1972 No. 1307

LANDLORD AND TENANT

The Rent Regulation (Local Authority Applications) Regulations 1972

Made - - -	21*st August* 1972
Laid before Parliament	25*th August* 1972
Coming into Operation	27*th August* 1972

The Secretary of State for the Environment (as respects England, except Monmouthshire) and the Secretary of State for Wales (as respects Wales and Monmouthshire) in exercise of their powers under sections 44A(8) and 50(1) (as read with section 114(1)) of the Rent Act 1968(a) and of all other powers enabling them in that behalf, and in so far as the regulations relate to Rent Assessment Committees, after consultation with the Council on Tribunals, hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Rent Regulation (Local Authority Applications) Regulations 1972 and shall come into operation on 27th August 1972.

Interpretation

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

"the Act" means the Rent Act 1968;

"application" means an application which is made by a local authority to the rent officer under section 44A(1) of the Act;

"chairman" means the chairman of a rent assessment committee;

"committee" means a rent assessment committee constituted under Schedule 5 to the Act;

"hearing" has the meaning assigned to it by regulation 8(1) of these regulations;

"local authority" means the local authority who have made an application;

"parties" means the landlord and the tenant under the regulated tenancy of the dwelling-house to which an application relates;

"reference" has the meaning assigned to it by regulation 7(1) of these regulations.

(a) 1968 c. 23.

(2) Any reference to a party in regulations 11, 12 and 13 of these regulations shall be construed as including a reference to a person authorised by a party to make oral representations on his behalf pursuant to regulation 8 of these regulations.

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

Procedure on application to rent officer

3.—(1) On receiving an application, the rent officer—

(*a*) may by notice in writing served on a party require him to give to the rent officer, within such period of not less than seven days from the service of the notice as may be specified in the notice, such information as he may reasonably require regarding the rent and the other terms of the tenancy and the dwelling-house; and

(*b*) shall serve on each of the parties a notice informing him of the application and specifying a period of not less than seven days from the service of the notice during which representations in writing may be made to the rent officer as to whether a rent for the dwelling-house should be registered in pursuance of section 44A(2) of the Act, and if so, what the amount of that rent should be.

(2) The rent officer shall make such inquiry, if any, as he thinks fit and consider any information supplied or representation made to him in pursuance of paragraph (1)(*a*) or paragraph (1)(*b*) above and—

(*a*) if the rent officer is satisfied that the rent, or the highest rent, payable for the dwelling-house does not exceed what in his opinion is a fair rent, he shall notify the parties and the local authority accordingly;

(*b*) if it appears to the rent officer that the rent, or the highest rent, payable for the dwelling-house may exceed what in his opinion would be a fair rent, he shall serve a notice under regulation 4 below.

Consultation and representation

4.—(1) A notice under this regulation shall be served on each of the parties informing him that the rent officer proposes, at a time (which shall not be earlier than seven days after the service of the notice) and place specified in the notice to consider in consultation with the parties, or such of them as may appear at that time and place, whether a rent should be registered in pursuance of section 44A(2) of the Act, and if so, what the amount of that rent should be.

(2) At any such consultation the parties may each be represented by a person authorised by him in that behalf, whether or not that person is of counsel or a solicitor.

Decision of rent officer

5.—(1) When, after such consideration as is mentioned in regulation 4 above, the rent officer has reached his decision, he shall notify each of the parties and the local authority whether he is not satisfied that the rent, or the highest rent, payable for the dwelling-house exceeds what in his opinion is a fair rent, or as the case may be, whether he has registered a rent pursuant to section 44A(2) of the Act and of the amount of the rent so registered.

(a) 1889 c. 63.

(2) When the rent officer registers a rent pursuant to section 44A(2) of the Act (registration of a rent if the rent, or the highest rent, payable for the dwelling-house exceeds a fair rent) the notification of that registration to be given to the parties pursuant to paragraph (1) above shall be given by a notice stating that if, within twenty-eight days of the service of the notice or such longer period as he or a committee may allow, an objection in writing is received by the rent officer from either of the parties the matter will be referred to a committee.

Reference to a committee

6.—(1) If such an objection as is mentioned in regulation 5(2) above is received, then—

(*a*) if it is received within the period of twenty-eight days specified in that regulation or a committee so direct, the rent officer shall refer the matter to a committee;

(*b*) if it is received after the expiry of that period the rent officer may either refer the matter to a committee or seek the directions of a committee whether so to refer it.

(2) The rent officer shall indicate in the register whether the matter has been referred to a committee in pursuance of this regulation.

Procedure on a reference

7.—(1) In these regulations "reference" means a matter referred to a committee in pursuance of regulation 6 above.

(2) The committee to whom a reference is made under regulation 6 above—

(*a*) may by notice in writing served on a party require him to give to the committee, within such period of not less than fourteen days from the service of the notice as may be specified in the notice, such further information, in addition to any given to the rent officer in pursuance of regulation 3(1)(*a*) above, as they may reasonably require;

(*b*) shall serve on each of the parties a notice specifying a period of not less than fourteen days from the service of the notice during which either representations in writing or a request to make oral representations may be made by him to the committee; and

(*c*) shall make such further inquiry, if any, as they think fit.

The hearing and representation

8.—(1) In these regulations "hearing" means the meeting or meetings of a committee to hear oral representations in accordance with paragraph (2) below.

(2) Where, within the period specified in regulation 7 above or such further period as the committee may allow, either of the parties requests to make oral representations the committee shall give the parties an opportunity to be heard at a hearing.

(3) At a hearing the parties may each be heard either in person or by a person authorised by him in that behalf, whether or not that person is of counsel or a solicitor.

Documents

9.—(1) The committee shall, where the reference is to be subject to a hearing, 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 he has previously been supplied with a copy by the rent officer); and

(*b*) a copy of any document which embodies the results of any inquiries 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 dwelling-houses and which has been prepared for the committee for the purposes of that reference.

(2) 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*) above (other than a document excepted from that paragraph) and a copy of any such document as is mentioned in paragraph (1)(*b*) above, 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's case.

Time and place of hearing

10.—(1) A hearing shall be on such date and at such time and place as the committee shall appoint.

(2) Notices of such date, time and place shall be given by the committee, not less than 10 days before the said date, to each of the parties.

Procedure at hearing

11.—(1) A hearing shall be in public unless, for special reasons, the committee decide otherwise; but nothing in these regulations shall prevent a member of the Council on Tribunals in that capacity from attending any hearing.

(2) At the 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;

(*b*) a party may call witnesses, give evidence on his own behalf and cross-examine any witnesses called by the other party.

(3) If a party does not appear at a hearing the committee, on being satisfied that the requirements of these regulations regarding the giving of notice of hearings 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.

Inspection of dwelling-house

12.—(1) The committee may of 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 dwelling-house 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 decide, and the committee shall give to the parties and their representatives an opportunity to attend.

(3) Notice of an inspection shall be given as though it were notice of a hearing, save that the requirements for such notice may be dispensed with or relaxed in so far as the committee are satisfied that the parties have received sufficient notice.

(4) Where an inspection is made after the close of a hearing, the committee shall, if they consider that it is expedient to do so on account of any matter arising from the inspection, reopen the hearing; and if the hearing is to be re-opened, regulation 10(2) above 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.

Adjournment

13.—(1) The committee at their discretion may of 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.

(2) Where at any hearing—

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

(ii) that party has not been supplied with a copy of, or sufficient extracts from or particulars of, that document by the rent officer or by the committee in accordance with the provisions of regulation 9(1) above,

then unless—

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

(*b*) the committee consider that that party has a sufficient opportunity of dealing with that document without an adjournment of the hearing,

the committee shall adjourn the hearing for a period which they consider will afford that party a sufficient opportunity of dealing with that document.

(3) Such notice of any postponed or adjourned hearing as is reasonable in the circumstances shall be given to each of the parties by the committee.

Decision of committee

14.—(1) The committee shall consider any information supplied or representations made to them in pursuance of regulation 7 or regulation 8 above and, where there is a hearing, any evidence adduced at that hearing, and—

(*a*) if it appears to them that the rent registered by the rent officer is a fair rent, they shall confirm that rent;

(*b*) if it does not appear to them that that rent is a fair rent, they shall determine a fair rent for the dwelling-house.

(2) Where the committee confirm or determine a rent under this regulation they shall notify each of the parties and the rent officer accordingly.

(3) On receiving the notification, the rent officer shall, as the case may require, either indicate in the register that the rent has been confirmed or register the rent determined by the committee as the rent for the dwelling-house.

15.—(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 by 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, either of the other members of the committee) shall have power, by 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 each of the parties and to the rent officer.

Giving of notices, etc.

16. Where any notice or other written matter is required under the provisions of regulation 9, 10, 12, 13 or 15 above to be given or supplied by the committee it shall be sufficient compliance with the regulations if such notice or matter is sent by post in a prepaid letter and addressed 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.

Peter Walker,
Secretary of State for the Environment.

21st August 1972.

Peter Thomas,
Secretary of State for Wales.

18th August 1972.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations prescribe the procedure to be followed when a local authority apply to the rent officer, under section 44A of the Rent Act 1968, for the consideration of the fair rent of a dwelling-house within their area for which a rent may be, or has been, registered under that Act.

In particular the Regulations provide that—

(*a*) on receiving the application, the rent officer is to notify the landlord and tenant, who may make representations in writing as to whether a rent should be registered (Reg. 3);

(*b*) if it appears to the rent officer that the rent, or the highest rent, payable for the dwelling-house may exceed a fair rent, then he is to hold a consultation, which the landlord and the tenant may attend, and at which they may each be represented (Reg. 4);

(*c*) if the rent officer registers a rent, the landlord or the tenant may have the matter referred to a rent assessment committee (Regs. 5 and 6);

(*d*) the committee to whom a matter is referred shall give the landlord and the tenant an opportunity of making representations, either in writing, or orally at a hearing at which they may each be represented (Regs. 7 and 8);

(*e*) if it does not appear to the committee to whom a matter is referred that the rent registered by the rent officer is a fair rent, then they shall determine a fair rent (Reg. 14).