
STATUTORY INSTRUMENTS

1993 No. 651

**HOUSING, ENGLAND AND WALES
LOCAL GOVERNMENT, ENGLAND AND WALES**

**The Local Government Finance (Housing)
(Consequential Amendments) Order 1993**

<i>Made</i>	- - - -	<i>11th March 1993</i>
<i>Laid before Parliament</i>		<i>11th March 1993</i>
<i>Coming into force</i>	- -	<i>1st April 1993</i>

The Secretary of State, in exercise of the powers conferred on him by sections 113(1) and 114 of the Local Government Finance Act 1992⁽¹⁾, and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Local Government Finance (Housing) (Consequential Amendments) Order 1993 and subject to paragraph (2) below, shall come into force on 1st April 1993.

(2) Paragraphs 5 to 10 and paragraph 17 of Schedule 1 to this Order shall not affect—

- (a) the registration of rent under Part IV of the Rent Act 1977 on an application made under section 67 of that Act before 1st April 1993,
- (b) the registration of rent under section 79 of that Act on a reference made under section 77 or 80 of that Act before that date, or
- (c) the determination of rent under section 14 of the Housing Act 1988 on a reference which relates to a notice served under section 13(2) of that Act before that date.

(3) This Order extends to England and Wales only.

Amendment of enactments and interpretation

2.—(1) The enactments specified in Schedule 1 to this Order shall have effect subject to the amendments specified in that Schedule.

(1) 1992 c. 14.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) The enactments specified in Schedule 2 to this Order shall have effect subject to the amendments specified in that Schedule (which make transitional provision in relation to the registration or determination of rent under or for the purposes of those enactments).

Department of Environment
11th March 1993

Michael Howard
One of Her Majesty's Principal Secretaries of
State

SCHEDULE 1

Article 2(1)

AMENDMENTS

Landlord and Tenant Act 1954(2)

1. In section 2 (tenancies to which section 1 applies), in subsection (7)(3) after “rates,” insert “council tax,”.

Rent (Agriculture) Act 1976(4)

2. In section 9 (effect of determination of superior tenancy, etc), in subsection (7) after “rates,” insert “council tax,”.

Rent Act 1977(5)

3. In section 4 (dwelling-houses above certain rateable values), in subsection (5)(6) after “rates,” insert “council tax,”.

4. In section 5 (tenancies at low rents), in subsection (4) after “rates,” insert “council tax,”.

5. In section 67 (application for registration of rent), after subsection (3)(7) insert—

“(3A) If the dwelling-house forms part of a hereditament in respect of which the landlord or a superior landlord is, or was on the relevant date, liable under Part I of the Local Government Finance Act 1992 to pay council tax, then, in determining for the purposes of subsection (3) above whether since the relevant date there has been such a change falling within paragraph (d) of that subsection as to make the registered rent no longer a fair rent, any change in the amount of council tax payable in respect of the hereditament shall be disregarded unless it is attributable to—

- (a) the fact that the hereditament has become, or has ceased to be, an exempt dwelling,
- (b) an alteration in accordance with regulations under section 24 of the Local Government Finance Act 1992 of the valuation band shown in a valuation list as applicable to the hereditament, or
- (c) the compilation of a new valuation list in consequence of an order of the Secretary of State under section 5(4)(b) of that Act.

(3B) In subsection (3A) above “hereditament” means a dwelling within the meaning of Part I of the Local Government Finance Act 1992 and, subject to that, expressions used in subsection (3A) and in Part I of that Act have the same meaning in that subsection as in that Part.”.

6. In section 70 (determination of fair rent), after subsection (3) insert—

“(3A) In any case where under Part I of the Local Government Finance Act 1992 the landlord or a superior landlord is liable to pay council tax in respect of a hereditament (“the relevant hereditament”) of which the dwelling-house forms part, regard shall also be had to the amount of council tax which, as at the date on which the application to the rent officer was made, was set by the billing authority—

(2) [1954 c. 56](#).

(3) Subsection (7) was added by paragraph 13 of Schedule 23 to the Rent Act [1977 \(c. 42\)](#).

(4) [1976 c. 80](#).

(5) [1977 c. 42](#).

(6) Subsection (5) was added by paragraph 16 of the Schedule to the References to Rating (Housing) Regulations 1990, S.I.1990/434.

(7) Subsection (3) was amended by section 60(1) of the Housing Act [1980 \(c. 51\)](#).

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- (a) for the financial year in which that application was made, and
- (b) for the category of dwellings within which the relevant hereditament fell on that date,

but any discount or other reduction affecting the amount of council tax payable shall be disregarded.

(3B) In subsection (3A) above—

- (a) “hereditament” means a dwelling within the meaning of Part I of the Local Government Finance Act 1992,
- (b) “billing authority” has the same meaning as in that Part of that Act, and
- (c) “category of dwellings” has the same meaning as in section 30(1) and (2) of that Act.”.

7. In section 71 (amount to be registered as rent), in subsection (1) after “by the tenant to the landlord” insert “in respect of council tax or”.

8. In section 78 (powers of rent tribunals on reference of contracts), after subsection (2) insert—

“(2A) In any case where under Part I of the Local Government Finance Act 1992 the lessor, or any person having any title superior to that of the lessor, is liable to pay council tax in respect of a hereditament (“the relevant hereditament”) of which the dwelling forms part, the tribunal shall have regard to the amount of council tax which, as at the date on which the reference to the tribunal was made, was set by the billing authority—

- (a) for the financial year in which that reference was made, and
- (b) for the category of dwellings within which the relevant hereditament fell on that date,

but any discount or other reduction affecting the amount of council tax payable shall be disregarded.

(2B) In subsection (2A) above—

- (a) “hereditament” means a dwelling within the meaning of Part I of the Local Government Finance Act 1992,
- (b) “billing authority” has the same meaning as in that Part of that Act, and
- (c) “category of dwellings” has the same meaning as in section 30(1) and (2) of that Act.”.

9. In section 79 (register of rents under restricted contracts), after cv subsection (3) insert—

“(3A) The amount to be entered in the register under this section as the rent payable for a dwelling shall include any sums payable by the lessee to the lessor in respect of council tax, whether or not those sums are separate from the sums payable for the occupation of the dwelling or are payable under separate agreements.”.

10. In section 80 (reconsideration of rent after registration) at the end add—

“(3) If the dwelling forms part of a hereditament in respect of which the lessor, or any person having any title superior to that of the lessor, is liable under Part I of the Local Government Finance Act 1992 to pay council tax or was so liable on the date on which the rent was last considered by the tribunal, then, in determining for the purposes of subsection (2) above whether since that date there has been such a change falling within paragraph (d) of that subsection as to make the registered rent no longer a reasonable rent, any change in the amount of council tax payable in respect of the hereditament shall be disregarded unless it is attributable to—

- (a) the fact that the hereditament has become, or has ceased to be, an exempt dwelling,

- (b) an alteration in accordance with regulations under section 24 of the Local Government Finance Act 1992 of the valuation band shown in a valuation list as applicable to the hereditament, or
- (c) the compilation of a new valuation list in consequence of an order of the Secretary of State under section 5(4)(b) of that Act.

(4) In subsection (3) above “hereditament” means a dwelling within the meaning of Part I of the Local Government Finance Act 1992 and, subject to that, expressions used in subsection (3) and in Part I of that Act (other than “dwelling”) have the same meaning in that subsection as in that Part.”

11. In section 146 (long tenancies at low rent), in subsection (1) after “rates,” insert “council tax.”

Housing Act 1985(8)

12. In section 101 (rent not to be increased on account of tenant’s improvements), in subsection (4) after “rates” insert “or to council tax”.

13. In section 102 (variation of terms of secure tenancy), in subsection (1)(b) after “rates” insert “, council tax”.

14. In section 153B(9) (payments of rent attributable to purchase price etc.), in subsection (2)(a) after “rates” insert “or council tax”.

15. In Schedule 8 (terms of shared ownership lease), in paragraph 4(1) after “rates” insert “or council tax”.

Landlord and Tenant Act 1985(10)

16. In section 31 (reserve power to limit rents), in subsection (3), in the definition of “rent”, after “rates or” insert “council tax or”.

Housing Act 1988(11)

17.—(1) Section 14 (determination of rent by rent assessment committee) is amended as follows.

(2) After subsection (3) insert—

“(3A) In making a determination under this section in any case where under Part I of the Local Government Finance Act 1992 the landlord or a superior landlord is liable to pay council tax in respect of a hereditament (“the relevant hereditament”) of which the dwelling-house forms part, the rent assessment committee shall have regard to the amount of council tax which, as at the date on which the notice under section 13(2) above was served, was set by the billing authority—

- (a) for the financial year in which that notice was served, and
- (b) for the category of dwellings within which the relevant hereditament fell on that date,

but any discount or other reduction affecting the amount of council tax payable shall be disregarded.

(3B) In subsection (3A) above—

(8) 1985 c. 68.

(9) Section 153B was inserted by section 124 of the Housing Act 1988 (c. 50).

(10) 1985 c. 70.

(11) 1988 c. 50.

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- (a) “hereditament” means a dwelling within the meaning of Part I of the Local Government Finance Act 1992,
 - (b) “billing authority” has the same meaning as in that Part of that Act, and
 - (c) “category of dwellings” has the same meaning as in section 30(1) and (2) of that Act.”.
- (3) In subsection (4) after “furniture” insert “, in respect of council tax”.
18. After section 41 insert—

“Provision of information as to exemption from council tax

41A. A billing authority within the meaning of Part I of the Local Government Finance Act 1992 shall, if so requested in writing by a rent officer or rent assessment committee in connection with his or their functions under any enactment, inform the rent officer or rent assessment committee in writing whether or not a particular dwelling (within the meaning of Part I of the Local Government Finance Act 1992) is, or was at any time specified in the request, an exempt dwelling for the purposes of that Part of that Act.”.

19. In Schedule 1 (tenancies which cannot be assured tenancies), in paragraph 2(2)(12) (tenancies of dwelling-houses with high rateable values), after “rates,” insert “council tax,”.

Local Government and Housing Act 1989(13)

20. In Schedule 10 (security of tenure on ending of long residential leases) in paragraphs 6(4) and 11(6) after “Subsections (2),” insert “(3A),”.

SCHEDULE 2

Article 2(2)

AMENDMENTS MAKING TRANSITIONAL PROVISION

Rent (Agriculture) Act 1976(14)

1. In section 13 (application for registration of rent) in subsection (2)(15), for “and 70” substitute “67A, 70 and 70A”(16).

Rent Act 1977(17)

2. In section 67 (application for registration of rent)—
- (a) in subsection (3)(18) after “subsection (4) below” insert “and sections 67A and 70A of this Act”(19); and
 - (b) at the end of subsection (5) add “but for the purposes of this subsection any registration or confirmation by virtue of section 70A of this Act shall be disregarded.”.

(12) Paragraph 2 was substituted by paragraph 29 of the Schedule to the References to Rating (Housing) Regulations 1990, S.I. 1990/434.

(13) 1989 c. 42.

(14) 1976 c. 80.

(15) Subsection (2) was substituted by paragraph 75 of Schedule 23 to the Rent Act 1977.

(16) See paragraphs 3 and 4 of this Schedule.

(17) 1977 c. 42.

(18) Subsection (3) was amended by section 60(1) of the Housing Act 1980.

(19) See paragraphs 3 and 4 of this Schedule.

3. After section 67 insert—

“Application before 1st April 1994 for interim increase of rent in certain cases where landlord liable for council tax

67A.—(1) Subject to subsection (4) below, an application under this section for the registration under section 70A of this Act of an increased rent for a dwelling-house may be made by the landlord or the tenant, or jointly by the landlord and the tenant, under a regulated tenancy of the dwelling-house in any case where—

- (a) under Part I of the Local Government Finance Act 1992 the landlord or a superior landlord is liable to pay council tax in respect of a dwelling (within the meaning of that Part of that Act) which includes the dwelling-house,
- (b) under the terms of the tenancy (or an agreement collateral to the tenancy) the tenant is liable to make payments to the landlord in respect of council tax,
- (c) the case falls within subsection (2) or subsection (3) below, and
- (d) no previous application has been made under this section in relation to the dwelling-house.

(2) The case falls within this subsection if—

- (a) a rent has been registered under this Part of this Act before 1st April 1993,
- (b) the period of two years from the relevant date has not yet expired, and
- (c) since the relevant date there has been no such change in circumstances of a kind mentioned in paragraphs (a) to (d) of section 67(3) of this Act (other than circumstances relating to council tax) as to make the registered rent no longer a fair rent.

(3) The case falls within this subsection if an application under section 67 of this Act has been made before 1st April 1993 but has not been disposed of before that date.

(4) No application may be made under this section after 31st March 1994.

(5) Any such application must be in the prescribed form and must—

- (a) specify the rent which it is sought to register to take into account the tenant’s liability to make payments to the landlord in respect of council tax; and
- (b) contain such other particulars as may be prescribed.

(6) The provisions of Part I of Schedule 11 to this Act (as modified by the Regulated Tenancies (Procedure) Regulations 1980 and by the Rent Assessment Committees (England and Wales) (Amendment) Regulations 1981) shall have effect with respect to the procedure to be followed on applications for the registration of rents.

(7) In this section “relevant date”, in relation to a rent which has been registered under this Part of this Act, has the same meaning as in section 67 of this Act.”(20).

4. After section 70 insert—

“Interim determination of fair rent on application under section 67A

70A.—(1) Where an application is made under section 67A of this Act—

- (a) the rent officer shall determine the amount by which, having regard to the provisions of section 70(3A) of this Act, the existing registered rent might

(20) See S.I. 1980/1696 and S.I. 1981/1783.

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reasonably be increased to take account of the tenant's liability to make payments to the landlord in respect of council tax; and

- (b) the amount to be registered as the rent of the dwelling-house shall be the existing registered rent plus the amount referred to in paragraph (a) above.

(2) Where in a case falling within section 67A(3) of this Act a rent officer has before him at the same time an application under section 67 and an application under section 67A of this Act and the rent officer proposes to entertain the two applications together, the rent officer shall make a determination in relation to the application under section 67 before making his determination in relation to the application under section 67A; and the reference in subsection (1)(a) above to the existing registered rent shall have effect as a reference to the rent determined on the application under section 67.”.

5. After section 80 insert—

“Reference before 1st April 1994 for interim increase of rent in certain cases where lessor liable for council tax

80A.—(1) In any case where—

- (a) under Part I of the Local Government Finance Act 1992 the lessor under a restricted contract or any person having any title superior to that of the lessor is liable to pay council tax in respect of a hereditament which includes the dwelling to which the restricted contract relates,
- (b) under the terms of the restricted contract (or an agreement collateral to the contract) the lessee is liable to make payments to the lessor in respect of council tax,
- (c) the case falls within subsection (2) or subsection (3) below, and
- (d) no previous reference under this section in relation to the dwelling has been made to the rent tribunal,

the lessor or the lessee may, subject to subsection (4) below, refer the contract to the rent tribunal under this section for consideration of an increased rent.

(2) The case falls within this subsection if—

- (a) a rent has been entered in the register under section 79 of this Act before 1st April 1993,
- (b) the period of two years beginning on the date on which the rent was last considered by the tribunal has not yet expired, and
- (c) since that date there has been no such change in circumstances of a kind mentioned in paragraphs (a) to (d) of section 80 of this Act (other than circumstances relating to council tax) as to make the registered rent no longer a reasonable rent.

(3) The case falls within this subsection if a reference under section 77 or 80 of this Act has been made before 1st April 1993 but has not been disposed of before that date.

(4) No reference may be made under this section after 31st March 1994.

(5) Where a reference is made under this section—

- (a) the rent tribunal shall (after making such inquiry as they think fit and giving to each party to the contract an opportunity of being heard or of submitting representations in writing) increase the amount of the existing registered rent by such amount as is reasonable, having regard to the provisions of section 78(2A)

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of this Act, to take account of the lessee's liability to make payments to the lessor in respect of council tax, and

- (b) the amount to be registered under section 79 of this Act as the rent of the dwelling shall be the existing registered rent plus the amount referred to in paragraph (a) above.

(6) Where in a case to which subsection (3) above applies a rent tribunal have before them at the same time a reference under section 77 or 80 of this Act and a reference under this section and the rent tribunal propose to entertain the two references together, the tribunal shall approve, reduce or increase the rent under the reference under section 77 or 80 before making their increase in relation to the reference under this section; and the reference in subsection 5(a) above to the existing registered rent shall have effect as a reference to the rent determined on the reference under section 77 or 80.

(7) In this section "hereditament" means a dwelling within the meaning of Part I of the Local Government Finance Act 1992."

6. In section 87 (rents to be registrable) in subsection (2)(a)(21) for "70" substitute "67A, 70, 70A".

7. In Schedule 11 (applications for registration of rent), after paragraph 9 insert—

"Interim registration of rent

9A. In this Schedule references to a fair rent in relation to an application under section 67A of this Act are references to the amount to be registered under section 70A(1)(b) of this Act."

Housing Act 1988(22)

8. After section 14 insert—

"Interim increase before 1st April 1994 of rent under assured periodic tenancies in certain cases where landlord liable for council tax

14A.—(1) In any case where—

- (a) under Part I of the Local Government Finance Act 1992 the landlord of a dwelling-house let under an assured tenancy to which section 13 above applies or a superior landlord is liable to pay council tax in respect of a dwelling (within the meaning of that Part of that Act) which includes that dwelling-house,
- (b) under the terms of the tenancy (or an agreement collateral to the tenancy) the tenant is liable to make payments to the landlord in respect of council tax,
- (c) the case falls within subsection (2) or subsection (3) below, and
- (d) no previous notice under this subsection has been served in relation to the dwelling-house,

the landlord may serve on the tenant a notice in the prescribed form proposing an increased rent to take account of the tenant's liability to make payments to the landlord in respect of council tax, such increased rent to take effect at the beginning of a new period of the tenancy specified in the notice being a period beginning not earlier than one month after the date on which the notice was served.

(2) The case falls within this subsection if—

(21) Subsection (2) was partly repealed by Schedule 18 to the Housing Act 1988 and also partly repealed and substituted by section 61(3) of the Housing Act 1980.

(22) 1988 c. 50.

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- (a) the rent under the tenancy has previously been increased by virtue of a notice under section 13(2) above or a determination under section 14 above, and
 - (b) the first anniversary of the date on which the increased rent took effect has not yet occurred.
- (3) The case falls within this subsection if a notice has been served under section 13(2) above before 1st April 1993 but no increased rent has taken effect before that date.
- (4) No notice may be served under subsection (1) above after 31st March 1994.
- (5) Where a notice is served under subsection (1) above, the new rent specified in the notice shall take effect as mentioned in the notice unless, before the beginning of the new period specified in the notice—
- (a) the tenant by an application in the prescribed form refers the notice to a rent assessment committee, or
 - (b) the landlord and the tenant agree on a variation of the rent which is different from that proposed in the notice or agree that the rent should not be varied.
- (6) Nothing in this section (or in section 14B below) affects the right of the landlord and the tenant under an assured tenancy to vary by agreement any term of the tenancy (including a term relating to rent).

Interim determination of rent by rent assessment committee

14B.—(1) Where, under subsection (5)(a) of section 14A above, a tenant refers to a rent assessment committee a notice under subsection (1) of that section, the committee shall determine the amount by which, having regard to the provisions of section 14(3A) above, the existing rent might reasonably be increased to take account of the tenant's liability to make payments to the landlord in respect of council tax.

(2) Where a notice under section 14A(1) above has been referred to a rent assessment committee, then, unless the landlord and the tenant otherwise agree, the existing rent shall be increased by the amount determined by the committee with effect from the beginning of the new period specified in the notice or, if it appears to the committee that that would cause undue hardship to the tenant, with effect from such later date (not being later than the date the increase is determined) as the committee may direct.

(3) In any case where—

- (a) a rent assessment committee have before them at the same time the reference of a notice under section 13(2) above relating to a tenancy (in this subsection referred to as “the section 13 reference”) and the reference of a notice under section 14A(1) above relating to the same tenancy (in this subsection referred to as “the section 14A reference”); and
- (b) the committee propose to hear the two references together,

the committee shall make a determination in relation to the section 13 reference before making their determination in relation to the section 14A reference, and if in such a case the date specified in the notice under section 13(2) above is later than the date specified in the notice under section 14A(1) above, the rent determined under the section 14A reference shall not take effect until the date specified in the notice under section 13(2).

(4) In this section “rent” has the same meaning as in section 14 above; and section 14(4) above applies to a determination under this section as it applies to a determination under that section.”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends certain housing legislation in consequence of the introduction of council tax under the Local Government Finance Act 1992. The Acts amended are the Landlord and Tenant Act 1954, the Rent (Agriculture) Act 1976, the Rent Act 1977, the Housing Act 1985, the Landlord and Tenant Act 1985, the Housing Act 1988 and the Local Government and Housing Act 1989.