



Rent (Scotland) Act 1984

1984 CHAPTER 58

PART V

REGISTRATION OF RENTS UNDER REGULATED TENANCIES

43 Registration areas and rent officers.

- (1) The registration areas for the purposes of this Part of this Act shall be the districts and islands areas.
- (2) The Secretary of State may, after consultation with the local authority or local authorities concerned, make directions—
 - (a) as to the groupings of registration areas or parts thereof, or
 - (b) deeming any part of a registration area to be a separate registration area,and any reference in this Part of this Act to a registration area shall include a reference to a grouping of registration areas or parts thereof and any area deemed to be a separate registration area by virtue of this subsection.
- (3) [^{F1}Subject to section 43A below,]The Secretary of State shall for every registration area, after consultation with the local authority or local authorities for that area, appoint such number of rent officers for the area as he may think fit.
- (4) Where the Secretary of State made a direction under subsection (2) above, or an appointment under subsection (3) above, which came into force on 16th May 1975, he shall be deemed to have consulted the local authority or local authorities concerned for the purposes of the said subsection (2) or (3) if he consulted either the existing or the new local authority or local authorities before that date.
- (5) The Secretary of State may pay to rent officers such remuneration and allowances as he may, with the approval of the Treasury, determine, defray their expenses to such amount as he may with the like approval determine, and may provide them with such accommodation and services as they may require.
- (6) The Secretary of State may, with the approval of the Treasury, make such arrangements to provide for the superannuation of rent officers as he may consider appropriate;

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and where such arrangements in respect of a rent officer are made with a local authority the rent officer shall for the purposes of regulations under section 7 of the ^{M1}Superannuation Act 1972 and of any local Act scheme within the meaning of section 8 of that Act be deemed to be an officer of that local authority.

- (7) References in this Act to the rent officer are references to any rent officer appointed for any area under this section.

Textual Amendments

F1 Words in s. 43(3) inserted (3.1.1995) by 1994 c. 40, ss. 76, 82(2), Sch. 16 para. 5

Marginal Citations

M1 1972 c. 11.

[^{F2}43A Rent registration service providers.

- (1) The Secretary of State may, if he thinks fit, make arrangements (“rent registration arrangements”) with another person (a “rent registration service provider”) for the performance by that person in accordance with the arrangements of the functions mentioned in subsection (2) below.
- (2) Those functions are the functions, under this Part of this Act and section 70 of ^{M2} the Housing (Scotland) Act 1988, of the rent officer for such registration area or areas as are specified in the rent registration arrangements.
- (3) While rent registration arrangements are in force in relation to a registration area, section 43(3) above shall not apply in respect of that area.
- (4) The appointment of any rent officer appointed for a registration area in relation to which rent registration arrangements have been made shall terminate on the date on which the arrangements come into force.
- (5) Rent registration arrangements shall not include any provision calculated to influence the exercise of the rent registration service provider’s judgment in the performance of his functions.
- (6) A rent registration service provider performing functions in pursuance of rent registration arrangements shall not be regarded as a servant or agent of the Crown and shall not have any status, immunity or privilege of the Crown.
- (7) References in this Part ^{M3} of this Act (other than sections 43, 43B, 43C and this section), section 70 of the Housing (Scotland) Act 1988 and any other enactment (including an enactment contained in subordinate legislation) to a rent officer shall, as respects a registration area in relation to which rent registration arrangements are in force, be construed as references to the rent registration service provider responsible for the performance of the functions of the rent officer for that area.
- (8) A rent registration service provider may perform his functions through an employee or agent and, if he does so—
 - (a) any decision of, and anything else done or omitted to be done by or in relation to, the employee or agent shall, for the purposes of any enactment (including an enactment contained in subordinate legislation), be deemed to be a decision

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of or, as the case may be, done or omitted to be done by or in relation to the rent registration service provider; and

- (b) where any enactment refers to the personal knowledge, experience or opinion of a rent officer the knowledge, experience or opinion of the employee or agent shall be deemed to be that of the rent registration service provider.

(9) Subsection (8)(a) above is without prejudice to section 43C below.]

Textual Amendments

F2 S. 43A inserted (3.1.1995) by 1994 c. 40, ss. 76, 82(2), Sch. 16 para. 6

Marginal Citations

M2 1988 c.43.

M3 1988 c.43.

[^{F3}43B Supplementary provisions regarding rent registration service providers.

(1) Where—

- (a) rent registration arrangements are in force in relation to a registration area (“existing arrangements”); and
- (b) the Secretary of State decides not to make further such arrangements in relation to that area in respect of the period following the expiry or termination of the existing arrangements,

then, notwithstanding section 43A(3) above, he may under section 43(3) above appoint rent officers for the area, such appointments taking effect on the expiry or, as the case may be, the termination of the existing arrangements.

(2) For the purposes of subsections (3) and (4) below, a change of responsibility takes place where—

- (a) under rent registration arrangements in relation to a registration area, a rent registration service provider assumes responsibility for the performance of functions which, immediately prior to the coming into force of the arrangements, were performed by a rent officer for the area or by another rent registration service provider; or
- (b) a rent officer is appointed for a registration area in relation to which, immediately prior to the coming into force of the appointment, rent registration arrangements were in force.

(3) Where a change of responsibility takes place the Secretary of State shall publish, in such manner as he considers appropriate, a notice specifying—

- (a) the registration area concerned;
- (b) the date when the change takes effect; and
- (c) the name and official address of the person who is rent officer or, as the case may be, rent registration service provider after that date.

(4) Where a change of responsibility takes place—

- (a) any decision taken, and anything else done or omitted to be done in the performance of the functions mentioned in section 43A(2) above by or in relation to the person previously responsible for the performance of those

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functions shall have effect as if taken or, as the case may be, done or omitted to be done by or in relation to the person currently so responsible; and

- (b) any court proceedings by or against the person previously so responsible and relating to the performance by him of those functions shall continue by or against the person currently so responsible.]

Textual Amendments

F3 S. 43B inserted (3.1.1995) by 1994 c. 40, ss. 76, 82(2), Sch. 16 para. 7

[^{F4}43C Rent registration service providers: restrictions on disclosure of information.

- (1) Schedule 15 to the Deregulation and Contracting Out Act 1994 (restrictions on disclosure of information) shall, where contractor A within the meaning of that Schedule is a rent registration service provider, apply with the following modifications.
- (2) Without prejudice to paragraph 10(1), references to an employee of contractor A and, where contractor B within the meaning of that Schedule is also a rent registration service provider, to an employee of contractor B shall be taken to include references to an agent, and the employee of an agent, of contractor A or, as the case may be, of contractor B.
- (3) Subject to subsections (4) to (6) below, references to authority A shall be taken to be references to the rent officer for any registration area specified in the rent registration arrangements.
- (4) In paragraph 2(a), the reference to authority A shall be taken to be a reference to such a rent officer or the Secretary of State.
- (5) In paragraphs 3(2)(b), 4(2)(b), 5(b) and 8 and, in paragraph 10(1), in the definition of “ancillary services”, the reference to authority A shall be taken to be a reference to the Secretary of State.
- (6) In the definition of “related function” in paragraph 10(1), the reference to a function of authority A which is certified by that authority shall be taken to be a reference to a function of a rent officer which is certified by the Secretary of State.]

Textual Amendments

F4 S. 43C inserted (3.1.1995) by 1994 c. 40, ss. 76, 82(2), Sch. 16 para. 7

44 Rent assessment committees.

Rent assessment committees shall be constituted in accordance with the provisions of Schedule 4 to this Act.

45 Register of rents.

- (1) The rent officer for any area shall prepare and keep up to date a register for the purposes of this Part of this Act and shall make the register available for inspection in such place or places and in such manner as the Secretary of State may direct.

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- (2) The register shall contain, in addition to the rent payable under a regulated tenancy of a dwelling-house—
 - (a) the prescribed particulars with regard to the tenancy; and
 - (b) a specification of the dwelling-house.
- (3) A copy of an entry in the register certified under the hand of the rent officer or any person duly authorised by him shall be receivable in evidence, and shall be sufficient evidence of that entry, in any court and in any proceedings.
- (4) A person requiring such a certified copy shall be entitled to obtain it on payment of the prescribed fee.
- (5) Any entry—
 - (a) in a register (hereinafter referred to as “the old register”)
 - (i) which was kept under section 39 of the Rent (Scotland) Act 1971 before 16th May 1975, or
 - (ii) which is kept for any area which ceases to be a registration area as a result of the establishment of a new registration area, or
 - (b) in a separate part of an old register in which rents are registered for dwelling-houses in respect of tenancies to which sections 55 to 59 below apply.

which relates to a dwelling-house which is situated in a new registration area shall be deemed for the purposes of this Part of this Act to be an entry in the register or, as the case may be, in such a separate part of the register kept under this section for that new registration area.
- (6) The old register shall be kept by such rent officer, and made available for inspection in such place or places and in such manner as the Secretary of State may direct; and subsections (3) and (4) above shall apply to any entry in the old register which is deemed to be an entry in the register kept for a new registration area.
- (7) In this section “new registration area” means a registration area established under section 37 of the Rent (Scotland) Act 1971 or section 43 above on or after 16th May 1975.

46 Applications for registration of rents.

- (1) An application for the registration of a rent for a dwelling-house may be made to the rent officer by the landlord or the tenant, or jointly by the landlord and the tenant, under a regulated tenancy of the dwelling-house.
- (2) Any such application must be in the prescribed form and contain the prescribed particulars in addition to the rent which it is sought to register.
- (3) Subject to subsection (4) below [^{F5}and section 49A], where a rent for a dwelling-house has been registered under this Act no application by the tenant alone or by the landlord alone for the registration of a different rent for that dwelling-house shall be entertained before the expiry of three years from the relevant date (as defined in subsection (5) below) except on the ground that, since that date, there has been such a change in the condition of the dwelling-house (including the making of any improvement therein), the terms of the tenancy, the quantity, quality or condition of any furniture provided for use under the tenancy (excluding any deterioration in that furniture due to fair wear and tear) or any other circumstances taken into consideration when the rent was registered or confirmed as to make the registered rent no longer a fair rent.

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- [^{F6}(3A) An application such as is mentioned in subsection (3) above shall not be entertained on the ground only that, since the relevant date, there has been a change in the amount of council tax payable in respect of the dwelling-house.]
- (4) An application such as is mentioned in subsection (3) above which is made by the landlord alone and is so made within the last three months of the period of three years referred to in that subsection may be entertained before the expiry of that period, notwithstanding that the application is not made upon any of the grounds mentioned in that subsection.
- (5) In this section and section 47 below, “relevant date”, in relation to a rent which has been registered under this Part of this Act, means the date from which the registration took effect or, in the case of a registered rent which has been confirmed by the rent officer, the date from which the confirmation (or, where there have been two or more confirmations, the last of them) took effect [^{F5}but does not mean the date from which registration took effect under section 49A of this Act.]
- (6) For the purposes of subsection (5) above, where a rent is registered as a result of a decision of a rent assessment committee the date from which that registration took effect shall be taken to be the date on which the rent determined by the rent officer was registered or, as the case may be, the confirmation of the registered rent by the rent officer was noted.
- (7) No application for the registration of a rent for a dwelling-house shall be entertained at a time when there is in operation, with respect to that dwelling-house, a condition relating to rent imposed under any of the following enactments, that is to say,—
- (a) section 3 of the ^{M4}Housing (Rural Workers) Act 1926;
 - (b) section 101 of the ^{M5}Housing (Scotland) Act 1950 and
 - (c) Schedule 4 to the ^{M6}Housing (Financial Provisions) (Scotland) Act 1968.
- (8) Subject to section 47(4)

below, the provisions of Part I of Schedule 5 to this Act shall have effect with respect to the procedure to be followed on applications for the registration of rents.

Textual Amendments

F5 Words in s. 46(3)(5) inserted (1.4.1993) by S.I. 1993/658, art. 2, Sch. 2 para. 2

F6 S. 46(3A) inserted (1.4.1993) by S.I. 1993/658, art. 2, Sch. 1 para. 2.

Marginal Citations

M4 1926 c. 56.

M5 1950 c. 34.

M6 1968 c. 31.

47 Certificates of fair rent.

- (1) A person intending—
- (a) to provide a dwelling-house by the erection or conversion of any premises or to make any improvements in a dwelling-house, or
 - (b) to let on a regulated tenancy a dwelling-house which is not for the time being subject to such a tenancy and which satisfies the condition either that no rent

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for it is registered under this Part of this Act or that a rent is so registered but not less than three years have elapsed since the relevant date (as defined in section 46(5) above),

may apply to the rent officer for a certificate, to be known as a certificate of fair rent, specifying a rent which, in the opinion of the rent officer, would be a fair rent under a regulated tenancy of the dwelling-house or, as the case may be, of the dwelling-house after the erection or conversion or after the completion of the improvements.

- (2) The regulated tenancy to which the application for the certificate of fair rent relates shall be assumed to be a tenancy on such terms as may be specified in the application and, except in so far as other terms are so specified, on the terms that the tenant would be liable for internal decorative repairs, but no others, and that no services or furniture would be provided for him.
- (3) The provisions of Schedule 6 to this Act shall have effect with respect to applications for certificates of fair rent.
- (4) Subject to section 46(7) above, where a certificate of fair rent has been issued in respect of a dwelling-house, an application for the registration of a rent for the dwelling-house in accordance with the certificate may be made within three years of the date of the certificate either,—
 - (a) by the landlord under such a regulated tenancy of the dwelling-house as is specified in the certificate; or
 - (b) by a person intending to grant such a regulated tenancy of the dwelling-house; and, in lieu of the provisions of Part I of Schedule 5 to this Act, the provisions of Part II of that Schedule shall have effect with respect to an application so made.

48 Determination of fair rent.

- (1) In determining for the purposes of this Part of this Act what rent is or would be a fair rent under a regulated tenancy of a dwelling-house, it shall be the duty of the rent officer or, as the case may be, of the rent assessment committee, subject to the provisions of this section, to have regard to all the circumstances (other than personal circumstances), and in particular to apply their knowledge and experience of current rents of comparable property in the area, as well as having regard to the age, character and locality of the dwelling-house in question and to its state of repair and, if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture.
- (2) For the purposes of determination it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.
- (3) There shall be disregarded—
 - (a) any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof, and
 - (b) any improvement (including any improvement to the furniture provided for use under the tenancy), or the replacement of any fixture or fitting carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant under the regulated tenancy or any predecessor in title of his, and

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- (c) if any furniture is provided for use under the regulated tenancy, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him, or any subtenant of his.
- (4) In the application of this section to a converted tenancy, the references in subsection (3) above to the tenant under the regulated tenancy shall include references to the tenant under the tenancy before the conversion.

49 Amount to be registered as rent.

- (1) The amount to be registered as the rent of any dwelling-house shall include any sums payable by the tenant to the landlord for the use of furniture or for services [^{F7} or in respect of council tax], whether or not those sums are separate from the sums payable for the occupation of the dwelling-house or are payable under separate agreements.
- (2) Subject to subsection (3) below, there shall be noted separately on the register the amount, if any, of the registered rent which, in the opinion of the rent officer or rent assessment committee, is fairly attributable to each of the following—
- (a) the use of furniture;
 - (b) the provision of services;
 - (c) the use of part of the premises comprised in a dwelling-house as a shop or office or for business, trade or professional purposes.
 - [^{F8}(d) the council tax.]
- (3) There shall not be noted on the register under subsection (2) above any amount which in the opinion of the rent officer or rent assessment committee is less than 5 per cent. of the registered rent.
- (4) ^{F9}
- (6) Where, under a regulated tenancy, the sums payable by the tenant to the landlord include any sums varying according to the cost from time to time of any services provided by the landlord or a superior landlord or of any works of maintenance or repair carried out by the landlord or a superior landlord, the amount to be registered under this Part of this Act as rent may, if the rent officer is satisfied or, as the case may be, the rent assessment committee are satisfied, that the terms as to the variation are reasonable, be entered as an amount variable in accordance with those terms.

Textual Amendments

- F7** Words in s. 49(1) inserted (1.4.1993) by S.I. 1993/658, art. 2 Sch. 1 para. 3(a).
F8 S. 49(2)(d) inserted (1.4.1993) by S.I. 1993/658, art. 2 Sch. 1 para. 3(b).
F9 Ss. 42(2), 49(4)(5) repealed by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(3), Sch. 10

[^{F10}49A Transitional applications: regulated tenancies

- (1) This section applies in the case of a regulated tenancy or an agreement relating to the tenancy which provides for the payment by the tenant to the landlord of sums in respect of council tax and—
- (a) a rent was registered before 1st April 1993; or
 - (b) an application is made before 1st April 1993 under section 46 above for the registration of a rent but a rent is not registered in respect of that application.

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- (2) At any time before 1st April 1994 or the expiry of 3 years beginning with the relevant date (within the meaning of sections 46 and 47), whichever is the earlier, an application for the registration of a rent for a dwelling-house may be made to the rent officer by the landlord or the tenant, or jointly by the landlord and the tenant, under a regulated tenancy of the dwelling-house for the purpose of taking into account sums payable by the tenant to the landlord in respect of council tax.
- (3) Any such application shall be in the prescribed form and shall—
 - (a) specify the rent (including sums payable by the tenant to the landlord in respect of council tax) which it is sought to register; and
 - (b) contain such other particulars as may be prescribed.
- (4) Where an application is made under subsection (2) above, the rent officer shall determine the amount by which the registered rent might reasonably be increased to take account of sums payable by the tenant to the landlord in respect of council tax.
- (5) The amount of any rent registered under this section shall be the total of the sums payable in respect of the previously registered rent and the amount determined under subsection (4) above.
- (6) In any case where a rent officer has before him for determination applications under this section and section 46 above, he shall not make a determination in the application under this section until he has made a determination under the said section 46.
- (7) No more than one application in respect of any tenancy may be made under this section.]

Textual Amendments

F10 [S. 49A](#) inserted (1.4.1993) by [S.I. 1993/658](#), [art. 2 Sch. 2 para. 3](#).

50 Effect of registration of rent.

- (1) Subject to subsection (2) below, the registration of a rent for a dwelling-house takes effect if the rent was determined by the rent officer, from the date when it was registered.
- (2) If (by virtue of section 46(4) above) an application for registration of rent is made before the expiry of the period of three years referred to in subsection (3) of that section, the registration of a rent for a dwelling-house does not take effect before the end of that period.
- (3) If, on application for the registration of a different rent, the rent officer confirms the rent for the time being registered, the confirmation of that rent takes effect from the date when it is noted in the register.
- (4) If the rent for a dwelling-house is determined by a rent assessment committee, the registration of that rent takes effect from the date when the committee make their decision.
- (5) The date from which the registration or confirmation of a rent takes effect shall be entered in the register.

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- (6) As from the date on which the registration of a rent takes effect any previous registration of a rent for a dwelling-house ceases to have effect.
- (7) Where a valid notice of increase under any provision of Part IV of this Act has been served on a tenant and, in consequence of the registration of a rent, part but not the whole of the increase specified in the notice becomes irrecoverable from the tenant, the registration shall not invalidate the note, but the notice shall, as from the date from which the registration takes effect, have effect as if it specified such part only of the increase as has not become irrecoverable.

51 Cancellation of registration of rent.

- (1) Where a rent agreement is made in writing as respects a dwelling-house for which a rent is registered, an application may be made in accordance with this section for the cancellation of the registration.
- (2) The application shall be made jointly by the landlord and the tenant under the agreement to the rent officer, and the application shall not be entertained before the expiry of three years from the relevant date as defined in section 46(5) above.
- (3) An application under this section must be in the prescribed form and contain the prescribed particulars, and must be accompanied by a copy of the rent agreement.
- (4) The Secretary of State may make regulations under section 53 below prescribing the procedure on an application under this section.
- (5) If the rent officer is satisfied that the rent payable under the rent agreement does not exceed a fair rent for the dwelling-house, he shall, subject to subsection (6) below, cancel the registration, and he shall make an entry in the register of that fact and of the date from which the cancellation takes effect.
- (6) Where under the terms of the rent agreement the sums payable by the tenant to the landlord include any sums varying according to the cost from time to time of any services provided by the landlord, the rent officer shall not cancel the registration unless he is satisfied that those terms are reasonable.
- (7) The cancellation of the registration shall be without prejudice to a further registration of a rent at any time after cancellation.
- (8) The rent officer shall notify the applicants of his decision to grant, or to refuse, any application under this section and, where he grants the application, of the date from which the cancellation takes effect.
- (9) In this section “rent agreement” means—
 - (a) an agreement increasing the rent payable under a protected tenancy which is a regulated tenancy, or
 - (b) where a regulated tenancy is terminated, and a new regulated tenancy is granted at a rent exceeding the rent under the previous tenancy, the grant of the new tenancy.

52 Cancellation at instance of landlord.

Where the rent for a dwelling-house has been registered but the dwelling-house has ceased to be let under a regulated tenancy, an application to the rent officer may

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be made by the landlord in accordance with this section for the cancellation of the registration, and the provisions of section 51(2) to (4), (7) and (8) above shall apply, with any necessary modifications, to an application made under this section as they apply to an application made under the said section 51.

53 Regulations.

- (1) The Secretary of State may make regulations—
 - (a) prescribing the form of any notice, application, register or other document to be given, made or used in pursuance of this Part of this Act;
 - (b) regulating the procedure to be followed by rent officers and rent assessment committees [^{F11}whether under this Act or the Housing (Scotland) Act 1988]; and
 - (c) prescribing anything required or authorised to be prescribed by this Part of this Act.
- (2) Regulations under subsection (1)(b) above may contain provisions modifying section 46, 47 or 50 above or Schedule 5 or 6 to this Act; but no regulations containing such provisions shall have effect unless approved by a resolution of each House of Parliament.
- (3) Regulations made under this section shall be made by statutory instrument which, except in a case falling within subsection (2) above, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F11 Words added by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), **ss. 48(1), 52**

54 Interpretation of Part V.

- (1) In this Part of this Act—
 - “improvement” includes structural alteration, extension or addition and the provision of additional fixtures or fittings, but does not include anything done by way of decoration or repair;
 - “prescribed” means prescribed by regulations under section 53 above, and references to a prescribed form include references to a form substantially to the same effect as the prescribed form;
 - “rental period” means a period in respect of which a payment of rent falls to be made.

- (2) ^{F12}

Textual Amendments

F12 [S. 54\(2\)](#) repealed by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61, 75:2\)](#), [s. 72\(3\)](#), **Sch. 10**

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