described in article 4) and the amendments to the 1995 Order on 2nd January 1996.