STATUTORY INSTRUMENTS

1980 No. 1664 (S.128)

LANDLORD AND TENANT

RENT CONTROL, ETC (SCOTLAND)

The Increase of Rent Restriction (Scotland) Order 1980

Made - - - -	30*th October* 1980
Laid before Parliament	11*th November* 1980
Coming into Operation	1*st December* 1980

In exercise of the powers conferred upon me by section 37(2) of the Tenants' Rights, Etc. (Scotland) Act 1980 (**a**), and of all other powers enabling me in that behalf, I hereby make the following order:—

Citation and commencement

1. This order may be cited as the Increase of Rent Restriction (Scotland) Order 1980 and shall come into operation on 1st December 1980.

Interpretation

2.—In this order—

"the 1971 Act" means the Rent (Scotland) Act 1971 (**b**);

"noted amount" means the amount of the registered rent noted as fairly attributable to the provision of services under subsection (1A) of section 43 of the 1971 Act;

"permitted increase" means the amount by which the rent for any relevant period may be increased under article 5 of this order;

"previous rent limit" means, as the case may require and subject to article 3 of this order, either—

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,

"relevant period" means the period of 12 months beginning with the date of registration, or any subsequent period of 12 months beginning with an anniversary of that date.

(a) 1980 c.52 (b) 1971 c.28

Calculation of previous rent limit

3. Where the previous rent limit included a noted amount as defined in article 2 of this order or an amount payable in respect of rates the previous rent limit shall, for the purposes of article 5 of this order, be reduced by the amount or amounts so payable. Any amount payable in respect of rates shall be ascertained in accordance with Schedule 4 to the 1971 Act.

Effect of notice of increase

4.—(1) Where a rent for a dwelling-house under a regulated tenancy is registered on or after the date of commencement of this order and the rent payable under the tenancy for any statutory period (or part thereof) is less than the amount so registered, it shall not be increased by a notice of increase under section 21(2)(b) of the 1971 Act except to the extent permitted by article 5 of this order; and any such notice which purports to increase it further shall have effect to increase it to the extent so permitted but no further.

(2) Paragraph (1) of this article shall not affect any increase in respect of a noted amount within the meaning of article 2 of this order.

Permitted Increase

5.—(1) Subject to paragraph 3(1)(c) of Part III of the Schedule to the Fire Precautions Act 1971 (**a**) and paragraph (3) of this article, the rent may be increased in any relevant period to the aggregate of the following:-

a. the amount of the previous rent limit, calculated in accordance with article 3 of this order; and

b. the noted amount (if any), calculated in accordance with article 6 of this order; and

c. the permitted increase, calculated in accordance with paragraph (2) of this article.

(2) The permitted increase in respect of any relevant period shall be the greater of the following amounts—

a. £104; or

b. one-quarter of the previous rent limit, ascertained in accordance with article 3 of this order.

(3) Nothing in this order—

a. shall permit the rent to be increased above the amount registered; or

b. shall prevent or limit an increase in any sums included in a rent which are variable by virtue of section 43(4) of the 1971 Act (variable rents).

6.—Where the registered rent includes an amount payable in respect of services provided by the landlord and—

a. the rent is not registered as one variable in accordance with section 43(4) of the 1971 Act, but

b. an entry falls to be made in the register in accordance with section 43(1A) of the 1971 Act

the amount so entered shall be the noted amount, as defined in article 2.

(a) 1971 c.40

Restriction on rent increases in cases of further registration

7.—(1) Where, on or after the commencement of this order and subject to paragraph (a) of this article—

a. a registration is superseded by another registration,

b. the new registration permits the rent to be increased above the amount payable under the former registration,

c. the new registration takes effect within 12 months of an increase in rent recoverable in respect of the former registration, and

d. that increase is, by virtue of article 5(3)(a) of this order, less than the permitted increase calculated in accordance with article 5 of this order,

the total additional rental income in the relevant period in which the new registration occurs or in any subsequent relevant period shall not, by virtue of a permitted increase taking effect within 12 months of an increase which falls within sub-paragraph (d) of this article, be increased above the permitted increase which, but for article 5(3)(a) above, would have been recoverable in respect of that relevant period.

(2) Where the circumstances specified in paragraph (1)(a) to (c) above apply and the date of registration of the former registration occurred before the commencement of this order, the total additional rental income in the relevant period in which the new registration occurs or in any subsequent relevant period shall not exceed the increase, calculated in accordance with article 5(2) of this order, which would, but for this paragraph, be permitted.

(3) In this article "relevant period" means the period of 12 months beginning with the date of registration of the former rent and any subsequent period of 12 months beginning with an anniversary of that date.

Successive tenancies

8.—Where a rent for a dwelling-house which is subject to a regulated tenancy is registered under Part IV of the 1971 Act and at a time when the rent payable under the tenancy is less than the registered rent the tenant, or any person who might succeed him as a statutory tenant, becomes the tenant under a new regulated tenancy of the dwelling-house—

the rent limit for any contractual rental period of the new regulated tenancy beginning before the registered rent becomes payable shall be the amount to which, if the first mentioned tenancy had continued, the rent payable thereunder could have been increased in accordance with the provisions of this order for a statutory rental period beginning at the same time.

New tenancies

9. This order shall not apply to the rent under any regulated tenancy of a dwelling-house which was granted after the date of registration of the rent if the person to whom it was granted was neither the tenant under any previous regulated tenancy of that dwelling-house nor any person who might have succeeded such a tenant as a statutory tenant of the dwelling-house.

Transitional

10. Where a rent is registered before this order comes into operation in the circumstances specified in section 44(2) of the 1971 Act the date of registration shall be deemed to be the date of the first day after expiry of the period of three years mentioned in section 40(3) of the 1971 Act.

11. Where a rent has been registered by the rent officer before the commencement of this order and a rent determined by a rent assessment committee is registered after the commencement of this order in substitution for that rent the provisions of section 7 of, and Schedule 2 to, the Housing Rents and Subsidies (Scotland) Act 1975 (**a**) shall continue to have effect as if only the rent determined by the rent assessment committee had been registered; but the date of registration shall be deemed for the purposes of the said section 7 and Schedule 2 (but not for the purposes of section 21(3) of the 1971 Act) to be the date on which the rent determined by the rent officer was registered.

Supplemental

12. In ascertaining for the purpose of this order whether there is any difference between amounts or what that difference is, such adjustments should be made as may be necessary to take account of periods of different lengths; and for that purpose a month shall be treated as one-twelfth and a week as one-fifty-second of a year.

George Younger,
One of Her Majesty's Principal
Secretaries of State.

New St Andrew's House,
Edinburgh.
30th October 1980

EXPLANATORY NOTE

(This Note is not part of the order)

1. Section 37(2) of the Tenants' Rights, Etc.(Scotland) Act 1980 provides that, where a rent is registered after the commencement of section 37 any increase in rent arising from the registration shall be limited to the amount specified by order made by the Secretary of State as the maximum amount by which the existing rent may be increased annually. It also provides that the total additional rental income recoverable annually by the landlord shall be restricted to the amount prescribed by the order.

2. The Tenants' Rights, Etc.(Scotland) Act 1980 (Commencement) Order 1980 (S.I. 1980/1387) provides that Part IV of the 1980 Act (which includes section 37) shall, with the exception of sections 43 and 53, comes into operation on 1st December 1980.

3. This order prescribes £104 or one-quarter of the existing rent, whichever is the greater, as both the amount by which a rent may be increased annually and as the total additional rental income that a landlord may recover each year. It also contains certain transitional and incidental provisions.

(a) 1975.c.28.

SI 1980/1664
ISBN 0-11-007664-8

