
STATUTORY INSTRUMENTS

1989 No. 81 (S. 12)

LANDLORD AND TENANT, SCOTLAND

The Rent Assessment Committee (Assured Tenancies) (Scotland) Regulations 1989

<i>Made</i>	- - - -	<i>18th January 1989</i>
<i>Laid before Parliament</i>		<i>30th January 1989</i>
<i>Coming into force</i>	- -	<i>20th February 1989</i>

The Secretary of State, in exercise of the powers conferred on him by section 53(1)(b) of the Rent (Scotland) Act 1984⁽¹⁾, and of all other powers enabling him in that behalf, and after such consultation with the Council on Tribunals as is required by section 10(1) of the Tribunals and Inquiries Act 1971⁽²⁾, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Rent Assessment Committee (Assured Tenancies) (Scotland) Regulations 1989 and shall come into force on 20th February 1989.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1984 Act” means the Rent (Scotland) Act 1984;

“the 1988 Act” means the Housing (Scotland) Act 1988⁽³⁾;

“assured tenancy” and “short assured tenancy” have the meanings assigned to them respectively by sections 12 and 32 of the 1988 Act and “statutory assured tenancy” has the meaning assigned to it by section 16 of the 1988 Act;

“chairman” means the chairman of a committee;

“committee” means a rent assessment committee, to which a reference is made and which is constituted in accordance with the provisions of Schedule 4 to the 1984 Act;

“hearing” means the meeting or meetings of a committee to hear oral representations made in relation to a reference;

(1) 1984 c. 58; section 53(1)(b) was amended by the Housing (Scotland) Act 1988 (c. 43), section 48(1).

(2) 1971 c. 62

(3) 1988 c. 43

“party” means, in the case where a reference is subject to a hearing, any person who is entitled under regulation 5(2) of these Regulations to receive notice of the date, time and place of the hearing and, in the case where a reference is not to be subject to a hearing, any person who is entitled to make representations in writing to the committee;

“reference” means a matter which is referred to a committee by a landlord or a tenant under regulation 3 of these Regulations.

(2) For the purpose of any of these regulations relating to procedure at a hearing, any reference to a party shall be construed as including a reference to a person authorised by that party to be heard on his behalf, whether or not that person is an advocate or a solicitor.

Application

3. These Regulations apply to any of the following references to the committee—

- (a) a reference by a landlord or by a tenant under section 17(3) of the 1988 Act of a notice which has been served under section 17(2) of that Act (a notice proposing terms of a statutory assured tenancy and, if appropriate, an adjustment of the rent to take account of the proposed terms);
- (b) a reference by a tenant under section 24(3) of the 1988 Act of a notice which has been served under section 24(1) of that Act (notice proposing an increase in rent under an assured tenancy);
- (c) an application by a tenant under section 34(1) of the 1988 Act (application for a determination of the rent which the landlord might reasonably be expected to obtain under a short assured tenancy).

Committee response to a reference

4.—(1) When a reference is made to a committee, the committee shall as soon as practicable thereafter serve on the landlord and on the tenant a notice specifying a period of not less than 14 days from the service of the notice during which either representations in writing or a request to make oral representations may be made to the Committee by either party.

(2) Where within the period specified in paragraph (1) of this regulation, or such further period as the committee may allow, the landlord or the tenant requests to make oral representations, the committee shall give him an opportunity of being heard at a hearing in accordance with regulation 5 below.

(3) The committee may make such inquiries, if any, as they think fit and consider any information supplied or representations made to them relevant to the matters to be determined by them, but shall give the parties adequate opportunity for considering such information and representations and may hold a hearing whether or not the parties have requested one.

Hearings

5.—(1) Where a reference is to be subject to a hearing, the committee shall appoint a date, time and place for a hearing.

(2) A committee shall give not less than 10 days' notice in writing to the landlord and the tenant of the date, time and place so appointed for a hearing.

(3) A hearing shall be in public unless for special reasons the committee otherwise decide, but nothing in these Regulations shall prevent a member of the Council on Tribunals or of its Scottish Committee in that capacity from attending any hearing.

(4) At a hearing—

- (a) a party may be heard either in person or by a person authorised by him in that behalf, whether or not that person is an advocate or a solicitor;
- (b) the parties shall be heard in such order and, subject to the provision of these Regulations, the procedure shall be such as the committee shall determine; and
- (c) a party may call witnesses, give evidence on his own behalf and cross-examine any witnesses called by the other party.

(5) The committee at their discretion may on their own motion, or at the request of the parties or one of them, at any time and from time to time postpone or adjourn a hearing; but they shall not do so at the request of one party only unless, having regard to the grounds upon which and the time at which such request is made and to the convenience of the parties, they deem it reasonable to do so. The committee shall give to the parties such notice of any postponed or adjourned hearing as they deem to be reasonable in the circumstances.

(6) If a party does not appear at a hearing, the committee, on being satisfied that the requirements of this regulation regarding the giving of notice of a hearing have been duly complied with, may proceed to deal with the reference upon the representations of any party present and upon the documents and information which they may properly consider.

Documents

6.—(1) Where the reference is to be subject to a hearing, the committee shall take all reasonable steps to ensure that there is supplied to each of the parties before the date of the hearing—

- (a) a copy of, or sufficient extracts from, or particulars of, any document relevant to the reference which has been received from a party (other than a document which is in the possession of such party or of which that party has previously been supplied with a copy); and
- (b) a copy of any document which embodies results of any enquiries made by or for the committee for the purposes of that reference, or which contains relevant information in relation to rents or other tenancy terms previously determined for other houses and which has been prepared for the committee for the purposes of that reference.

(2) At any hearing where—

- (a) any document relevant to the reference is not in the possession of a party present at such hearing; and
- (b) such party has not been supplied with a copy of, or relevant extracts from, or particulars of, such document by the committee in accordance with the provisions of paragraph (1) of this regulation,

then unless—

- (i) such party consents to the continuation of the hearing; or
- (ii) the committee consider that such party has a sufficient opportunity of dealing with such document without an adjournment of the hearing,

the committee shall not consider such document until after they have adjourned the hearing for a period which they consider will afford such a party a sufficient opportunity of dealing with such document.

(3) Where a reference is not to be subject to a hearing, the committee shall supply to each of the parties a copy of, or sufficient extracts from, or particulars of, any such document as is mentioned in paragraph (1)(a) of this regulation (other than a document excepted from that paragraph) and a copy of any such document as is mentioned in paragraph (1)(b) of this regulation, and they shall not reach their decision until they are satisfied that each party has been given a sufficient opportunity

of commenting upon any document of which a copy or from which extracts or of which particulars has or have been so supplied, and upon the other party's case.

Inspection of house

7.—(1) The committee may on their own motion and shall at the request of one of the parties (subject in either case to any necessary consent being obtained) inspect the house which is the subject of the reference.

(2) An inspection may be made before, during or after the close of the hearing, or at such stage in relation to the consideration of the representations in writing as the committee shall determine.

(3) The committee shall give such notice in writing as they deem sufficient of an inspection to the party or parties and shall allow each party and his representative to attend any such inspection.

(4) Where an inspection is made after the close of a hearing, the committee may, if they consider that it is expedient to do so on account of any matter arising from the inspection, re-open the hearing; and if the hearing is to be re-opened paragraph (2) of regulation 5 of these Regulations shall apply as it applied to the original hearing, save in so far as its requirements may be dispensed with or relaxed with the consent of the parties.

Decisions

8.—(1) The decision of the committee upon a reference shall be recorded in a document signed by the chairman (or, in the event of his absence or incapacity, by another member of the committee) which shall contain no reference to the decision being a majority (if that be the case) or to any opinion of a minority.

(2) Where the committee are requested, on or before the giving or notification of the decision, to state the reasons for the decision, those reasons shall be recorded in the said document.

(3) The chairman (or, in the event of his absence or incapacity, another member of the committee) shall have power, by a certificate under his hand, to correct any clerical or accidental error or omission in the document.

(4) A copy of the document and of any such correction shall be sent by the committee to the party or parties.

Giving of notices, etc.

9. Where any notice or other written matter is required under the provisions of these Regulations to be served, given or supplied by the committee to a party or parties, it shall be sufficient compliance with the Regulations if such notice or matter is served, given or supplied—

- (a) by delivering it to him or to his agent where a party has appointed an agent to act on his behalf;
- (b) by leaving it at his or his agent's last known address; or
- (c) by sending it by recorded delivery letter to him or his agent at that address.

St Andrew's House,
Edinburgh
18th January 1989

James Douglas-Hamilton
Parliamentary Under Secretary of State, Scottish
Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations regulate the procedure to be followed by rent assessment committees in Scotland in dealing with references made to them concerning assured tenancies, short assured tenancies and statutory assured tenancies under the Housing (Scotland) Act 1988.