STATUTORY INSTRUMENTS

1975 No. 909

HOUSING, ENGLAND AND WALES

The Rent Refunds (Housing Authorities) Regulations 1975

Made - - - -	21*st May* 1975
Laid before Parliament	6*th June* 1975
Coming into Operation	27*th June* 1975

The Secretary of State for the Environment as respects England and the Secretary of State for Wales as respects Wales, in exercise of the powers conferred on them by sections 15(1) and 17(3) of and paragraph 15 of Schedule 1 to the Housing Rents and Subsidies Act 1975**(a)** and of all other powers enabling them in that behalf, hereby make the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Rent Refunds (Housing Authorities) Regulations 1975 and shall come into operation on 27th June 1975.

(2) The Interpretation Act 1889**(b)** shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

(3) In these regulations, unless the context otherwise requires—

"the 1972 Act" means the Housing Finance Act 1972**(c)**;

"the 1975 Act" means the Housing Rents and Subsidies Act 1975;

"the 1975 Act refund provisions" has the meaning assigned to it by regulation 7;

"the appropriate fair rent finally determined", in relation to any dwelling falling within regulation 3(2), means the rent finally determined for that dwelling in accordance with regulation 5;

"the Commission", "local authority", "new town corporation" and "rental period" have the meanings respectively assigned to them by section 16(1) of the 1975 Act;

"Housing Revenue Account dwelling" has the meaning assigned to it by section 104(2) of the 1972 Act;

"the material rental period", in relation to any dwelling falling within regulation 3(2), means the last rental period beginning before 25th February 1975 (being in any event a rental period ending not earlier than 1st October 1971) during which the dwelling was a Housing Revenue Account dwelling; and

"relevant rental period" means a rental period which ended on or after 1st October 1971 but began before 25th February 1975.

(a) 1975 c. 6. **(b)** 1889 c. 63. **(c)** 1972 c. 47.

(4) In these regulations the expression "the authority concerned", in relation to any dwelling falling within regulation 3(2), means the local authority or, as the case may be, the new town corporation, who were entitled to rent in respect of that dwelling for the material rental period.

Provided that where the entitlement to such rent for the material rental period was that of an authority who ceased to exist on 1st April 1974 under section 1 of the Local Government Act 1972**(a)** ("the predecessor authority"), the said expression means—

(*a*) where the dwelling was provided by the predecessor authority within their area, the local authority having housing functions under Part V of the Housing Act 1957**(b)** in relation to the area in which the dwelling is situated;

(*b*) where the dwelling was provided by the predecessor authority outside their area, being an authority described in column (1) of Part II of Schedule 4 to the Local Authorities (England) (Property etc.) Order 1973**(c)**, the authority specified in respect of such authority in column (2) of the said Part II; and

(*c*) where the dwelling was provided by the predecessor authority outside their area, being an authority described in column (1) of Part II of Schedule 4 to the Local Authorities (Wales) (Property etc.) Order 1973**(d)**, the authority specified in respect of such authority in column (2) of the said Part II.

(5) In these regulations, unless the context otherwise requires, references to any enactment shall be construed as references thereto as amended, and as including references thereto as applied by any enactment.

(6) Any reference in these regulations to a numbered regulation shall be construed as a reference to the regulation bearing that number in these regulations.

(7) Any reference in any of these regulations to a numbered paragraph shall, unless the reference is to a paragraph of a specified regulation, be construed as a reference to the paragraph bearing that number in the first-mentioned regulation.

Application of the regulations to the Commission

2. These regulations shall apply separately in relation to each of the Commission's new towns as if, in relation to each town, the Commission were a different body.

(a) 1972 c. 70. **(b)** 1957 c. 56. **(c)** S.I. 1973/1861 (1973 III, p. 6401).
(d) S.I. 1973/1863 (1973 III, p. 6452).

Circumstances in which rent refunds are to be made

3.—(1) The authorities concerned are hereby required in accordance with the following provisions of these regulations (including the 1975 Act refund provisions) to make refunds of rent paid for any relevant rental period in the circumstances set out in paragraph (2) below, which are hereby specified as analogous to those mentioned in paragraph 14 of Schedule 1 to the 1975 Act.

(2) The circumstances referred to in paragraph (1) above are where either—

(*a*) there was a duty under section 52 of the 1972 Act provisionally to assess a fair rent for a dwelling, but a rent has neither been determined for the dwelling under section 56 of that Act nor specified in a report under subsection (3) of that section, or

(*b*) a dwelling became a Housing Revenue Account dwelling after 10th August 1972 and before 25th February 1975, but a rent has not been determined for the dwelling under section 60 of the 1972 Act,

and where in either case the appropriate fair rent finally determined for the dwelling is less than the rent paid for any relevant rental period during which the dwelling was a Housing Revenue Account dwelling.

Applications for rent refunds

4.—(1) No refund of rent shall be made in any case by the authority concerned pursuant to these regulations, unless an application in writing therefor is made by the relevant person and is received by the authority concerned not later than 31st March 1976.

(2) For the purposes of this regulation "the relevant person" means—

(*a*) the tenant who paid the rent, whether or not he is still the tenant, or

(*b*) the personal representatives of that tenant.

Appropriate fair rent

5.—(1) On receipt of an application under regulation 4, the authority concerned shall be under a duty to determine the appropriate fair rent for the dwelling and to notify the applicant in writing of that determination.

(2) Subject to paragraph (3), any such determination shall be made on the principles which would have been applicable to the determination on 31st March 1974 of a fair rent for the dwelling under Part V of the 1972 Act.

(3) In determining the appropriate fair rent for a dwelling, the authority concerned shall have regard to any determinations made under section 56 of the 1972 Act and to any reports under section 56(3) of that Act relating to dwellings within their area; and where there are no such determinations or reports, they shall have regard to any such determinations and reports which appear to them to be relevant relating to dwellings in neighbouring areas.

(4) Within one month beginning with the date of such a notification as is referred to in paragraph (1), the applicant may make representations in writing to the authority concerned regarding the determination made by them.

(5) The authority concerned after considering any such representations as are referred to in paragraph (4), shall either re-determine the appropriate fair rent for the dwelling or confirm the determination and shall notify the applicant in writing accordingly; and in relation to any such re-determination or confirmation paragraphs (2) and (3) shall apply as they apply in relation to the determination of a rent under paragraph (1).

(6) For the purposes of these regulations (including the 1975 Act refund provisions) an appropriate fair rent for a dwelling is finally determined—

(*a*) in a case in which the applicant has made representations in accordance with paragraph (4), when the authority re-determine or, as the case may be, confirm the determination in accordance with paragraph (5); and

(*b*) in a case in which no such representations as are referred to in paragraph (4) are made, when the authority determine it in accordance with paragraph (1).

(7) Any reference in the foregoing provisions of this regulation to an applicant shall, where the tenant who paid the rent made the application, be construed as including a reference to the personal representatives of that tenant.

Consultation

6.—(1) In connection with the determination of the appropriate fair rent for any dwelling, the authority concerned are hereby authorised to consult the president of the panel drawn up under Schedule 5 to the Rent Act 1968**(a)** (panels for the constitution of rent assessment committees) for the area in which the dwelling to which the determination will relate is situated.

(2) In the case of the president's absence or incapacity, the authority concerned are hereby authorised to consult the vice-president or, as the case may be, one of the vice-presidents of the panel.

(3) The president or any such vice-president is hereby authorised to consult with regard to any matter submitted to him by the authority concerned in pursuance of the foregoing provisions of this regulation, any of the panel's other members and any of the panel's staff.

(4) Any reference in this regulation to a determination includes any re-determination or confirmation of a determination under regulation 5.

Application of certain 1975 *Act provisions*

7.—(1) In any case for which these regulations provide, paragraphs 16, 17, 18 and 20 (but not paragraphs 19 and 21) of Schedule 1 to the 1975 Act shall apply with the modifications specified in Schedule 1 to these regulations; and the said provisions as so applied and modified (referred to in these regulations as "the 1975 Act refund provisions") are set out in Schedule 2 to these regulations.

(2) Any reference in the 1975 Act refund provisions to any expression defined in these regulations shall have the same meaning in the said provisions as it has in these regulations.

(3) Any reference in the 1975 Act refund provisions to "overpaid rent" means in relation to any dwelling the amount, if any, by which the rent paid for any relevant rental period exceeded the appropriate fair rent finally determined for that dwelling.

(a) 1968 c. 23.

Regulation 7

SCHEDULE 1

MODIFICATIONS TO PARAGRAPHS 16, 17, 18 AND 20 OF SCHEDULE 1 TO THE 1975 ACT

1. In paragraphs 16, 17 and 20, for any reference to "excess rent" there shall be substituted a reference to "overpaid rent".

2. In paragraph 16—

(i) for the words from "a local" to "corporation" there shall be substituted the words "the authority concerned";

(ii) at the end, there shall be added the following—
"or by his personal representatives (whether they or the tenant made the required application for the refund of rent)".

3. In paragraph 17, for the words from "the proper rent" to "specified" there shall be substituted the words "the appropriate fair rent is finally determined".

4. In paragraph 18—

(i) for the words "the proper rent" there shall be substituted the words "the appropriate fair rent finally determined";

(ii) for the words from "the amount", where first occurring, to "(and, where relevant, paragraph 17) above" there shall be substituted the words "the overpaid rent (as adjusted, where relevant, under paragraph 17 above)".

5. In paragraph 20—

(i) for the words "If the authority or corporation" there shall be substituted the following—
"In a case where the tenant who paid the rent makes the required application for a refund of rent and the authority concerned";

(ii) after the words "statutory declaration that" there shall be inserted the words "he, being";

(iii) for the words "under the foregoing paragraphs" there shall be substituted the words "to make a refund of rent".

Regulation 7

SCHEDULE 2

THE 1975 ACT REFUND PROVISIONS

16. Overpaid rent shall be recoverable from the authority concerned by the tenant who paid it, whether or not he is still the tenant, or by his personal representatives (whether they or the tenant made the required application for the refund of rent).

17. Where the overpaid rent was paid under a tenancy the terms of which (other than terms as to rent) are different from the terms of the tenancy for which the appropriate fair rent is finally determined, the amount of the overpaid rent shall be adjusted to reflect the difference.

18. Where a rent rebate was granted to the tenant for any rental period, and if he paid no more than the appropriate fair rent finally determined, with any adjustment under paragraph 17 above, his rebate would have been less, the difference between the rebates shall be deducted from the overpaid rent (as adjusted, where relevant, under paragraph 17 above); and where this paragraph requires the deduction of one amount from another, but the amount to be deducted is the greater, the two amounts shall be taken to cancel each other out.

20. In a case where the tenant who paid the rent makes the required application for a refund of rent and the authority concerned receive a statutory declaration that he, being the person entitled to recover any overpaid rent, has died and that a person specified in the declaration is entitled to it under his will or intestacy, together with satisfactory evidence of the death, they may discharge their liability to make a refund of rent by paying the overpaid rent to that person, but such payment shall not prejudice any right of recourse against him which is vested in any other person.

21st May 1975.

Anthony Crosland,
Secretary of State for the Environment.

21st May 1975.

John Morris,
Secretary of State for Wales.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Under Part VI of the Housing Finance Act 1972 ("the 1972 Act") housing authorities were required to make a rent refund to tenants who had paid rent in excess of the fair rent first determined for their dwellings. With the repeal of Part VI of the 1972 Act provision has been made in Part II of Schedule 1 to the Housing Rents and Subsidies Act 1975 ("the 1975 Act") for refunds of rent in comparable circumstances. Paragraph 14 of Schedule 1 to that Act provides for rent refunds in certain circumstances where a rent has been determined under section 56 of the 1972 Act or specified in a report under subsection (3) of that section.

These Regulations, which apply to England and Wales, require housing authorities to make refunds of rent in certain circumstances specified in the regulations as analogous to those mentioned in paragraph 14 of Schedule 1 to the 1975 Act.

The Regulations require applications in writing for such rent refunds to be made to the authority concerned not later than 31st March 1976. The Regulations provide for the method of determining a person's entitlement to a refund and the amount to which a person is entitled.

The Regulations also apply with modifications certain provisions of Part II of Schedule 1 to the 1975 Act to the cases provided for in the regulations.

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