



# Rent (Scotland) Act 1984

## 1984 CHAPTER 58

### PART VI

#### RENT LIMIT FOR DWELLING-HOUSES LET BY HOUSING ASSOCIATIONS AND THE HOUSING CORPORATION

#### **55 Tenancies to which sections 55 to 59 apply**

This section and sections 56 to 59 below apply to a tenancy where—

- (a) the interest of the landlord under that tenancy belongs to a housing association or to the Housing Corporation, and
- (b) the tenancy would be a protected tenancy but for section 1(1)(a) or 5 above. and in this section and the said sections 56 to 59 "tenancy" means, unless the context otherwise requires, a tenancy to which those sections apply.

#### **56 Rents to be registrable under Part V**

- (1) There shall be a separate part of the register under Part V 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 tenancy to which sections 55 to 59 of this Act apply.
- (2) Sections 45 to 49 (except section 49(5)), section 50(2) and section 53 above and Schedules 5 and 6 to this Act (and no other provisions of this Act) shall apply to a tenancy to which the said sections 55 to 59 apply and, in their application to such tenancies, shall, in relation to that part of the register, have effect as if for any reference in those provisions to a regulated tenancy there were substituted a reference to a tenancy to which the said sections 55 to 59 apply.
- (3) Registration in the said part of the register shall take effect on the date of registration :  
Provided that registration before 1st January 1973 shall be provisional only until that date, and the date of registration shall be 1st January 1973.
- (4) From the date of registration any previous registration of a rent for the dwelling-house shall cease to have effect.

- (5) A rent registered in any part of the register for a dwelling-house, which becomes or ceases to be a dwelling-house under a tenancy to which the said sections 55 to 59 apply, shall be as effective as if it were registered in any other part of the register.
- (6) Subject to subsection (5) above, references in the said sections 55 to 59 to registration are, unless the context otherwise requires, references to registration pursuant to this section.

## **57 The rent limit**

- (1) Where the rent payable under a tenancy would exceed the rent limit determined in accordance with sections 55 to 59 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 section 58 below, the rent limit is the rent so registered :

Provided that where any rates in respect of the dwelling-house are borne by the landlord the amount of those rates for any rental period, ascertained in accordance with Schedule 3 to this Act, shall be added to the limit imposed by this subsection, and then, subject to subsection (5) below, any reference in sections 55 to 59 of this Act to the rent registered for the dwelling-house shall be taken as a reference to the registered rent plus the amount of rates borne by the landlord.

- (3) 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 three 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 paragraph (a) and paragraph (b) above do not apply,

the rent limit shall be the rent payable under the terms of the lease or agreement creating the tenancy (and not by the rent so payable under those terms as varied by any subsequent agreement).
- (4) The reference in paragraph (b) of subsection (3) above to another tenancy includes, in addition to a tenancy to which sections 57 to 59 of this Act apply, a regulated tenancy within the meaning of this Act—
  - (a) which subsisted at any time after the operative date, within the meaning of the Housing Act 1974 ; and
  - (b) under which, immediately before it came to an end, the interest of the landlord belonged to a housing association.
- (5) Where for any period there is a difference between the amount (if any) of the rates borne by the 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 subsection (3) above or section 58(2)(a) or (b) below shall be increased or decreased by the amount of the difference:

Provided that an increase of rent made solely to reflect an increase in the amount of rates borne by the landlord shall be disregarded for the purposes of section 58(3) or (4) below.

- (6) Section 37 above shall apply as if any amount made irrecoverable by virtue of this section were irrecoverable by virtue of Part IV of this Act.
- (7) A tenancy commencing (whether before or after the commencement of this Act) while there is in operation a condition relating to rent imposed under any of the enactments mentioned in section 46(7) above shall be disregarded for the purposes of subsection (3)(b) above in determining the rent limit under any subsequent tenancy of the dwelling-house.
- (8) Where the rent is subject to the rent limit under subsection (3)(b) above, the landlord shall, on being so requested in writing by the tenant, supply him with a statement in writing of the rent which was recoverable for the last rental period of the other tenancy referred to in that paragraph.
- (9) If, without reasonable excuse, a landlord who has received such a request as is referred to in subsection (8) above—
  - (a) fails to supply the statement referred to in that subsection within 21 days of receiving the request, or
  - (b) supplies a statement which is false in any material particular,he shall be liable to a fine not exceeding level 3 on the standard scale.
- (10) This section shall not apply to rent for any rental period beginning before 1st January 1973.

## **58 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) which exceeds the rent limit for the dwelling-house immediately before the date of registration, unless at the date of registration there is no tenant and no person to whom the tenancy has been granted.
- (2) Subject to subsection (9) below, the rent limit shall progress from the rent limit immediately before the date of registration to the registered rent in stages, and, subject to section 57(5) above—
  - (a) for any rental period beginning in the first stage, the rent limit shall be—
    - (i) the rent limit immediately before the date of registration plus the greater of £104 per year or one-quarter of the previous rent limit, or
    - (ii) 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—
    - (i) the rent payable for the first rental period of the last previous stage plus the greater of £104 per year or one-quarter of the previous rent limit, or
    - (ii) 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 for 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 the rent limit is less than the registered rent, and 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 up to the registered rent 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, and 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.
- (7) The Secretary of State may by order amend subsection (2) above by varying the sum specified in paragraphs (a) and (b) thereof, and the order may contain such supplementary or incidental provisions as he thinks fit.
- (8) An order under subsection (7) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and may be varied or revoked by a subsequent order made under that subsection.
- (9) In subsection (2)(a) and (b) above, in relation to a rent registered before 1st December 1980, for the words from " the greater " to " limit " there shall be substituted the words " £78 per year " .
- (10) In this section—
  - " noted amount" means the amount of the registered rent noted as fairly attributable to the provision of services under section 49(2) above;
  - " previous rent limit " means—
    - (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 relevant anniversary of that date, the rent in either case not including a noted amount as defined above.

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

Subsections (1), (2) and (4) of section 62 of the Housing (Scotland) Act 1969 (increase of rents of houses belonging to certain authorities without notice of removal) shall apply to a housing association such as is referred to in section 5(4) above or the Housing Corporation as they apply to any authority to which that section applies, except that in section 62(4) for the reference to the date of the commencement of that Act there shall be substituted a reference to 27th August 1972.

**60 Supplemental to sections 55 to 59**

- (1) Section 40 above shall apply for the purposes of sections 55 to 59 above as it applies for the purposes of Part IV of this Act.
- (2) 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 sections 55 to 59 above to be the date on which the rent determined by the rent officer was registered:  
  
Provided that a landlord shall not, by virtue of this subsection, 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) The sheriff 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 the said sections 55 to 59, or as to any matter which is or may become material for determining any such question; and section 103(1) below shall apply to any application to the sheriff under this subsection as it applies to any application under any of the provisions mentioned in section 103(2) below.
- (4) Nothing in sections 55 to 59 above shall prevent or limit an increase in any amounts payable to the landlord for the provision of services which are variable by virtue of section 49(6) above.

**61 Interpretation of Part VI**

- (1) In this Part of this Act, unless the context otherwise requires—
  - " housing association " has the meaning assigned to it in section 78(1) of the Housing (Financial Provisions) (Scotland) Act 1972;
  - " rental period " means a period in respect of which a payment of rent falls to be made.
- (2) Expressions used in this Part of this Act which are also used in Part IV or V of this Act shall, unless the context otherwise requires, have the same meaning in this Part as in those Parts.