STATUTORY INSTRUMENTS

1975 No. 791 (S. 131)

LANDLORD AND TENANT

RENT CONTROL, ETC. (SCOTLAND)

The Rent Regulation (Forms etc.) (Scotland) Amendment Regulations 1975

Made - - - -	8*th May* 1975
Laid before Parliament	12*th May* 1975
Coming into Operation	16*th May* 1975

In exercise of the powers conferred on me by sections 35 and 46(1)(*a*) of the Rent (Scotland) Act 1971(**a**) and sections 35 and 46(1)(*a*) of that Act as read with sections 50 and 61 respectively of the Housing (Financial Provisions) (Scotland) Act 1972(**b**) and of all other powers enabling me in that behalf, I hereby make the following regulations:—

1. These regulations may be cited as the Rent Regulation (Forms etc.) (Scotland) Amendment Regulations 1975 and shall come into operation on 16th May 1975.

2.—(1) In these regulations, the "principal regulations" means the Rent Regulation (Forms etc.) (Scotland) Regulations 1972(**c**) and, unless the context otherwise requires, any expression used in these regulations shall have the same meaning as in the principal regulations.

(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. For Schedules 1 and 2 to the principal regulations there shall be substituted the Schedules contained in Schedule 1 to these regulations.

4. For Forms 8 and 9 set out in Schedule 3 to the principal regulations there shall be substituted the Forms with the numbers corresponding thereto contained in Schedule 2 to these regulations.

5. Forms Nos. 4, 5, 6 and 7 set out in Schedule 3 to the principal regulations shall cease to have effect except in so far as they are required to be used in connection with proceedings after the date on which these regulations come into force and consequent upon action taken before that date.

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

New St. Andrews House,
Edinburgh.
8th May 1975.

(a) 1971 c. 28. (b) 1972 c. 46. (c) S.I. 1972/1221 (1972 II, p. 3614). (d) 1889 c. 63.

SCHEDULE 1 Regulation 3

"SCHEDULE 1 Section 39(2)(*a*) of the Act of 1971

PARTICULARS WITH REGARD TO THE TENANCY WHICH THE REGISTER IS REQUIRED TO CONTAIN

1. The names and addresses of landlord and tenant.

2. The name and address of landlord's agent.

3. Do sections 60 to 66 of the Act of 1972 (rent limit for dwellinghouses let by housing associations and the Housing Corporation) apply to the tenancy?

4. The furniture provided by the landlord.

5. The services provided by the landlord.

6. The respective liability of the landlord and the tenant for—

(*a*) the maintenance and repair of the dwellinghouse, and

(*b*) the rates in respect of the dwellinghouse.

7. A description of any part of the premises, comprised in the dwellinghouse which is used as a shop or office, or for business, trade or professional purposes.

8. Any other terms of the tenancy taken into consideration in determining a fair rent for the dwellinghouse.

SCHEDULE 2 Section 43(5)(*a*) of the Act of 1972

PARTICULARS WHICH A RENT AGREEMENT IS REQUIRED TO CONTAIN

1. A statement must be set out at the head of the agreement in characters not less conspicuous than those used in any other part of the agreement, in words to the following effect:—

> The tenant's security of tenure under the Rent (Scotland) Act 1971 will not be affected if he refuses to enter into the agreement, and that entry into the agreement will not deprive the tenant or the landlord of the right to apply at any time to the rent officer for the registration of a fair rent, under Part IV of that Act. If a rent is so registered any increase in the rent may be phased under section 7 of the Housing Rents and Subsidies (Scotland) Act 1975.

2. Declare that the tenant's attention has been drawn specifically to Notes 1 to 11 before he has entered into the rent agreement.

3. Name and address of landlord and tenant and of the respective agents (if any).

4. Address and description of the dwellinghouse (*Note 12*).

5. Current gross annual value of the dwellinghouse.

6. Where the rateable value of the house was less than £25 on 27th August 1972, if the tenancy has become a regulated tenancy by virtue of Part VI of the Rent (Scotland) Act 1971 (ie following up on the issue of a qualification certificate), state the date upon which the qualification certificate was issued.

7. State the rent which is at present payable and whether it is exclusive/inclusive of rates borne by the landlord and, if inclusive, state the amount of rates included in the rent.

8. The date of commencement and duration of the tenancy.

9. The rental period.

10. State the respective liability of the landlord and the tenant for the maintenance and repair of the dwellinghouse.

11. State the proposed rent which is agreed and the instalments (if any) in which that rent is payable.

12. If the proposed rent is inclusive of rates borne by the landlord, state the amount of rates included in the rent.

13. State whether any services or furniture are provided by the landlord and the amount of the proposed rent which is considered to be fairly attributable to each of them.

14. If any part of the dwellinghouse is used as a shop or office, or for business, trade or professional purposes, state the amount of the proposed rent which is considered to be fairly attributable to that part.

15. State whether any change has occurred during the present tenancy in the condition of the dwellinghouse (*Note 2*) which is considered to be due to—

(*a*) any disrepair or other defect attributable to a failure by the tenant (including a former holder of the present tenancy) to comply with the terms of the tenancy, or

(*b*) any improvement, including the replacement of any fixture or fitting, carried out by the tenant, (including a former holder of the present tenancy), other than under the terms of the tenancy, or

(*c*) if any furniture is provided for use under the regulated tenancy, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person lodging or residing with him, or any sub-tenant of his.

16. State whether any improvement or standard grant has been obtained in respect of the dwellinghouse.

NOTES

(*To be incorporated with the Particulars in any Rent Agreement and any Copy Thereof*)

1. After the controlled tenancy has become converted into a regulated tenancy, the tenant is protected to ensure that the controlled rent may not be increased above the fair rent for the dwellinghouse.

2. In determining what is a fair rent for the dwellinghouse, section 42 of the Rent (Scotland) Act 1971 (referred to hereafter as "the Act of 1971") provides that regard should be had to all the circumstances (except personal circumstances) and in particular to the age, character and locality and state of repair of the dwellinghouse and, if any furniture is provided for use under the tenancy, to the quantity, quality and condition of the furniture. There requires to be disregarded any scarcity element and any changes in the condition of the dwellinghouse which are mentioned in paragraph 14 of the particulars.

3. There are in general two main ways in which the controlled rent may be increased after the tenancy has become a regulated tenancy (other than for rates, services and improvements). These are either:—

(*a*) the landlord or the tenant or both may apply to the rent officer for the registration of a fair rent for the dwellinghouse, in which case any increase in rent up to the registered rent would be payable in three equal annual instalments, with a minimum increase each year of 40p per week; or

(*b*) the landlord and the tenant may enter into a rent agreement which may be either an agreement increasing the rent payable under the existing contractual tenancy or the grant of another regulated tenancy at a higher rent than under the previous tenancy.

4. If after the landlord and tenant enter into a rent agreement, then, before it can take effect, it is, as is explained in the following paragraphs, subject to the tacit approval of the rent officer to ensure that the rent agreed between the parties does not take effect if it exceeds what, in his opinion, is a fair rent for the dwellinghouse.

5. Section 43(6) of the Housing (Financial Provisions) (Scotland) Act 1972 (referred to hereafter as "the Act of 1972") provides that a rent agreement cannot take effect earlier than 28 days after it has been lodged by the landlord with the rent officer. At the same time as it is lodged with the rent officer, the landlord is required to serve a copy of the agreement on his tenant.

6. The rent agreement may only take effect after the expiry of that 28-day period if the rent officer does not, within that period, notify both the landlord and the tenant in writing that he proposes to treat it as a joint application for the registration of a fair rent for the dwellinghouse because he is satisfied that the rent payable under the agreement exceeds a fair rent for the dwellinghouse.

7. If the rent agreement takes effect, the rent officer is required to make it available for public inspection without charge and a certified copy of it may be obtained upon payment of the prescribed fee.

8. If the landlord fails to comply with any of the requirements of sections 42, 43 or 44 of the Act of 1972 in connection with the rent agreement, the increase in rent may be recovered by the tenant.

9. If the landlord and tenant agree upon any further increases in rent, then, unless either the increase is solely on account of an increase in rates borne by the landlord or the new rent agreement takes effect more than three years after the first such agreement took effect, the rent agreement must also contain these particulars and be subject to the tacit approval of the rent officer as explained above.

10. If, after a rent agreement has become effective, a rent is registered for the dwellinghouse any increase in rent is subject to phasing under the provisions of Schedule 2 to the Housing Rents and Subsidies (Scotland) Act 1975. If the rent agreement took effect after 15th May 1975 and less than two years before the date of registration, the phasing arrangements are calculated by reference to the date on which the agreement took effect and the rent payable in the rental period immediately before that date.

11. Section 8 of the Housing Rents and Subsidies (Scotland) Act 1975 provides that the rent under a rent agreement may not be increased by more than £1·50 per week during any year beginning with the date on which the rent agreement took effect or with any anniversary of that date. The increase referred to is an increase above the rent payable in the last rental period beginning before the end of the preceding year.

12. Section 9 of the Housing Rents and Subsidies (Scotland) Act 1975 provides that rents may not be increased in a relevant period by more than £78 above the amount which was payable for the last rental period beginning before the relevant period. In the case of rent agreements, the "relevant period" is the period of 12 months beginning with the date when the last increase took effect under the agreement or any subsequent period of 12 months beginning with the anniversary of that date.

13. The description of the dwellinghouse should include:

(*a*) the location of the flat, if the dwellinghouse is situated in tenement property;

(*b*) the number of rooms comprised in the dwellinghouse and the use which is made of them;

(*c*) any accommodation of which the tenant has shared use and state whether the sharing is with the landlord or with another tenant; and

(*d*) a description of any part of the premises comprised in the dwellinghouse which is used as a shop or office, or for business, trade or professional purposes."

Regulation 4

SCHEDULE 2

"FORM NO. 8

RENT (SCOTLAND) ACTS 1971 TO 75

Notice of increase of rent under a regulated tenancy where a rent has been registered under Section 43 of the Rent (Scotland) Act 1971 (Notes 1 and 2).

Date .....

To .....

1. A rent of £..... per ..... was registered on ..... (*Note 3*) as the fair rent for the dwellinghouse situated at ....., of which you are the tenant.

[2. In the register it is noted that the fair rent includes a sum attributable to the provision of services provided by the landlord and that "the service element" recorded by the Rent Officer is £ ..... (*Note 6(a)*)].

Delete words in square brackets if they do not apply

3. Accordingly, I hereby give you notice that your rent will be increased from your present rent of £..... per ..... by an increase of £..... per ..... to a new rent of £..... per ..... and the date from which such an increase is to take effect is ..... (*Note 4*).

The amount of the increase is calculated as follows–

(*a*) the amount of the previous rent limit (*Note 5*)	£	per annum
ADD		
(*b*) permitted increase (*Note 6*) for [first] [second] year of period of delay (*Note 7*) (including service element (if any) (*Note 6(a)*) £..... per annum).	£	per annum
Total of the above, being the rent lawfully recoverable from you as tenant of the dwelling-house	£	per annum
Deduct the amount of the rent which as at present is lawfully payable by you as tenant of the dwellinghouse	£	per annum
The amount of the increase is	£	per annum

[4. It is noted in the register that the rates in respect of the dwellinghouse are borne by the landlord and, in terms of section 43(3) of the Rent (Scotland) Act 1971, the amount of the rates for any rental period, ascertained in accordance with Schedule 4 to that Act (*Note 8*), is recoverable from you in addition to the above rent for any statutory period of the tenancy, without service of any notice of increase. The amount of the rates which is at present lawfully recoverable from you, in addition to the above rent, is £ ..... per .....]

.....

(Signature of landlord/landlord's agents)

.....

(Address of landlord/landlord's agents)

NOTES

(To be incorporated in the notice)

1. This notice of increase is required where:

(*a*) the tenancy of the dwellinghouse is a regulated tenancy within the meaning of the Rent (Scotland) Act 1971 (referred to hereafter as "the Act of 1971" as amended by the Rent Act 1974 (referred to hereafter as "the Act of 1974"): and

(*b*) the tenancy of the dwellinghouse is a statutory tenancy or will become one as a result of the operation of this notice under the provisions of section 25(3) of the Act of 1971; and

(*c*) a rent has been registered for the dwellinghouse which is higher than the rent at present payable.

In these circumstances the rent may only be increased by a notice of increase under Sections 21(2)(*b*) (as read with section 25(3) of the Act of 1971). Sections 7 and 9 and Schedule 2 to the Housing Rents and Subsidies (Scotland) Act 1975 (referred to hereafter as "the Act of 1975") provides that an increase may be made to the extent (if any) permitted under the said sections 7 and 9 and Schedule 2. (*Note 2.*)

2. Following registration the restrictions on rent increases imposed by the enactments referred to in Note 1(*c*) cannot be evaded by the landlord granting to the tenant or to any of his potential statutory successors a new tenancy of the dwellinghouse, whether before or during the period of delay specified in Note 5. A rent registration may be cancelled only on the lodging of a rent agreement with, and acceptance by, a Rent Officer not earlier than three years after the registration takes effect.

The restrictions imposed by Schedule 2 to the Act of 1975 are that there will be a "period of delay" (which is normally a period of 2 years (*Note 7*)) before the full registered rent may be recovered and allow the amount payable by way of rent for the last rental period beginning before the date of registration of the fair rent to be increased up to the registered rent by the amount of the "permitted increase" at each annual stage of the period of delay.

The "permitted increase" (*Note 6*) which may be added at each stage is an increase in respect of the service element (if any) (*Note 6*(*a*)) together with one-third in the first year and two-thirds in the second year of the difference between the "previous rent limit" (*Note 5*) (that is, normally the amount exclusive of rates which for the last rental period before the date of registration was payable by way of rent) and the registered rent. Each annual increment is subject to a minimum increase of 40p per week and a maximum increase of £1·50 per week. Where either the minimum or maximum increase is applied the period of delay is adjusted accordingly. (*Note 6*(*d*).)

3. Insert the date upon which the rent determined by the Rent Officer or by the Rent Assessment Committee was registered for the dwellinghouse. The rent register may be inspected at the office of the Rent Officer.

4. The date to be inserted here must be a date which is not earlier than

(*a*) the date of registration which is specified in paragraph 1 of this notice; and

(*b*) four weeks before the date of service of this notice; and

(*c*) the commencement of the first rental period beginning in the relevant year of the period of delay to which this notice relates; and

(*d*) where an application for a fair rent (other than a joint application or following a change of circumstances) is made within the last three months of the period of three years commencing when the registration of a fair rent took effect, the first day after the expiry of that period of three years.

If this notice is served during a contractual period of the tenancy the date to be inserted must also be later than the date on which the tenancy could be brought to an end by a notice to quit served by the landlord at the same time as this notice (*Note 1*(*b*)).

5. The "previous rent limit" is the amount exclusive of rates (ascertained in accordance with Schedule 4 to the Act of 1971) which for the last rental period beginning before the date of registration, was payable by way of rent, having regard to the provisions of any enactment. This definition is subject to modification in certain circumstances under the provisions of Schedule 2 to the Act of 1975 as follows:—

(*a*) Where after 15th May 1975 a rent agreement (as defined in Section 42(1) of the Housing (Financial Provisions) (Scotland) Act 1972 (referred to hereafter as the "Act of 1972") takes effect and a rent is registered within two years of that effective date the stage of phasing is calculated by reference to the date when the agreement took effect and the previous rent limit by reference to the rent payable for the last rental period beginning before that date.

(*b*) Where a rent is registered before 16th May 1975, except where it was being phased before 8th March 1974, the previous rent limit (where this is less than the registered rent) is the rent payable in the last rental period beginning before 16th May 1975.

6. The "permitted increase" is the amount by which the rental for any rental period may be increased under paragraph 3 of Schedule 2 to the Act of 1971 and (subject to a maximum increase which would bring the rent payable up to the registered rent) is the sum of the item described in sub-paragraph (*a*) below together with either the sum described in sub-paragraphs (*b*) or (*c*) and subject to sub-paragraph (*d*) where appropriate.

(*a*) The "service element" (if any) is an amount which is recorded by the Rent Officer or Rent Assessment Committee in the rent register and is notified to the parties. Where the Rent Officer or Rent Assessment Committee is of the opinion that the amount included in the rent attributable to services is not less than 5 per cent. of the registered rent, this amount, called the "noted amount" is recorded in the register. The "service element" represents the increase, calculated in terms of paragraph 2 of Schedule 2 to the Act of 1975 in the "noted amount" over the amount (if any) noted or calculated by the Rent Officer or Rent Assessment Committee to be included in the previous rent limit.

(*b*) In the first year of the period of delay (*Note 7*), one third of the difference between (i) the previous rent limit together with the service element, and (ii) the registered rent. This is subject to a minimum equivalent to 40p per week (£20·80 per annum) or a maximum equivalent to £1·50 per week (£78 per annum).

(*c*) In the second year of the period of delay (*Note 7*) two-thirds of the difference between (i) the previous rent limit together with the service element, and (ii) the registered rent. This is subject to a minimum equivalent to 40p per week (£20·80 per annum) over the amount calculated at (*b*), and a maximum equivalent to £1·50 per week (£78 per annum) over the amount payable by way of rent for the last rental period beginning before the second year of the period of delay together with any increase permitted in respect of a service element not previously recovered.

(*d*) Where the maximum of £1·50 per week has applied in the second (or subsequent) year of a "period of delay" the permitted increase is an increase up to the equivalent of £1·50 per week (£78 per annum) over the amount payable by way of rent for the last rental period beginning before the said subsequent period of delay together with any increase permitted in respect of a service element not previously recovered. The year of the "period of delay" should be quoted at item 3(*b*) of the Notice of Increase.

7. The "period of delay" means a period of two years, normally beginning with the date of registration of rent, but this period is extended where the maximum increase of £1·50 per week applies. The period of delay is modified in the following circumstances:—

(*a*) Where after 15th May 1975, a rent agreement is made and a rent is registered within two years thereafter, the Act of 1971 requires that the stage of phasing is calculated by reference to the date when the agreement took effect.

(*b*) Where a rent has been re-registered for a dwellinghouse during a period of delay, a new period of delay begins with a subsequent registration of rent and previous restrictions on rent increases cease to apply with the date of the new registration.

(*c*) Where a rent was registered before 16th May 1975 and is not subject to phasing either under Schedule 13 of the Act of 1971 or Schedule 6 of the Act of 1972 and the previous rent limit is less than the registered rent the period of delay commences on 16th May 1975.

The following sub-paragraphs refer to cases which were subject to phasing under Schedule 13 of the Act of 1971 or Schedule 6 of the Act of 1972 on 8th March 1974:—

(*d*) Where a rent was registered before 8th March 1974 and this date fell within the second year of a period of delay, the period of delay is extended to 15th May 1975.

(*e*) Where a rent was registered before 8th March 1974 and this date fell within the first year of a period of delay, this first year is extended until 15th May 1975 and the second year of the period of delay commences immediately thereafter.

(*f*) Where a rent was registered during the period of 8th March 1974 to 15th May 1975, the period of delay commences on 16th May 1975.

Where a rent determined by a rent assessment committee is registered in substitution for a rent determined by the rent officer, the date of registration is deemed for the purposes of determining the appropriate commencement of the period of delay under Schedule 2 of the Act of 1975 to be the date on which the rent determined by the rent officer was registered.

8. Schedule 4 to the Act of 1971 provides that the amount of rates for any rental period should be ascertained by dividing the total rates payable for the whole rating period, in which the rent for that rental period is payable, by the number which is obtained by dividing the length of that rating period by the length of the rental period.

Until the local authority make their first demand for, or for an instalment of, the rates for a rating period, the amount of the rates for any rental period is to be calculated on the basis that the rates for that rating period continue to be the same as for the previous rating period. When the local authority have made their first such demand or when they have made any subsequent demand during the rating period, the amount of the rates for any rental period must, if necessary, be recalculated, but any such recalculation cannot affect the ascertainment of rates for any rental period beginning more than six months before the date of service of the demand which gives rise to the recalculation.

FORM NO. 9

RENT (SCOTLAND) ACTS 1971 TO 1975

Application for the registration of a rent unsupported by a certificate of fair rent where the dwellinghouse is let under a regulated tenancy (Notes 1 and 2).

Date .....

To the Rent Officer.

[I,] [We, jointly, (*Note 3*)] hereby apply, under section 40 of the Rent (Scotland) Act 1971 as amended by section 4(3) of and paragraph 7 of Schedule 1 to the Rent Act 1974, for the registration of a fair rent for the dwellinghouse situated at..... under a regulated tenancy.

Delete words in square brackets if they do not apply

The rent proposed by the applicant for the dwellinghouse is £ ..... per ..... (*Note 4*).

The following particulars are submitted.

Signed ..... Signed .....

[Tenant/Tenant's Agents] [Landlord/Landlord's Agents]

A signature is required for or on behalf of both landlord and tenant only in the case of a joint application (*Note 3*).

THE PARTICULARS

(*Please write in block letters or type and strike out words which do not apply*)

1. Name and address of landlord and of his agents (if any).

2. Name and address of tenant and of his agents (if any).

3. Description of the dwellinghouse (*Note 5*).

4. Current gross annual value of the dwellinghouse.

5. If the rateable value of the dwellinghouse on 27th August 1972 (or upon such later date as the rateable value of the dwellinghouse was first shown on the valuation roll) was less than £25—

   (*a*) State the amount of the rateable value on that date;

   (*b*) If the tenancy has become a regulated tenancy by virtue of Part VI of the Rent (Scotland) Act 1971 (ie following upon the issue of a qualification certificate), enclose a copy of the qualification certificate (*Note 6*).

6. The rent at present payable is £ per , exclusive/inclusive of rates borne by the landlord and, if inclusive, state the amount of the rates included in the rent.

7. State the particulars of the tenancy:—

   (*a*) The date on which the tenancy commenced; and

   (*b*) Whether the landlord supplies furniture under the tenancy; and

   (*c*) The respective liability of the landlord and tenant for the maintenance and repair of the dwellinghouse.

8. State whether any change has occurred during the present tenancy in the condition of the dwellinghouse or furniture which is claimed by the applicant(s) should be disregarded under sub-section 42(3) of the Rent (Scotland) Act 1971 (*Note 7*).

9. Where an improvement grant has been obtained from the local authority state whether this is the first registration since completion of the works.

10. If a rent has already been registered for the dwellinghouse state—

(*a*) the registration number (if known), and

(*b*) the date upon which the registration took effect, and

(*c*) if the application is made by the landlord or the tenant alone within 3 years of that date, state the grounds upon which the application is made (*Note 8*).

11. Specify the amount, if any, of the rent proposed to be registered which it is considered should be noted in the register as the amount fairly attributable to—

(*a*) the provision of any service by the landlord,

(*b*) the use of furniture provided by the landlord,

(*c*) the use of part of the premises comprised in the dwellinghouse as a shop or office or for business, trade or professional purposes.

NOTES

(*To be incorporated in the application and any copy thereof.*)

1. This form of application is required where—

(*a*) the tenancy of the dwellinghouse (being a dwellinghouse whose rateable value did not exceed £200 on 23rd March 1965 or when the value was first shown on the valuation roll) is, or has become converted into, a regulated tenancy within the meaning of the Rent (Scotland) Act 1971 (referred to hereafter as "the Act of 1971"); and

(*b*) either the landlord or the tenant or both the landlord and the tenant jointly wish to apply to the Rent Officer for the registration of a rent for the dwellinghouse under the regulated tenancy; and

(*c*) the application is not, nor is required to be (*Note 2*), supported by a certificate of fair rent.

An application for the registration of a rent cannot be entertained at a time when there is in operation, with respect to the dwellinghouse, a condition relating to rent imposed under any of the enactments specified in section 40(5) of the Act of 1971.

2. A certificate of fair rent is applicable in a case where a landlord proposes to provide or to let a dwellinghouse on a regulated tenancy. After a certificate of fair rent has been issued on an application under Part I of Schedule 12 to the Act of 1971 (ie after the issue of a certificate of provisional approval), this form of application cannot be used and the appropriate form may be obtained from the Rent Officer.

3. Where an application is made jointly by the landlord and the tenant, there is no right to have the matter referred to a rent assessment committee if the Rent Officer is satisfied that the rent proposed to be registered is a fair rent.

4. The rent specified should be a rent exclusive of any rates borne by the landlord but inclusive of any sums payable by the tenant for the use of furniture or for services provided by the landlord (section 43 of the Act of 1971).

5. The description of the dwellinghouse should include

(*a*) the location of the flat, if the dwellinghouse is situated in tenement properties;

(*b*) the number of rooms comprised in the dwellinghouse and the use which is made of them;

(*c*) any accommodation of which the tenant has shared use and state whether the sharing is with the landlord or with another tenant, and

(*d*) a description of any part of the premises comprised in the dwellinghouse which is used as a shop or office or for business, trade, or professional purposes.

6. Tenancies are controlled where the Rateable Value was under £25 on 27th August 1972 and where the tenancy (or, in the case of a first statutory successor, the preceding contractual tenancy) was created by a lease granted before 6th July 1957 such a tenancy would become regulated on the issue of a qualification certificate. It is only necessary to enclose a copy of the qualification certificate in these circumstances. (Section 74(1) of the Act of 1971.)

7. Any such changes in the condition of the dwellinghouse are required by section 42(3) of the Act of 1971, to be disregarded in determining a fair rent for the dwellinghouse. There is to be disregarded—

(*a*) any disrepair or other defect attributable to a failure by the tenant (including a former holder of the present tenancy) to comply with the terms of the tenancy, or

(*b*) any improvement, including the replacement of any fixture or fitting, carried out by the tenant (including a former holder of the present tenancy) other than under the terms of the tenancy, or

(*c*) if any furniture is provided for use under the tenancy, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him, or any sub-tenant of his.

8. In these circumstances, section 40(3) of the Act of 1971 provides that the Rent Officer can only entertain the application on the grounds that "since that date, there has been such a change in the condition of the dwellinghouse (including the making of any improvement therein), the terms of the tenancy, the quantity, quality or condition of any furniture provided for use under the tenancy (excluding any deterioration in that furniture due to fair wear and tear) or any other circumstances taking into consideration when the rent was registered or confirmed as to make the registered rent no longer a fair rent". Where these circumstances do not apply an application may be entertained by the Rent Officer in the last three months of the three-year period commencing with the date when the previous registration took effect but in this case the new registration takes effect from the end of the three-year period."

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations re-enact with amendments Schedules 1 and 2 and Forms 8 and 9 of Schedule 3 to the Rent Regulation (Forms etc.) (Scotland) Regulations 1972. The Regulations also provide that Forms Nos. 4, 5, 6 and 7 of the 1972 Regulations shall cease to have effect. The changes take account of the amendments made to the Rent (Scotland) Act 1971 by the Rent Act 1974 (1974 c.51) and the Housing Rents and Subsidies (Scotland) Act 1975 (1975 c.6).

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