1968 No. 1081 (S. 121)

LANDLORD AND TENANT

The Prices and Incomes (Regulated Rents) (Scotland) Regulations 1968

Made - - - -	10*th July* 1968
Laid before Parliament	10*th July* 1968
Coming into Operation	10*th July* 1968

In exercise of the powers conferred on me by section 9 of the Prices and Incomes Act 1968(a) and by section 46 of the Rent Act 1965(b) and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Prices and Incomes (Regulated Rents) (Scotland) Regulations 1968, and shall come into operation on 10th July 1968.

Interpretation

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

"the Act" means the Prices and Incomes Act 1968, "the Rent Act" means the Rent Act 1965, and—

"committee" means a rent assessment committee constituted in accordance with the provision of Schedule 2 to the Rent Act;

"notice of increase" means a notice of increase under section 7 of the Rent Act;

"recoverable rent" means rent which—

(*a*) in the case of a regulated tenancy is, or was, at a particular time the contractual rent limit, as adjusted under section 4 of the Rent Act, after deducting therefrom the amount of any rates (ascertained in accordance with Schedule 2 to the Rent Act 1957(c)) borne by the landlord; or

(*b*) in the case of a statutory tenancy is, or was, at a particular time recoverable or which would be, or would have been, recoverable if any requisite and permissible action had been taken by the landlord for the purpose after deducting therefrom the amount of any rates (ascertained in accordance with Schedule 2 to the Rent Act 1957) borne by the landlord;

"registered rent" means a rent registered under Part II of the Rent Act;

"registration subject to phasing" has the meaning assigned to it by regulation 3 of these regulations;

(a) 1968 c. 42. (b) 1965 c. 75. (c) 1957 c. 25.

"relevant rental period" means the last rental period before the registration of a rent by a rent officer under paragraph 6 or paragraph 8 of Schedule 3 to the Rent Act;

"rental period" means a period in respect of which a payment of rent falls to be made;

"services apportionment" has the meaning assigned to it by regulation 4 of these regulations, and other words and expressions shall be construed as in the Rent Act.

(2) The Interpretation Act 1889(a) applies for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

Exceptions from restrictions on increases

3.—(1) There shall be excepted from the restriction imposed by section 9(1) of the Act any case where the rent in respect of which, but for this paragraph, that restriction would apply—

(*a*) was registered by the rent officer before the date of coming into operation of these regulations under paragraph 6 or paragraph 8 of Schedule 3 to the Rent Act; or

(*b*) was registered by the rent officer before, or is registered by him on or after, the date of coming into operation of these regulations, under paragraph 12 of the said Schedule, pursuant to a determination by a committee in a case where the registration or confirmation of the rent in the matter referred to the committee was made, or noted in the register by the rent officer before that date under the said paragraph 6 or the said paragraph 8 as mentioned in the preceding sub-paragraph of this paragraph; or

(*c*) was registered by the rent officer before the date of the coming into operation of these regulations under paragraph 16(2)(*a*), paragraph 16(4)(a) or paragraph 17(3) of the said Schedule, or is registered by him on or after that date under any of these provisions.

(2) The registration of a rent before the end of the year 1969 in any case which is not within any of the exceptions specified in paragraph (1) of this regulation is hereinafter referred to as a "registration subject to phasing".

Further exception in respect of rent apportioned to services

4.—(1) A rent officer in considering an application for the registration of a rent in a case where—

(*a*) services are provided by the landlord; and

(*b*) the registration may, or will, be a registration subject to phasing,

and a committee in considering a matter where—

(*c*) such services are provided, and

(*d*) a registration subject to phasing has been made by the rent officer,

shall, except in the case of a rent which under section 28(3) of the Rent Act falls to be entered in the register as an amount variable in accordance with the terms of the tenancy, consider whether the amount fairly attributable to the provision of such services consitutes ten per cent. or more of the rent determined or confirmed by the rent officer or, as the case may be, the committee, and, if of the opinion that it does, shall distinguish the amount so attributable; and the amount so distinguished shall in any such case be noted in the register kept under section 26 of the Rent Act.

(a) 1889 c. 63.

(2) Where an amount has been distinguished under paragraph (1) above, there shall be excepted from the restriction imposed by section 9(1) of the Act an amount calculated in accordance with paragraph (3) below.

(3) The amount last referred to in paragraph (2) of this regulation is an amount which bears the same proportion to the difference between the recoverable rent for the relevant rental period and the registered rent as the amount distinguished under paragraph (1) of this regulation bears to the registered rent:

Provided that if—

(*a*) an amount has been noted on the register under paragraph (1) of this regulation as the amount fairly attributable to the provision of services; and

(*b*) on the determination, in pursuance of a subsequent application, of a different rent for the dwelling-house, or the confirmation in pursuance of such an application of the rent previously registered, the amount distinguished under paragraph (1) of this regulation as attributable to the provision of services exceeds the amount so noted in respect of the rent previously registered,

the difference between the amount first so noted and the amount subsequently so distinguished shall, in addition to any amount previously so excepted, be excepted from the restriction imposed by section 9(1) of the Act.

(4) An amount calculated in accordance with the provisions of paragraph (3) of this regulation is hereinafter referred to as a " services apportionment ".

Phasing of increases in rent

5.—(1) In this regulation " the first year of phasing " means in relation to a dwelling-house the year beginning with the date on which a registration subject to phasing is first made after the coming into operation of these regulations in respect of that dwelling-house by a rent officer under paragraph 6 or paragraph 8 of Schedule 3 to the Rent Act (whether or not some other rent is later registered under paragraph 12 of that Schedule, or the rent is confirmed but some other amount is distinguished by the committee as attributable to the provision of services); and " the second year of phasing " means in relation to that dwelling-house the year, if any, beginning, before the end of the year 1969, with the anniversary of that date.

(2) Where there has been a registration subject to phasing, a notice of increase served while section 9 of the Act is in force may increase the rent (exclusive of any rates, ascertained in accordance with Schedule 2 to the Rent Act 1957 borne by the landlord in respect of the dwelling-house) to an amount which exceeds neither—

(*a*) the amount which would, apart from the provisions of the Act and of these regulations, be permitted under the Rent Act; nor

(*b*) for any period within the first year of phasing or the second year of phasing the permitted limit specified in paragraph (3) of this regulation in respect of that period.

(3) The permitted limits shall be:—

(*a*) for any period within the first year of phasing an amount calculated by adding to the rent which was the recoverable rent for the last rental period beginning before the commencement of that year—

(i) ten shillings per week (or, in the case of a rental period other than a week, an amount calculated in accordance with the provisions of paragraph (4) of this regulation); and

(ii) the amount of any services apportionment;

(*b*) for any period within the second year of phasing whichever is the greater of the following amounts—

(i) an amount calculated by adding to the amount which was the permitted limit immediately before the commencement of the second year of phasing an amount equal to half the difference between that limit and the rent which is the registered rent immediately before the commencement of the second year of phasing;

(ii) an amount calculated by adding to the amount which was the permitted limit immediately before the commencement of the second year of phasing or, if the registered rent at that time was below the permitted limit, to the amount of the registered rent, two shillings and sixpence per week (or, in the case of a rental period other than a week, an amount calculated in accordance with the provisions of paragraph (4) of this regulation):

Provided that the permitted limit specified in sub-paragraph (*a*) or sub-paragraph (*b*) of this paragraph shall be subject to adjustment in respect of any change in a services apportionment or, where the rent is entered in the register in pursuance of section 27(3) of the Rent Act as a variable amount, in respect of any variation of the amount under the terms, as to variation, of the tenancy.

(4) For the purpose of calculating the said permitted limits in the case of a rental period other than a week a period of one month shall be treated as equivalent to 1/12th of a year and a period of a week as equivalent to 1/52nd of a year.

(5) A notice of increase served in respect of any period falling within the first year of phasing shall not be effective to increase a rent beyond the amount permitted by these regulations for a period within that year; and no additional increase of rent shall become payable in respect of any subsequent period while section 9 of the Act is in force unless a separate notice, or separate notices, of increase is, or are, served for that purpose.

Limits on certain contractual rents

6.—(1) This regulation shall apply to a contractual tenancy (hereinafter referred to as "the new tenancy") by which on or at any time after the date of the coming into operation of these regulations a dwelling-house is let to a person who, immediately before the grant of the new tenancy, was the tenant of that dwelling-house or the statutory tenant thereof or who could have become the statutory tenant thereof on the date of the commencement of the new tenancy by virtue of section 12(1)(*g*) of the Increase of Rent and Mortgage (Restrictions) Act 1920(**a**), as amended by section 33 of the Housing (Repairs and Rents) (Scotland) Act 1954(**b**), or by virtue of section 13 of the Rent Act if any event or succession of events pre-requisite to that person's becoming a statutory tenant by succession had occurred.

(2) If, whether before or after the grant of the new tenancy, a rent is registered for the dwelling-house and the registration is a registration subject to phasing, then for any rental period ending on or before 31st December 1970 of the new tenancy section 3(2) of the Rent Act shall not apply to determine the contractual rent limit, but that limit shall be such amount as would, if the former tenancy had continued, have been permitted by virtue of regulation 5 of these regulations on the assumption that a notice or notices of increase was or were served specifying the earliest date or dates and the maximum amount, or amounts, permissible under section 7 of the Rent Act as affected by that regulation.

(**a**) 1920 c. 17. (**b**) 1954 c. 50.

(3) In this regulation, " contractual tenancy " means a tenancy held during the contractual period of a regulated tenancy and " contractual tenant " shall be construed accordingly.

Adaptation and Modification of Schedule 3 to Rent Act

7. Schedule 3 to the Rent Act shall, in its application to a registration which may, or will, be a registration subject to phasing, have effect subject to the adaptations and modifications set out in Part I of the Schedule to these regulations.

Adjustment for differences in rental periods

8. Section 8 of the Rent Act (which makes provision for adjustment for differences in lengths of rental periods) shall apply for the purposes of these regulations as it applies for the purposes of Part I of that Act.

Notices of Increase

9. In Schedule 1 to the Rent Regulation (Forms etc.) (Scotland) Regulations 1965(a), there shall be inserted immediately after Form No. 3, Form No. 3A set out in Part II of the Schedule to these regulations, as the form prescribed for a notice of increase served consequent upon a registration subject to phasing and having effect in respect of any period within the first year of phasing or the second year of phasing.

William Ross,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.
10th July 1968.

Regulation 7 **SCHEDULE**

PART I

PROCEDURAL ADAPTATIONS AND MODIFICATIONS

1. A rent officer shall not determine or confirm a fair rent in a case where services are provided by the landlord until both the landlord and tenant have had an opportunity of making representations in writing as to whether any, and, if so, what amount should be distinguished under these regulations as the amount attributable to the provision of services.

2. Any representations made in pursuance of paragraph 1 of this Schedule shall for the purposes of Schedule 3 to the Rent Act be treated as if they were representations made under paragraph 5 of the said Schedule 3; and a notice served under paragraph 7 of the said Schedule 3 shall accordingly include, if appropriate, a reference to consultation as to what amount ought to be distinguished as an amount attributable to the provision of services.

3. The notice to be served by the rent officer under paragraph 6 or paragraph 8 of Schedule 3 to the Rent Act shall (in a case where services are provided by the landlord) specify any amount distinguished as attributable to the provision of services and the notice to be served under the said paragraph 8 shall state that an objection may relate solely to the amount so distinguished or to the omission to distinguish any such amount.

(a) 1965/2042 (1965 III, p. 6034).

PART II Regulation 9

FORM NO. 3A

RENT ACT 1965
(PRICES AND INCOMES ACT 1968)

Notice of Increase of Rent where the Registration is subject to Phasing Rent Act, Section 7.

Date.....

To..... tenant of.....

1. A rent of £ s. d. per..... was registered on..... ..... as the fair rent for the above-mentioned premises (Notes 2, 3 and 4) [of which £ s. d. per..... was distinguished as the amount fairly attributable to services provided by the landlord (Note 7)].

2. The entitlement of the landlord in respect of a regulated tenancy which is a statutory tenancy to increase the rent up to the amount of the registered rent is, by virtue of section 9 of the Prices and Incomes Act 1968 and the Prices and Incomes (Regulated Rents) (Scotland) Regulations 1968, subject to certain limits. (Notes 5 and 6.)

[3. It is noted in the register that the rates for the above-mentioned premises are paid by the landlord. These are currently £ s. d. per year and the landlord is entitled to add this amount to the rent he is otherwise permitted to obtain. (Note 8)]. Strike out words in square brackets if they do not apply.

4. I hereby give you notice that your rent will be increased as follows:—

Present rent per.....			Increase in rent per.....			New rent per.....			Date of new rent (Notes 9 and 10)
£	s.	d.	£	s.	d.	£	s.	d.	as from

5. This is a notice taking effect within the [first] [second] year of phasing (Note 6) and the following information is relevant to the calculation of the increase.

Recoverable rent immediately before commencement of first year of phasing (Note 5) £ s. d. per.....

[Services apportionment (Note 7) £ s. d. per.....]

[6. The new rent includes the sum of £ s. d. per..... in respect of rates paid by the landlord].

Signature of [landlord] [agent authorised to serve this notice]

.....

[Name of landlord if notice served by agent.....

.....]

Address of landlord.....

.....

[Address of Agent.....

.....

.....]

NOTES

1. This notice of increase is needed where a dwelling-house is let on a tenancy—

(*a*) which is regulated under the Rent Act 1965; and

(*b*) which either has become a statutory tenancy or will become one under section 9(3) of that Act (Note 10); and

(*c*) for which a fair rent is registered under that Act and the increase relates to a period within the first or second year of phasing under the Prices and Incomes (Regulated Rents) (Scotland) Regulations 1968 (referred to elsewhere in these notes as " the Regulations "). (Note 6.)

2. The Rent Register may be inspected at the office of the Rent Officer. The address of this office can be obtained from the local council or Citizens' Advice Bureaux.

3. If there is still a contract of tenancy between the landlord and tenant the registration of a fair rent which is higher than the rent payable under that contract does not allow the landlord to increase the rent unless there is a provision in the terms of the contract to that effect. In a case where the limits on increases in the Regulations would apply, those limits continue to apply notwithstanding any contract entered into on or after 10th July 1968.

4. If a contractual tenancy has come to an end and the tenant is holding over as a statutory tenant under the Rent Act, the landlord may increase the rent by the service of Notice(s) of Increase to the limits in the Regulations.

5. The limits permitted by the Regulations are based on:

(i) the " recoverable rent ", which will in general be the rent actually payable immediately before the first year of phasing but which may be higher in certain cases where the landlord has not yet obtained his full entitlement ; and

(ii) the registered rent.

6. Separate limits apply during the first and second years of phasing. The first year of phasing means the year commencing with the date when the first rent is determined and registered by the rent officer on or after 10th July 1968. The second year of phasing is the year immediately following the first year of phasing. The limitation continues until the end of whichever phasing year is current on 31st December 1969.

7. Further details about the phasing scheme are contained in the leaflet " Phasing of rent increases—Notes for Tenants and Landlords ", which may be obtained from the Rent Officer. The leaflet explains, among other things, the term " recoverable rent ", the limits of increase permitted in each year of phasing and the way to calculate, from the amount of the registered rent distinguished as fairly attributable to services provided by the landlord, the services apportionment which is not subject to any phasing restriction.

8. The phasing restrictions do not apply to any changes in rent resulting from changes in rates borne by the landlord.

9. This date must be a date which is not earlier than:—

(i) the date of registration, or

(ii) four weeks before the service of this Notice, or

(iii) the commencement of the first year of phasing or of the second year of phasing, as the case may be.

If this Notice is served while the regulated tenancy is still a contractual one, the date must be one later than the date on which the tenancy could be brought to an end by a notice to quit served at the same time as this Notice (Note 10).

10. If this Notice is served while the regulated tenancy is still a contractual one and the landlord, by serving a notice to quit at the same time as this Notice, could bring the tenancy to an end before the date specified in this Notice for the increased rent to take effect, this Notice will operate to convert the tenancy into a statutory tenancy as from that date.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations set limits to the amounts by which the rent of a regulated tenancy, in respect of which a rent is registered between 10th July 1968 and 1st January 1970, may be increased in the first two years after registration. They also make special provision for rent increases attributable to an increase in the cost of provision of services, and except certain increases altogether from the restriction imposed by Section 9(1) of the Prices and Incomes Act 1968.

The Regulations also contain a provision to secure that the restriction imposed by Section 9(1) is not made ineffective by the grant of a new contractual tenancy in place of an existing contractual or statutory, tenancy.

They prescribe a new form of notice of increase in rent to be served in cases where they apply, and make certain minor modifications to the procedure to be adopted by rent officers in dealing with applications for the registration of fair rents.