STATUTORY INSTRUMENTS

1972 No. 1615

LANDLORD AND TENANT

The Rent Regulation (Forms etc.) (No. 2) Regulations 1972

Made - - -	*24th October* 1972
Laid before Parliament	*2nd November* 1972
Coming into Operation	*23rd November* 1972

The Secretary of State for the Environment, in exercise of powers conferred by section 37(1) of the Rent Act 1968(**a**) (as extended by section 44(5) and (9) of the Housing Finance Act 1972(**b**)) and section 50(1) of the Rent Act 1968 (the said sections 37(1) and 50(1) being read with section 114(1) of the Rent Act 1968) and now vested in him (**c**), and in exercise of all other powers enabling him in that behalf, hereby makes the following regulations 1, 2, 4 and 5, and except in relation to Wales and Monmouthshire, the following regulation 3, and the Secretary of State for Wales, in exercise of his powers under the said section 37(1) (as extended by the said section 44(5) and (9)) and the said section 50(1) (the said sections 37(1) and 50(1) being read with the said section 114(1)), and in exercise of all other powers enabling him in that behalf, hereby makes, in relation to Wales and Monmouthshire, the following regulations 1, 2 and 3:—

1. These regulations may be cited as the Rent Regulation (Forms etc.) (No. 2) Regulations 1972 and shall come into operation on 23rd November 1972.

2.—(1) In these regulations "the Housing Finance Act" means the Housing Finance Act 1972.

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

3. The form contained in the Schedule to these regulations, or a form substantially to the same effect, shall be the form of document to be given by the landlord to the local authority pursuant to section 44(5) of the Housing Finance Act (provisions for protection of tenant following conversion of tenancy from control to regulation).

4. The particulars to be supplied to the local authority when a document is given to them pursuant to the said section 44(5) shall be those specified in the form contained in the said Schedule.

5. The Rent Regulation (Forms etc.) (England and Wales) Regulations 1969(**e**), as amended (**f**), shall be further amended by the substitution for regulation 7 of the following regulation—

7. The fee to be paid under section 43(4) of the Act for a copy of an entry in the register certified under the hand of the rent officer or a person duly authorised by him shall be 15p.

(**a**) 1968 c. 23. (**b**) 1972 c. 47.
(**c**) S.I. 1970/1681 (1970 III, p. 5551). (**d**) 1889 c. 63.
(**e**) S.I. 1969/1184 (1969 II, p. 3483).
(**f**) The amending regulations are not relevant to the subject matter of these regulations.

SCHEDULE

HOUSING FINANCE ACT 1972

Section 44 *Particulars of rent agreement where tenancy is converted from rent control to rent regulation*

This form should be used where a tenancy is converted from a controlled tenancy to a regulated tenancy and the landlord and the tenant (or one of certain members of the tenant's family) enter into an agreement which will bring an increased rent into effect after the tenancy has been converted and before three years have elapsed since the first such agreement took effect after the conversion.

PART I

INFORMATION FOR LANDLORD AND TENANT

Both parties should read this before entering into any rent agreement

1. The tenant's security of tenure under the Rent Act 1968 will not be affected if he refuses to enter into the agreement with the landlord. Entry into the agreement will not deprive the tenant or landlord of the right to apply at any time to the rent officer for the registration of a fair rent under Part IV of the Rent Act 1968.

(NOTE: It is a statutory requirement that the statement in paragraph 1 above must be in characters not less conspicuous than those used in any other part of the document.)

2. Thus the tenant's security under rent control will continue to be available to him as a regulated tenant. There is no obligation on the tenant to enter into a rent agreement with his landlord if he would prefer the landlord to get a fair rent registered. If the tenant does enter into a rent agreement, security and succession rights are not affected, and both the landlord and the tenant will still have the right to apply to the rent officer at any time, and the rent which the rent officer will then register will become the limit of the rent which the landlord can charge (subject to certain adjustments for rates).

3. Conversion from rent control to rent regulation may take place in the following ways:—

(*a*) Under Part III of the Housing Act 1969 or Part III of the Housing Finance Act 1972, under which the landlord will have obtained a qualification certificate from the local council stating that the dwelling has all the standard amenities, is in good repair and is fit for human habitation. The issue of the qualification certificate converts the controlled tenancy to a regulated one.

(*b*) Under section 35 of the Housing Finance Act 1972. This provides for a phased programme beginning on 1 January 1973 of conversion of controlled tenancies, except those in dwellings notified as unfit, into regulated ones. A table explaining this is given in paragraph 4 below.

(*c*) Under paragraph 5 of Schedule 2 to the Rent Act 1968. Where the original tenant under a controlled tenancy dies, the tenancy may be transmitted to his widow or, if he leaves no widow, to a member of his family in certain circumstances. A tenancy may be transmitted twice but on the second transmission the tenancy becomes a regulated one.

4. The date on which a controlled tenancy is converted into a regulated one under section 35 of the Housing Finance Act 1972 is shown in the following table:

Dwelling in Greater London Rateable value on 31 March 1972	Dwelling elsewhere in England and Wales Rateable value on 31 March 1972	Applicable date
£95 or more	£60 or more	1 January 1973
£80 or more but less than £95	£45 or more but less than £60	1 July 1973
£70 or more but less than £80	£35 or more but less than £45	1 January 1974
£60 or more but less than £70	£25 or more but less than £35	1 July 1974
£50 or more but less than £60	£20 or more but less than £25	1 January 1975
Less than £50	Less than £20	1 July 1975

5. If the dwelling comprised in the tenancy is part only of a property and is not separately assessed for rating purposes, the tenancy will not be converted until 1 July 1975 (the last date in the table above) unless one of two things occur:—

(*a*) the rateable value of the "rateable hereditament" on 31 March 1972 can be apportioned between the dwelling comprised in the tenancy and the remainder of the "rateable hereditament". An apportionment can only be made for this purpose either (1) by the county court or (2) by agreement in writing between the parties. If the amount of the rateable value apportioned to the dwelling brings it within one of the rateable value bands converted on some date earlier than 1st July 1975, then the tenancy will be converted on that earlier date. If no such apportionment is made, then the parties cannot enter into any agreement to increase the rent which will take effect before 1 July 1975. The preparation of a written agreement as to apportionment is a matter for the landlord and tenant; for example, the agreement might be as follows:—

"We agree that the rateable value on 31 March 1972 of the rateable hereditament known as....., being £....., shall be apportioned as follows:—
£.....to the dwelling which is comprised in the tenancy and which is known as.....
and
£.....to the remainder of the rateable hereditament.
(Signed).....Landlord
(Signed).....Tenant
Date....."

(*b*) Alternatively, the landlord may apply to the rent officer for the registration of a fair rent; if the rent officer considers that a proper apportionment of the rateable value would enable him to entertain the application, he may proceed with the registration of a rent, unless the tenant informs the rent officer that he proposes to apply to the county court for an apportionment and brings proceedings in the county court within two weeks of so informing the rent officer.

6. If the tenant agrees to the rent(s) entered at item 15(a) of Part II of this form and signs the declaration at the end of that Part, the landlord has to give the completed and signed form to the local authority in whose area the dwelling is situated, and has to give the tenant a copy of it. The authority will acknowledge receipt both to the landlord and to the tenant. The landlord cannot increase the rent before the expiry of 28 days from the date of the local authority's receipt of this form, or before the tenancy is converted from control to regulation. This form will be open to public inspection at the Council offices after the local authority have had it for 7 days.

7. If the landlord and tenant agree upon any further increase in rent (that is, above the amount or amounts entered in Part II of this form) then, unless *either* the increase is purely for increased rates *or* it is taking effect by consent of the parties more than 3 years after the first agreement took effect following conversion from control to regulation, a form the same as this one must be completed and given to the local authority. This requirement applies where the agreement is with the same tenant or any member of the tenant's family to whom the tenancy might subsequently be transmitted, whether or not there has been a change of landlord. If a landlord seeks a further increase in the rent, but the tenant does not agree, then the landlord must either continue to abide by the current rent agreement or, if the tenancy is not a fixed-term one, apply to the rent officer for registration of a fair rent. If an increase in rent is agreed more than three years after the first such agreement took effect since the conversion from control to regulation, there are different requirements, which are set out in the booklet "Rents of Regulated Tenancies" available at Council Offices, Citizen's Advice Bureaux, or from rent officers.

8. If the tenant does not agree to the rent(s) now proposed by the landlord, (item 15 in Part II of this form), the landlord can apply to the rent officer for registration of a fair rent. On such a registration, unless the tenancy has moved from control to regulation on a second transmission of the tenancy (see paragraph 3(c) above), the increase from the controlled rent to the registered fair rent would normally be phased in 3 equal annual stages (that is, a 2-year phasing period between the 1st and 3rd stages), subject to a minimum annual increment of 50p a week up to the fair rent. If the tenant does not agree new rent(s) with the landlord, the controlled rent cannot be increased (except for services, furniture, improvements or rates) until a fair rent has been registered by the rent officer.

9. The fair rent which the rent officer would register if either party applied to him would take into account the state of repair of the dwelling. For example, the fair rent would be lower if the dwelling were in disrepair than if it were in good repair, unless the disrepair were due to the failure of the tenant to carry out repairs for which he was responsible. Where the tenant has carried out improvements over and above his obligations, the rent officer would assess the fair rent as if the improvements had not been made; thus the fair rent figure would be lower than it would have been had the landlord himself carried out the improvements.

10. The register of fair rents for dwellings in the same registration area is open to public inspection at the office of the Rent Officer.

11. Where a rent agreement has taken effect, and a fair rent is later registered by the rent officer, and the rent increase from the controlled rent to the registered rent has to be phased (see paragraph 8 above), the rent chargeable will be calculated as if the phasing had begun when the rent agreement originally took effect. If this results in a reduction of the current rent, the reduction takes effect from the date of application for registration to the rent officer (or such later date as the rent officer or rent assessment committee may fix). If it results in an increase, the landlord cannot in any event charge the increase with effect from any date earlier than the date on which the fair rent is registered.

12. If, more than 3 months before the relevant date for conversion of the controlled tenancy to rent regulation (see Table in paragraph 4), the dwelling is formally notified as unfit for human habitation, the controlled tenancy will not be converted unless the dwelling is subsequently taken out of the "unfit" category. Until that happens, the controlled rent limit still applies.

13. If the tenant applies for a rent allowance, the local authority will consider whether the rent in the rent agreement is in excess of what the fair rent would be. If in their view it is higher, the local authority must disregard the excess in calculating the rent allowance which may be paid to the tenant. The local authority can, if they wish, apply to the rent officer to consider the fair rent for the dwelling.

PART II

HOUSING FINANCE ACT 1972, SECTION 44(5)

PARTICULARS OF THE AGREEMENT AND OF THE DWELLING

1. Address of dwelling.....

2. Landlord's name and address.....

.....

.....

3. Tenant's name and address.....

.....

.....

4. Description of dwelling let (including the number of rooms and, if only part of a building, on which floor or floors)

.....

.....

.....

5. Details of any accommodation shared with another occupier, stating whether shared with landlord or another tenant.

.....

.....

.....

6. Details of any services or furniture provided by the landlord.

.....

.....

7. (If there has been an earlier rent agreement, and a form similar to this was deposited with the local authority on that occasion, this item need not be completed.) Rent payable under the controlled tenancy, *excluding* rates:—

£..... per.....

NOTE: Items 8 and 9 below need not be completed if the landlord has a qualification certificate for the dwelling (see paragraph 3(a) in Part I of this form), or after a second transmission of the tenancy (see paragraph 3(*c*) in Part I of this form), or if the (first) rent entered at item 15(*a*) below takes effect on or after 1st July 1975.

8. (*a*) Is the dwelling let to the tenant separately assessed for rating (i.e. is there a separate entry or entries for it in the Valuation List)?.....

(*b*) If "yes", what was its rateable value on 31st March 1972? £.....

NOTE: The rateable value on 31st March 1972 will, unless it was changed before the general revaluation on 1st April 1973, ordinarily be that shown in the rate demand for 1971-72 or 1972-73. Enquiry can always be made of the local rating authority.

9. If the dwelling let to the tenant is not separately assessed for rating:—

(*a*) what was the rateable value on 31st March 1972 of the rateable hereditament(s) (i.e. property separately assessed for rating and separately shown in the Valuation List) of which the tenant's dwelling forms part? £.....

(*b*) of this rateable value, how much was apportioned to the dwelling let to the tenant? £.....

(*c*) has this apportionment been:—

*made by a county court
*agreed in writing between landlord and tenant
} *delete whichever is inapplicable

10. (If the landlord has a qualification certificate for the dwelling, this item need not be completed.)

Has a certificate of disrepair ever been issued.....
If "Yes", has it since been cancelled?.....
} Please give dates

11. Is the rent agreement embodied in any written document? .....

12. IF THE ANSWER TO 11 IS "YES":—

Summary of the repairing obligations of landlord and tenant respectively, and of the other terms of the tenancy. If these cannot be stated briefly a copy of the agreement may be attached to this form:

.....

.....

13. IF THE ANSWER TO 11 IS "NO":—

(*a*) Is there to be any change in repairing obligations from those under the controlled tenancy, apart from any change as a result of the covenant implied by the Housing Act 1961 (See Note A in Part III below).....

(*b*) What are to be the repairing obligations?

landlord's obligations.....

tenant's obligations.....

(*c*) Is there to be any change in any other terms of the tenancy apart from rent?

.....

(*d*) if "Yes", what are the changed terms?

.....

.....

(*e*) What is the term for which the tenancy is to be granted (i.e. is it a periodic tenancy, e.g. weekly, monthly etc., or is it for a fixed term, and if so how long)?

.....

.....

.....

14. Is the date of the rent agreement the same as the date entered at item 17 below?

.....

If not, please give the date of the rent agreement.....

15. The rent(s) under the agreement: (See Note B in Part III below)

(*a*) £..... per..... from.....(date)

£..... per..... from.....(date)

£..... per..... from.....(date)

(*b*) Are these figures inclusive of rates?..... If so, what is the present amount of the rates?

£..... per.....

16. Date on which the agreement is to take effect..... (This will normally be the first date at item 15(a) above, unless the agreement specifies otherwise.)

17. DECLARATION BY LANDLORD AND TENANT

We, the undersigned, confirm that the above particulars correctly set out the relevant facts about the dwelling and the relevant terms of our agreement.

(Signed).....landlord

(Signed).....tenant

Date.....

PART III

NOTES

A. Under sections 32 and 33 of the Housing Act 1961, where a dwelling is let for a term of less than 7 years, there is implied a covenant by the landlord—

(1) to keep in repair the structure and exterior of the dwelling (including drains, gutters and external pipes) and also

(2) to keep in repair and proper working order the installations in the dwelling—

(*a*) for the supply of water, gas and electricity, and for sanitation (including basins, sinks, baths and sanitary conveniences but not—except for those previously mentioned—fixtures, fittings and appliances for making use of the supply of water, gas or electricity), and

(*b*) for space heating or heating water.

These obligations fall upon the landlord, even if they were not included in the terms of the lease or the tenant has covenanted to perform them, unless the county court, with the consent of the parties, permits otherwise.

B. Even if the tenancy is a periodic one (weekly and monthly for example as opposed to a tenancy for a fixed term) the landlord and tenant can agree upon a series of rents to become payable on different dates if the periodic tenancy should last so long. If the parties wish, within 3 years after the first such agreement takes effect, to raise the rent above the last or only entry in item 15(a) of Part II of this form, but do not wish to apply to the rent officer to get a fair rent registered, the new agreement must be recorded in a similar form, which must then be deposited with the local authority. (For rent agreements more than 3 years after the first such agreement takes effect, see booklet "Rents of Regulated Tenancies" obtainable from council offices, rent officers or Citizens' Advice Bureaux.)

Peter Walker,
Secretary of State for the Environment.

24th October 1972.

Peter Thomas,
Secretary of State for Wales.

24th October 1972.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Section 44 of the Housing Finance Act 1972 contains provisions for the protection of tenants following the conversion of their tenancies from control to regulation under any of the enactments mentioned in the section. It provides (with certain exceptions) that where no rent has been registered and the landlord, by an agreement taking effect within a certain period, agrees with the tenant for an increase of the rent, or by a grant taking effect within a certain period, grants to the tenant, or to certain members of his family, a new regulated tenancy at an increased rent, then the landlord must give to the local authority a document in the prescribed form containing (inter alia) the prescribed particulars.

These Regulations prescribe the form of document to be given by the landlord to the local authority pursuant to section 44(5) of the Housing Finance Act 1972, and the particulars which such document shall contain.

The Regulations also substitute a new regulation for regulation 7 of the Rent Regulation (Forms etc.) (England and Wales) Regulations 1969. Under the new regulation the fee to be paid in order to obtain from the rent officer a certified copy of an entry in the register is 15p.

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