STATUTORY INSTRUMENTS

1980 No. 1665 (S. 129)

LANDLORD AND TENANT

RENT CONTROL, ETC (SCOTLAND)

The Rent Assessment Committees (Scotland) Regulations 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 sections 46(1) (*b*) and 99(1) (*b*) of the Rent (Scotland) Act 1971(**a**) as read with section 52(2) of the Tenants' Rights, Etc. (Scotland) Act 1980(**b**) and of all other powers enabling me in that behalf and after consultation with the Council on Tribunals, I hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Rent Assessment Committees (Scotland) Regulations 1980 and shall come into operation on 1st December 1980.

Interpretation

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

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

"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 5 to the Act;

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

"Part VII contract" means a contract to which section 85(1) of the Act applies which is referred by a party to a committee under sections 87 or 90 of the Act as amended by section 9(4) of the Rent Act 1974(**c**) and section 52 of the Tenants' Rights, Etc (Scotland) Act 1980;

"party" means, in the case where a reference is subject to a hearing, any person who is entitled under regulation 4(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;

(a) 1971 c. 28. (b) 1980 c. 52. (c) 1974 c. 51.

"reference" means a matter which is referred by a rent officer to a committee under paragraphs 6 or 11 of Schedule 6 to the Act, or an application for a certificate of fair rent which is referred by a rent officer to a committee under paragraphs 2 or 6 of Schedule 7 to the Act or a Part VII contract.

(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.

Revocation

3. The Rent of Furnished Houses Control (Scotland) Regulations 1943(**a**), the Landlord and Tenant (Rent Control) (Scotland) Regulations 1949(**b**), and the Rent Assessment Committees (Scotland) Regulations 1971(**c**) are hereby revoked.

Hearings

4.—(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 ten days' notice in writing of the date, time and place so appointed for a hearing—

(*a*) to the landlord and the tenant where the reference is a matter referred to the committee under paragraph 6 of Schedule 6 to the Act; or

(*b*) to the applicant where the reference is a matter relating to an application for the registration of a rent for a dwellinghouse in accordance with a certificate of fair rent referred to the committee under paragraph 9 of Schedule 6 to the Act; or

(*c*) to the applicant where the reference is an application for a certificate of fair rent referred to the committee under paragraphs 2 or 6 of Schedule 7 to the Act and, in a case to which paragraph 9 of that Schedule applies, to the tenant; or

(*d*) to the lessor and the lessee where the reference is a Part VII contract referred to the committee by either the lessor or the lessee; or

(*e*) to the lessor and the lessee and the local authority where the reference is a Part VII contract referred to the committee by the local authority.

(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*) the parties shall be heard in such order and, subject to the provisions of these regulations, the procedure shall be such as the committee shall determine; and

(*b*) 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

(**a**) S.R. & O. 1943, No. 1774. (**b**) S.I. 1949/1257. (**c**) S.I. 1971/1101.

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

5.—(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 the rent officer or 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 by the rent officer); 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 fair rents previously determined for other dwellinghouses and which has been prepared for the committee for the purposes of that reference.

(2) At any hearing where—

(i) any document relevant to the reference is not in the possession of a party present at such hearing; and

(ii) such party has not been supplied with a copy of, or relevant extracts from, or particulars of, such document by the rent officer or by the committee in accordance with the provisions of paragraph (1) of this regulation,

then unless—

(*a*) such party consents to the continuation of the hearing; or

(*b*) 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 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 dwellinghouse

6.—(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 dwellinghouse 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 4 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

7.—(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 the reasons for the decision but shall contain no reference to the decision being a majority (if that be the case) or to any opinion of a minority.

(2) 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 said document.

(3) A copy of the said document and of any such correction shall be sent by the committee to the party or parties and, where the reference was made by the Rent Officer, to the Rent Officer.

Giving of notices, etc.

8. Where any notice or other written matter is required under the provisions of these regulations to be 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 sent by post to the party for whom it is intended at his usual or last known address or if that party has appointed an agent to act on his behalf in relation to the reference, to that agent at the address of the agent supplied to the Committee.

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 Regulations.)

These regulations supersede the Rent of Furnished Houses Control (Scotland) Regulations 1943, the Landlord and Tenant (Rent Control) (Scotland) Regulations 1949 and the Rent Assessment Committees (Scotland) Regulations 1971. The Regulations regulate the procedure to be followed by rent assessment committees in Scotland, and supplement the provisions regarding the procedure to be followed by such committees which are contained in Schedules 6 and 7 to the Rent (Scotland) Act 1971.

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