

1972 No. 1913

COUNTER-INFLATION

The Counter-Inflation (Northern Ireland) Order 1972

<i>Made</i> - - - -	11th December 1972
<i>Laid before Parliament</i>	12th December 1972
<i>Coming into Operation—</i>	
Article 14 - -	12th December 1972
Remainder - -	15th December 1972

In pursuance of section 2(4) of, and paragraphs 1, 2 and 4 of the Schedule to, the Counter-Inflation (Temporary Provisions) Act 1972(a), I hereby make the following Order:—

PART I (GENERAL)

Citation, commencement and extent

1.—(1) This Order may be cited as the Counter-Inflation (Northern Ireland) Order 1972 and shall come into operation on 15th December 1972, except that Article 14 shall come into operation on 12th December 1972.

(2) This Order shall extend to Northern Ireland only.

Interpretation (general)

2.—(1) The Interpretation Act 1889(b) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(2) Any reference in this Order to an Act of Parliament shall be construed as a reference to that Act as amended or extended by or under any subsequent enactment.

(3) In this Order—

“Act” includes an Act of the Parliament of Northern Ireland and “enactment” shall be construed accordingly;

“the 1972 Act” means the Counter-Inflation (Temporary Provisions) Act 1972;

“the standstill period” means the period during which section 2 of the 1972 Act is in force.

(4) Any reference in this Order to a numbered Article or Part is a reference to an Article or Part of this Order.

Definition of term in s. 2(4) of 1972 Act

3. For the purposes of this Order, “preventing increases” in section 2(4) of the 1972 Act includes preventing increases which take effect on or after 6th November 1972 from continuing to have effect during the standstill period.

(a) 1972 c. 74.

(b) 1889 c. 63.

PART II

BUSINESS RENTS

Interpretation (Part II)

4. In this Part, unless the context otherwise requires—

“business tenancy” means any tenancy where the property comprised in the tenancy is or includes premises which are occupied by the tenant and are so occupied for the purposes of a business carried on by him or for those and other purposes but does not include an agricultural tenancy as defined in Article 9;

“business” includes a trade, profession or employment and includes any activity carried on by a body of persons, whether corporate or unincorporate;

“rent” means the rent payable under a business tenancy and for the purpose of comparison under this Part excludes any sums payable by the tenant in respect of rates, services, repairs, maintenance or insurance;

“standard rate” in relation to any premises means—

(a) where a business tenancy was subsisting on 5th November 1972, the rate at which rent was payable (whether or not then determined as to amount) under that tenancy at that date;

(b) where there was no business tenancy subsisting on 5th November 1972 but a business tenancy had subsisted in respect of the premises on or after 5th November 1971, the rate at which rent was payable at the date upon which that tenancy or, where there were successive tenancies, the last such tenancy came to an end;

(c) in any other case, the rate at which rent is payable under the first business tenancy arising during the standstill period.

Rate of rent of business premises

5. Rent shall not be payable in respect of the standstill period at a rate exceeding the standard rate and, where the terms of any tenancy provide for an increase of rent on or after 6th November 1972, the amount of that increase shall not be payable in respect of the standstill period.

Rate of rent for premises re-let after 6th November 1972

6. Where a business tenancy comes to an end on or after 6th November 1972 and the premises are re-let (whether to the previous tenant or not) the rate at which rent is payable in respect of the standstill period shall not exceed the standard rate, except to the extent that any such excess is properly attributable to a variation in the terms of the tenancy.

Improvements

7. Nothing in this Part shall preclude the recovery of the cost of improvements to premises comprised in a business tenancy by way of increased rent—

(a) where the tenancy was subsisting on 5th November 1972, in accordance with the terms of that tenancy or any agreement subsisting on that date;

(b) in all other cases, of an amount in respect of the standstill period proportionate to a yearly increase not exceeding 12½ per cent of that cost.

PART III

RENTS OF CERTAIN DWELLING-HOUSES

Tenancies of certain dwelling-houses

8.—(1) The rent under a tenancy (whether created before or after the coming into operation of this Order) of a dwelling-house to which this Article applies

shall not during the standstill period exceed the current rent, and the amount of the excess shall, notwithstanding anything in any agreement, be irrecoverable from the tenant.

(2) This Article applies to a tenancy of the following dwelling-houses—

- (a) a dwelling-house the net annual value (ascertained in accordance with the Irish Valuation Acts) of which is £50 or over;
- (b) a dwelling-house such as is mentioned in section 56(1)(a) or (b) of the 1956 Act (houses erected or converted after the commencement of that Act); and
- (c) a dwelling-house such as is mentioned in section 58(2)(a) or (b) of the 1956 Act (houses of which the landlord is in possession at or after that commencement).

(3) On any comparison between rents under this Article there shall be excluded from each such part (if any) of the sums payable by the tenant as is expressed (in whatever terms) to be payable in respect of rates, services, repairs, maintenance or insurance unless it could not have been regarded by the parties as a part so payable.

(4) Where the rent under a tenancy to which this Article applies is during any part of the standstill period not to exceed the current rent specified in paragraph (5)(b) below, the landlord shall, on being so requested in writing by the tenant, supply him with a statement in writing of the rent which was payable for the last rental period of the other tenancy referred to in that paragraph.

(5) In this Article—

“current rent” means—

- (a) the rent (taking into account only variations made before 6th November 1972 in the terms of the letting) at which the dwelling-house was bona fide and lawfully let on 5th November 1972, or
- (b) where the dwelling-house was not so let on that date, the rent at which it was last so let before that date for the last rental period of the tenancy if that date is not earlier than twelve months before 5th November 1972, or
- (c) in any other case, the rent at which the dwelling-house was first let during the standstill period (disregarding any variations made after the date of the letting in its terms);

“dwelling house” has the same meaning as in the Rent and Mortgage Interest (Restrictions) Acts (Northern Ireland) 1920 to 1967;

“the 1956 Act” means the Housing (Miscellaneous Provisions) and Rent Restriction Law (Amendment) Act (Northern Ireland) 1956(a).

PART IV

AGRICULTURAL RENTS

Interpretation (Part IV)

9. In this Part, unless the context otherwise requires—

“agricultural” has the same meaning as in the Agriculture Act (Northern Ireland) 1949(b);

“agricultural tenancy” means any tenancy where the property comprised in the tenancy is or includes agricultural land;

(a) 1956 c. 10 (N.I.).

(b) 1949 c. 2 (N.I.).

“rent” means the rent payable under an agricultural tenancy and for the purposes of any comparison under this Part excludes any sums payable by the tenant in respect of rates, repairs, maintenance or insurance;

“standard rate” in relation to any agricultural land means—

- (a) where an agricultural tenancy was subsisting on 5th November 1972, the rate at which rent was payable (whether or not then determined as to amount) under that tenancy on that date;
- (b) where there was no agricultural tenancy subsisting on 5th November 1972 but an agricultural tenancy had subsisted in respect of the premises on or after 5th November 1971, the rate at which rent was payable at the date upon which the tenancy or, when there were successive tenancies, the last such tenancy came to an end;
- (c) in any other case, the rate at which rent is payable under the first agricultural tenancy arising during the standstill period.

Rent under agricultural tenancies

10. Rent shall not be payable in respect of the standstill period at a rate exceeding the standard rate and, where the terms of any tenancy provide for an increase of rent on or after 6th November 1972, the amount of that increase shall not be payable in respect of that period.

Rate of rent for land re-let after 6th November 1972

11. Where an agricultural tenancy comes to an end on or after 6th November 1972 and the land is re-let (whether to the previous tenant or not), the rate at which rent is payable in respect of the standstill period shall not exceed the standard rate, except to the extent that any such excess is properly attributable to a variation in the terms of the tenancy.

Improvements

12. Nothing in this Part shall preclude the recovery of the cost of improvements to land comprised in an agricultural tenancy by way of increased rent—

- (a) where the tenancy was subsisting on 5th November 1972, in accordance with the terms of that tenancy or any agreement subsisting on that date;
- (b) in all other cases, of an amount in respect of the standstill period proportionate to a yearly increase not exceeding $12\frac{1}{2}$ per cent of that cost.

PART V

AGRICULTURAL WAGES

Deferment of agricultural wages orders during standstill period

13. Where an order of the Agricultural Wages Board for Northern Ireland made under the Agricultural Wages (Regulation) Act (Northern Ireland) 1939(a) after the coming into operation of this Article contains a provision as to remuneration expressed to take effect or come into operation on a date which falls within the standstill period, that provision shall not take effect or come into operation, as the case may be, until the date on which section 2 of the 1972 Act ceases to have effect.

(a) 1939 c. 25 (N.I.).

PART VI

WAGES COUNCILS

Modification of Wages Councils Act (Northern Ireland) 1945

14.—(1) During the standstill period section 10(4) of the Wages Councils Act (Northern Ireland) 1945^(a) shall not impose a duty on the Ministry of Health and Social Services for Northern Ireland to make an order giving effect to any wages regulation proposals, and the making of such an order, and the date to be specified in such an order for the coming into operation of the proposals, shall be at that Ministry's discretion and different dates may be so specified for different provisions of the same proposals or for different purposes of any one or more of such provisions.

(2) The Ministry of Health and Social Services for Northern Ireland shall not exercise its discretion under paragraph (1) above so as to postpone the coming into operation of any wages regulation proposals or any provision thereof to a date after that on which section 2 of the 1972 Act ceases to have effect and the date to which the operation of any such proposals or provision is postponed may be expressed in an order as the date on which that section ceases to have effect.

PART VII

SUPPLEMENTARY

Premiums

15. For the purposes of Parts II to IV any premium paid during the standstill period otherwise than in accordance with the terms of a tenancy or agreement subsisting on 5th November 1972 shall be treated as rent in respect of that period.

Recovery of excess rent

16.—(1) Subject to paragraph (3) below, where a tenant has paid on account of rent any amount which by virtue of this Order he is not liable to pay, he shall be entitled to recover that amount from the landlord who received it or his personal representatives.

(2) Subject to paragraph (3) below, any amount which a tenant is entitled to recover under paragraph (1) above may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.

(3) No amount which a tenant is entitled to recover under paragraph (1) above shall be recoverable at any time after the expiry of two years from the date of payment.

Offences

17.—(1) Any person who requires or accepts any payment in contravention of any of the provisions of Parts II to IV shall be liable—

(a) on summary conviction to a fine not exceeding £400; and

(b) on conviction on indictment to a fine;

and without prejudice to any other method of recovery, the court by which a person is found guilty of an offence under this paragraph may order the amount paid in excess to be repaid to the person by whom the payment was made.

(a) 1945 c. 21 (N.I.).

- (2) If a landlord who receives such a request as is referred to in Article 8(4)—
- (a) fails, without reasonable excuse, to supply the statement referred to in that Article within twenty-one days of receiving the request, or
 - (b) supplies a statement which is false in a material particular,
- he shall be liable on summary conviction, where it is a first offence to a fine not exceeding £50 and, where it is a second or subsequent offence, to a fine not exceeding £100.
- (3) If any organisation or person takes, or threatens to take, any action with a view to compel, induce or influence a person to commit an offence under this Order he shall be liable—
- (a) on summary conviction to a fine not exceeding £400, and
 - (b) on conviction on indictment to a fine.
- (4) Where an offence is alleged to have been committed under this Order by any organisation, being an unincorporated body—
- (a) proceedings for the offence shall be brought in the name of that body (and not in that of any of its members),
 - (b) for the purpose of any such proceedings any rules of court relating to the service of documents shall have effect as if that body were a corporation, and
 - (c) any fine imposed on conviction shall be payable out of the funds of that body.
- (5) Where an offence mentioned in paragraph (4) above is an offence punishable on conviction on indictment, section 18 of the Criminal Justice Act (Northern Ireland) 1945(a) and Schedule 5 to the Magistrates' Courts Act (Northern Ireland) 1964(b) shall have effect as if the said body were a corporation.
- (6) Where an offence under this Order committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- (7) Proceedings for an offence under this Order shall not be instituted except by or with the consent of the Attorney General for Northern Ireland.

Determination of questions as to rent

18. Subject to Article 17, any dispute as to a question arising under this Order in relation to rent shall be determined by the Lands Tribunal for Northern Ireland.

Agreements, etc.

19. Subject to the provisions of Parts II to IV relating to rent payable in respect of the standstill period, nothing in those Parts shall render unlawful or invalid any agreement, determination or notice relating to rent.

Comparison of rents for different periods and saving

20. In ascertaining for the purposes of this Order whether there is any difference with respect to rents between one rental period and another (whether

(a) 1945 c. 15 (N.I.).

(b) 1964 c. 21 (N.I.).

of the same tenancy or not), or the amount of any such difference, any necessary adjustment shall be made to take account of periods of different lengths; and for the purposes of such an adjustment a period of one month shall be treated as equivalent to one-twelfth of a year and a period of a week as equivalent to one fifty-second of a year.

Transitional

21. Without prejudice to paragraph 3 of the Schedule to the 1972 Act, any right acquired or liability, obligation or penalty incurred by virtue of any of the provisions of this Order shall not be affected by section 2 of that Act ceasing to be in force, and accordingly any investigation, legal proceeding or remedy in respect of any such right, liability, obligation or penalty may be instituted, continued or enforced as though that section had continued in force.

W. S. I. Whitelaw,
One of Her Majesty's Principal
Secretaries of State.

Northern Ireland Office,
11th December 1972.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes provision, as respects Northern Ireland, for preventing rent increases over rent payable before 6th November 1972 in relation to business or agricultural tenancies and houses with a net annual value of £50 or over to which section 56(1)(a) or (b) or 58(2)(a) or (b) of the Housing (Miscellaneous Provisions) and Rent Restriction Law (Amendment) Act (Northern Ireland) 1956 applies.

It also provides for the deferment of agricultural wages orders made during the standstill period by the Agricultural Wages Board and, during that period, allows the Ministry of Health and Social Services for Northern Ireland to exercise its discretion as to the making and commencement of a wages regulation order under the Wages Councils Act (Northern Ireland) 1945.

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