



Rent (Scotland) Act 1971

CHAPTER 28

LONDON
HER MAJESTY'S STATIONERY OFFICE

Rent (Scotland) Act 1971

CHAPTER 28

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ELIZABETH II



1971 CHAPTER 28

An Act to consolidate in relation to Scotland the Rent and Mortgage Interest Restrictions Acts 1920 to 1939, the Rent of Furnished Houses Control (Scotland) Act 1943, the Landlord and Tenant (Rent Control) Act 1949, Part II of the Housing (Repairs and Rents) (Scotland) Act 1954, the Rent Act 1957, the Rent Act 1965 (except Part III thereof), Part IV of the Housing (Scotland) Act 1969 and other related enactments.

[12th May 1971]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

PRELIMINARY

1.—(1) A tenancy under which a dwelling-house (which may be a house or part of a house) is let as a separate dwelling is a protected tenancy for the purposes of this Act unless—

- (a) the dwelling-house has or had on the appropriate day a rateable value exceeding £200 ; or
- (b) the tenancy is one with respect to which section 2 below otherwise provides ; or
- (c) by virtue of section 4 or 5 below, the tenancy is for the time being precluded from being a protected tenancy by reason of the body or entity in whom the landlord's interest is vested ;

and any reference to a protected tenant shall be construed accordingly.

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(2) For the purposes of this Act, any land or premises let together with a dwelling-house shall, unless it consists of agricultural land exceeding two acres in extent, be treated as part of the dwelling-house.

(3) If any question arises in any proceedings whether a dwelling-house is within the limit of rateable value in subsection (1)(a) above, it shall be deemed to be within that limit unless the contrary is shown.

Tenancies
excepted from
definition of
"protected
tenancy".

2.—(1) A tenancy is not a protected tenancy if—

- (a) under the tenancy either no rent is payable or, subject to section 7(3) below, the rent payable is less than two-thirds of the rateable value which is or was the rateable value of the dwelling-house on the appropriate day ;
or
- (b) under the tenancy the dwelling-house is bona fide let at a rent which includes payments in respect of board, attendance or use of furniture ; or
- (c) subject to section 1(2) above, the dwelling-house which is subject to the tenancy is let together with land other than the site of the dwelling-house.

(2) In the following provisions of this Act, a tenancy falling within paragraph (a) of subsection (1) above is referred to as a "tenancy at a low rent".

(3) For the purposes of paragraph (b) of subsection (1) above, a dwelling-house shall not be taken to be bona fide let at a rent which includes payments in respect of attendance or the use of furniture unless the amount of rent which is fairly attributable to attendance or use of furniture, having regard to the value of the attendance or the use to the tenant, forms a substantial part of the whole rent.

Statutory
tenants and
tenancies.

3.—(1) Subject to sections 4 and 5 below—

- (a) after the termination of a protected tenancy of a dwelling-house the person who, immediately before that termination, was the protected tenant of the dwelling-house shall, so long as he retains possession of the dwelling-house without being entitled to do so under a contractual tenancy, be the statutory tenant of it ;
and
- (b) the provisions of Schedule 1 to this Act shall have effect for determining what person (if any) is the statutory tenant of a dwelling-house at any time after the death of a person who, immediately before his death, was either a protected tenant of the dwelling-house or the statutory tenant of it by virtue of paragraph (a) above ;

and a dwelling-house is referred to as subject to a statutory tenancy when there is a statutory tenant of it. PART I

(2) A person who becomes a statutory tenant of a dwelling-house as mentioned in paragraph (a) of subsection (1) above is, in this Act, referred to as a statutory tenant by virtue of his previous protected tenancy, and a person who becomes a statutory tenant as mentioned in paragraph (b) of that subsection is, in this Act, referred to as a statutory tenant by succession.

4.—(1) A tenancy shall not be a protected tenancy at any time when the interest of the landlord under that tenancy belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, or to a Government department, or is held in trust for Her Majesty for the purposes of a Government department. No protected or statutory tenancy where landlord's interest belongs to Crown.

(2) A person shall not at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord, at that time, belongs or is held as mentioned in subsection (1) above.

5.—(1) A tenancy shall not be a protected tenancy at any time when the interest of the landlord under that tenancy belongs to any of the bodies or entities specified in subsection (2) below, nor shall a person at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord belongs at that time to any of those bodies or entities. No protected or statutory tenancy where landlord's interest belongs to local authority, etc.

(2) The bodies and entities referred to in subsection (1) above are—

- (a) a local authority, joint board or joint committee as respectively defined by the Local Government (Scotland) Act 1947, or the common good of a burgh or any trust under the control of a local authority as so defined; 1947 c. 43.
- (b) a development corporation established by an order made, or having effect as if made, under the New Towns (Scotland) Act 1968; 1968 c. 16.
- (c) the Housing Corporation;
- (d) the Scottish Special Housing Association, or any housing trust which was in existence on 13th November 1953 or any authorised society within the meaning of the Housing Act 1914; and 1914 c. 31.
- (e) an executive council constituted under section 32 of the National Health Service (Scotland) Act 1947. 1947 c. 27.

(3) In subsection (2)(d) above, "housing trust" means a corporation or body of persons which is required by the terms of its constituent instrument to devote the whole of its funds,

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including any surplus which may arise from its operations, to the provision of houses and to other purposes incidental thereto.

(4) If any of the conditions specified in subsection (5) below is fulfilled, a tenancy shall not be a protected tenancy at any time when the interest of the landlord under that tenancy belongs to a housing association, nor shall a person at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord belongs at that time to a housing association; and in this section "housing association" has the same meaning as in the Housing (Scotland) Act 1966.

1966 c. 49.

(5) The conditions referred to in subsection (4) above are as follows—

1923 c. 24.

(a) that the dwelling-house was provided by the housing association with assistance under section 2 of the Housing &c. Act 1923 or section 152 of the Housing (Scotland) Act 1966 (powers of local authorities to assist housing associations generally);

(b) that the dwelling-house was provided by the housing association in pursuance of an arrangement under section 153 of the Housing (Scotland) Act 1966 (local authority arrangements for provision of housing);

(c) that the dwelling-house was provided or improved by the housing association in accordance with arrangements under section 155 of the Housing (Scotland) Act 1966 (local authority arrangements for improvement of housing);

1965 c. 12.

(d) that the housing association is registered under the Industrial and Provident Societies Act 1965 and the provision of the dwelling-house forms part of the purposes for which its business is mainly conducted and the dwelling-house was provided by the housing association before 30th August 1954;

1968 c. 31.

(e) that the dwelling-house was provided or improved by the housing association by means of advances from the Secretary of State to the association under section 23 of the Housing (Financial Provisions) (Scotland) Act 1968, or by means of loans made by the Housing Corporation under Part I of the Housing Act 1964.

1964 c. 56.

(6) Where—

(a) a tenancy is not a protected tenancy or a statutory tenancy by virtue only of this section, and

(b) a sub-tenancy of the dwelling-house or any part thereof is created,

then in ascertaining, in relation to the sub-tenancy, what rent is recoverable from the sub-tenant, the provisions of this Act

shall apply as if the tenancy were a protected tenancy or a statutory tenancy, as the case may be, and neither the dwelling-house nor any part thereof had ever been let before the beginning of the tenancy.

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6.—(1) Except where this Act otherwise provides, the rateable value on any day of a dwelling-house shall be ascertained for the purposes of this Act as follows:—

Rateable value and the appropriate day.

- (a) if the dwelling-house comprises lands and heritages for which a rateable value is then shown on the valuation roll, it shall be that rateable value;
- (b) if the dwelling-house forms part only of such lands and heritages, its rateable value shall be taken to be such value as is found by a proper apportionment of the rateable value so shown.

(2) Any question arising under this section as to the proper apportionment of any value shall be determined by the sheriff, and the decision of the sheriff shall be final.

(3) In this Act “the appropriate day”,—

- (a) in relation to any dwelling-house which, on 23rd March 1965, comprised or formed part of land and heritages for which a rateable value was shown on the valuation roll then in force, means that date, and
- (b) in relation to any other dwelling-house means the date on which such a value is or was first shown on the valuation roll.

(4) Where, after the date which is the appropriate day in relation to any dwelling-house, the valuation roll is altered so as to vary the rateable value of the lands and heritages of which the dwelling-house consists or forms part and the alteration has effect from a date not later than the appropriate day, the rateable value of the dwelling-house on the appropriate day shall be ascertained as if the value shown on the valuation roll on the appropriate day had been the value shown on the roll as altered.

(5) The preceding provisions of this section apply in relation to any other land as they apply in relation to a dwelling-house.

7.—(1) Subject to the following provisions of this section, the provisions of Part I of Schedule 2 to this Act shall have effect in determining whether a protected or statutory tenancy is for the purposes of this Act a “controlled tenancy”.

Controlled and regulated tenancies.

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(2) For the purposes of this Act, a “regulated tenancy” is a protected or statutory tenancy which is not (either because it never was or because it has ceased to be) a controlled tenancy.

(3) A tenancy of a dwelling-house shall be a controlled tenancy and not a tenancy at a low rent if, notwithstanding that the rent is less than two-thirds of the rateable value of the dwelling-house on the appropriate day,—

(a) the rent payable under the tenancy is not less than two-thirds of the 1939 rateable value of the dwelling-house, as determined under Part II of Schedule 2 to this Act; and

(b) apart from section 2(1)(a) above, the tenancy would be a controlled tenancy.

(4) Where a regulated tenancy is followed by a statutory tenancy of the same dwelling-house, the two shall be treated for the purposes of this Act as together constituting one regulated tenancy.

Power to convert controlled tenancies into regulated tenancies.

8.—(1) The Secretary of State may by order provide, with respect to any area, that where the rateable value of a dwelling-house in that area on a date specified in the order exceeded such amount as may be so specified, and the dwelling-house is let on a protected tenancy or subject to a statutory tenancy which, in either case, is a controlled tenancy, the protected or statutory tenancy shall cease to be a controlled tenancy and shall become a regulated tenancy.

(2) An order under this section may contain such transitional provisions as appear to the Secretary of State to be desirable.

(3) The power to make an order under this section shall be exercisable by statutory instrument and no such order shall have effect unless it is approved by a resolution of each House of Parliament.

Premises with business use.

9.—(1) Subject to subsection (2) below, the fact that part of the premises comprised in a dwelling-house is used as a shop or office or for business, trade or professional purposes shall not prevent the dwelling-house from being let on or subject to a controlled tenancy.

(2) A tenancy of a dwelling-house which consists of or comprises premises licensed for the sale of exciseable liquor for consumption on the premises shall not be a protected tenancy, nor shall such a dwelling-house be the subject of a statutory tenancy.

(3) A tenancy shall not be a regulated tenancy if it is a tenancy to which the Tenancy of Shops (Scotland) Acts 1949

and 1964 apply (but this provision is without prejudice to the application of any other provision of this Act to a sub-tenancy of any part of the premises comprised in such a tenancy).

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PART II

SECURITY OF TENURE

Limitations on recovery of possession of dwelling-houses let on protected tenancies or subject to statutory tenancies

10.—(1) Subject to the following provisions of this Part of this Act, a court shall not make an order for possession of a dwelling-house which is for the time being let on a protected tenancy or subject to a statutory tenancy unless the court considers it reasonable to make such an order and either—

Grounds for possession of certain dwelling-houses.

- (a) the court is satisfied that suitable alternative accommodation is available for the tenant or will be available for him when the order in question takes effect, or
- (b) the circumstances are as specified in any of the Cases in Part I of Schedule 3 to this Act.

(2) If, apart from the provisions of subsection (1) above, the landlord would be entitled to recover possession of a dwelling-house which is for the time being let on or subject to a regulated tenancy, the court shall make an order for possession if the circumstances of the case are as specified in any of the Cases in Part II of Schedule 3 to this Act.

(3) The provisions of Part III of Schedule 3 to this Act shall have effect in relation to Case 8 in that Schedule and for determining the relevant date for the purposes of the Cases in Part II of that Schedule.

(4) The provisions of Part IV of Schedule 3 to this Act shall have effect for determining whether, for the purposes of subsection (1)(a) above, suitable alternative accommodation is or will be available for a tenant.

11.—(1) Subject to subsection (5) below, a court may adjourn, for such period or periods as it thinks fit, proceedings for possession of a dwelling-house which is let on a protected tenancy or subject to a statutory tenancy.

Extended discretion of court in claims for possession of certain dwelling-houses.

(2) On the making of an order for possession of such a dwelling-house, or at any time before the execution of such an order (whether made before or after the commencement of this Act), the court, subject to subsection (5) below, may—

- (a) sist or suspend execution of the order, or
- (b) postpone the date of possession,

for such period or periods as the court thinks fit.

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(3) Any such adjournment as is referred to in subsection (1) above and any such stay, suspension or postponement as is referred to in subsection (2) above may be made subject to such conditions with regard to payment by the tenant of arrears of rent, rent or compensation to the owner for loss of possession and otherwise as the court thinks fit.

(4) If any such conditions as are referred to in subsection (3) above are complied with, the court may, if it thinks fit, discharge or rescind any such order as is referred to in subsection (2) above.

(5) The preceding provisions of this section shall not apply if the circumstances are as specified in any of the Cases in Part II of Schedule 3 to this Act.

Statutory tenancies

Terms and conditions of statutory tenancies.

12.—(1) So long as he retains possession, a statutory tenant of a dwelling-house shall observe and be entitled to the benefit of all the terms and conditions of the original contract of tenancy, so far as they are consistent with the provisions of this Act.

(2) It shall be a condition of a statutory tenancy of a dwelling-house that the statutory tenant shall afford to the landlord access to the dwelling-house and all reasonable facilities for executing therein any repairs which the landlord is entitled to execute.

(3) A statutory tenant of a dwelling-house shall be entitled to give up possession of the dwelling-house if, and only if, he gives such notice as would have been required under the provisions of the original contract of tenancy, or, if no notice would have been so required, on giving not less than three months' notice.

(4) Nothing in subsection (3) above shall be construed as affecting section 131 of this Act (under which at least four weeks' notice to quit is required in respect of premises used as a dwelling-house).

(5) Notwithstanding anything in the contract of tenancy, a landlord who obtains an order for possession of a dwelling-house as against a statutory tenant shall not be required to give to the statutory tenant any notice to quit.

Payments demanded by statutory tenants as a condition of giving up possession.

13.—(1) A statutory tenant of a dwelling-house who, as a condition of giving up possession of the dwelling-house, asks or receives the payment of any sum, or the giving of any other consideration, by any person other than the landlord, shall be guilty of an offence.

(2) Where a statutory tenant of a dwelling-house requires that furniture or other articles shall be purchased as a condition of his giving up possession of the dwelling-house, the price demanded shall, at the request of the person on whom the demand is made, be stated in writing, and if the price exceeds the reasonable price of the articles the excess shall be treated, for the purposes of subsection (1) above, as a sum asked to be paid as a condition of giving up possession.

(3) A person guilty of an offence under this section shall be liable to a fine not exceeding £100.

(4) The court by which a person is convicted of an offence under this section may order the payment—

- (a) to the person who made any such payment, or gave any such consideration, as is referred to in subsection (1) above, of the amount of that payment or the value of that consideration, or
- (b) to the person who paid any such price as is referred to in subsection (2) above, of the amount by which the price paid exceeds the reasonable price.

14.—(1) Where it is so agreed in writing between a statutory tenant (in this section referred to as “the outgoing tenant”) and a person proposing to occupy the dwelling-house (in this section referred to as “the incoming tenant”), the incoming tenant shall, subject to the following provisions of this section, be deemed to be the statutory tenant of the dwelling-house as from such date as may be specified in the agreement (in this section referred to as “the transfer date”).

Change of
statutory
tenant by
agreement.

(2) Such an agreement as is referred to in subsection (1) above shall not have effect unless the landlord is a party thereto, and, if the consent of any superior landlord would have been required to an assignation of the previous contractual tenancy, the agreement shall not have effect unless the superior landlord is a party thereto.

(3) If the outgoing tenant is the statutory tenant by virtue of his previous protected tenancy, then, subject to subsection (6) below, the provisions of this Act shall have effect, on and after the transfer date, as if the incoming tenant had been a protected tenant and had become the statutory tenant by virtue of his previous protected tenancy.

(4) Subject to subsections (5) and (6) below, if the outgoing tenant is a statutory tenant by succession, then, on and after the transfer date,—

- (a) the provisions of this Act shall have effect as if the incoming tenant were a statutory tenant by succession, and

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(b) the incoming tenant shall be deemed to have become a statutory tenant by virtue of that paragraph of Schedule 1 to this Act by virtue of which the outgoing tenant became (or is deemed to have become) a statutory tenant.

(5) If the outgoing tenant is a statutory tenant by succession, the agreement referred to in subsection (1) above may provide that, notwithstanding anything in subsection (4) above, on and after the transfer date, the provisions of this Act shall have effect, subject to subsection (6) below, as if the incoming tenant had been a protected tenant and had become the statutory tenant by virtue of his previous protected tenancy.

(6) Unless the incoming tenant is deemed, by virtue of subsection (4)(b) above, to have become a statutory tenant by virtue of paragraph 6 or 7 of Schedule 1 to this Act, paragraphs 5 to 7 of that Schedule shall not apply where a person has become a statutory tenant by virtue of this section.

(7) In this section "the dwelling-house" means the aggregate of the premises comprised in the statutory tenancy of the outgoing tenant.

No pecuniary consideration to be required on change of tenant under s. 14.

15.—(1) Any person who requires the payment of any pecuniary consideration for entering into such an agreement as is referred to in section 14(1) above shall be liable to a fine not exceeding £100.

(2) The court by which a person is convicted of an offence under subsection (1) above may order the amount of the payment to be repaid by the person to whom it was paid.

(3) Without prejudice to subsection (2) above, the amount of any such payment as is referred to in subsection (1) above shall be recoverable by the person by whom it was made either by proceedings for its recovery or, if it was made to the landlord by a person liable to pay rent to the landlord, by deduction from any rent so payable.

(4) Notwithstanding anything in subsection (1) above, if apart from this section he would be entitled to do so, the outgoing tenant may require the payment by the incoming tenant—

(a) of so much of any outgoings discharged by the outgoing tenant as is referable to any period after the transfer date ;

(b) of a sum not exceeding the amount of any expenditure reasonably incurred by the outgoing tenant in carrying out any structural alteration of the dwelling-house or in providing or improving fixtures therein, being fixtures which, as against the landlord, the outgoing tenant is not entitled to remove ;

- (c) where the outgoing tenant became a tenant of the dwelling-house by virtue of an assignation of the previous protected tenancy, of a sum not exceeding any reasonable amount paid by him to his assignor in respect of expenditure incurred by the assignor, or by any previous assignor of the tenancy, in carrying out any such alteration or in providing or improving any such fixtures as are mentioned in paragraph (b) above; or
- (d) where part of the dwelling-house is used as a shop or office, or for business, trade or professional purposes, of a reasonable amount in respect of any goodwill of the business, trade or profession, being goodwill transferred to the incoming tenant in connection with his becoming a statutory tenant of the dwelling-house or accruing to him in consequence thereof.

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(5) In this section “outgoing tenant”, “incoming tenant”, “the transfer date” and “the dwelling-house” have the same meanings as in section 14 above.

Special case

16.—(1) If assistance has been given in respect of the provision or improvement of a dwelling-house by the making of a grant to which this section applies and, during the period when the relevant conditions are required by section 30 or 43 of the Housing (Financial Provisions) (Scotland) Act 1968 to be observed with respect to the dwelling-house,—

Tenancies at low rent of dwelling-houses for which improvement grants have been made.
1968 c. 31.

(a) it is let to a person in consequence of his employment by the lessor, and

(b) it is so let under a tenancy at a low rent,

the operation of section 10(1) above shall not be excluded by reason of the letting being a tenancy at a low rent:

Provided that where section 10(1) above applies to a letting by virtue of this section, Case 9 in Schedule 3 to this Act shall nevertheless be excluded.

(2) This section applies—

(a) to an improvement grant under Part VII of the Housing (Scotland) Act 1950 or Part II of the Housing (Financial Provisions) (Scotland) Act 1968; and

(b) to a standard grant under Part III of the House Purchase and Housing Act 1959 or Part II of the said Act of 1968.

(3) In subsection (1) above “the relevant conditions” means the conditions specified in Schedule 3 to the Housing (Financial Provisions) (Scotland) Act 1968.

PART II

Miscellaneous

Effect on sub-tenancies of determination of tenancy.

17.—(1) If a court makes an order for possession of a dwelling-house from a tenant and the order is made by virtue of paragraph (a) or paragraph (b) of section 10(1) above, nothing in the order shall affect the right of any sub-tenant to whom the dwelling-house or any part of it has been lawfully sublet before the commencement of the proceedings to retain possession by virtue of this Part of this Act, nor shall the order operate to give a right to possession as against any such sub-tenant.

(2) Where a protected or statutory tenancy of a dwelling-house is determined, either as a result of an order for possession or for any other reason (apart from a determination by virtue of section 5 above), any sub-tenant to whom the dwelling-house or any part of it has been lawfully sublet shall, subject to the provisions of this Act, be deemed to become the tenant of the landlord on the same terms as he would have held from the tenant if the tenant's protected or statutory tenancy had continued.

(3) A tenancy at a low rent which, had it not been a tenancy at a low rent, would have been a protected tenancy of a dwelling-house shall be treated for the purposes of subsection (2) above as a protected tenancy.

Compensation for misrepresentation or concealment in Cases 7 and 8.

18. Where, in such circumstances as are specified in Case 7 or Case 8 in Schedule 3 to this Act, a landlord obtains an order for possession of a dwelling-house let on a protected tenancy or subject to a statutory tenancy and it is subsequently made to appear to the court that the order was obtained by misrepresentation or concealment of material facts, the court may order the landlord to pay to the former tenant such sum as appears sufficient as compensation for damage or loss sustained by that tenant as a result of the order.

PART III

RENTS UNDER REGULATED TENANCIES

Regulation of rent during contractual periods

Limit of rent during contractual periods.

19.—(1) Where the rent payable for any contractual period of a regulated tenancy of a dwelling-house would exceed the limit specified in the following provisions of this section (in this Part of this Act referred to as "the contractual rent limit"), the amount of the excess shall, notwithstanding anything in any agreement, be irrecoverable from the tenant.

(2) Where a rent for the dwelling-house is registered under Part IV of this Act, then, subject to section 43(3) of this Act, the contractual rent limit is the rent so registered.

(3) Where no rent for the dwelling-house is registered under Part IV of this Act then, subject to any adjustment under section 20 below, the contractual rent limit shall be determined as follows:—

PART III

- (a) if, not more than three years before the regulated tenancy began, the dwelling-house was the subject of another regulated tenancy, the contractual rent limit is the rent payable under that other tenancy (or, if there was more than one, the last of them) for the last rental period thereof;
- (b) in any other case, the contractual rent limit is the rent payable under the terms of the lease or agreement creating the tenancy, as varied, if the tenancy began before 8th December 1965, by any agreement made before that date.

20.—(1) The following provisions of this section shall apply in relation to a contractual period for which the contractual rent limit is that specified in subsection (3) of section 19 above; and in those provisions—

Adjustment,
before
registration,
of contractual
rent limit.

- “the previous tenancy” means the other regulated tenancy referred to in paragraph (a) of that subsection; and
- “the previous terms” means the terms referred to in paragraph (b) of that subsection.

(2) Where, under the terms of a regulated tenancy, there is, with respect to—

- (a) the responsibility for any repairs, or
- (b) the provision of services for the tenant by the landlord or a superior landlord, or
- (c) the use of furniture by the tenant,

any difference compared with the terms of the previous tenancy or, as the case may be, the previous terms, such as to affect the amount of the rent which it is reasonable to charge, the contractual rent limit shall be increased or decreased by an appropriate amount.

(3) Where for any contractual period there is a difference between the amount (if any) of the rates borne by the landlord or a superior landlord in respect of the dwelling-house and the amount (if any) so borne during the last rental period of the previous tenancy, or, as the case may be, the first rental period for which the previous terms were agreed, the contractual rent limit shall be increased or decreased by the amount of the difference.

(4) Where for any contractual period there is an increase in the cost of the provision of the services (if any) provided for the tenant by the landlord or a superior landlord compared with that

PART III cost at the time the rent for the previous tenancy was agreed, or, as the case may be, the previous terms were agreed, such as to affect the amount of the rent which it is reasonable to charge, the contractual rent limit shall be increased by an appropriate amount.

(5) If an improvement has been effected in the dwelling-house and the improvement was completed on or after 8th December 1965 and after the time as from which the rent for the previous tenancy was agreed or, as the case may be, the previous terms were agreed, then, subject to section 29 below, the contractual rent limit shall be increased by $12\frac{1}{2}$ per cent. per annum of the amount expended on the improvement by the landlord or any superior landlord or any person from whom the landlord or any superior landlord derives title.

1968 c. 31. Provided that this subsection shall not apply to any improvement with respect to which a grant under Part II of the Housing (Financial Provisions) (Scotland) Act 1968 is payable on or after 25th August 1969.

(6) Where the previous terms provide for a variation of the rent in any of the circumstances mentioned in the preceding provisions of this section, the contractual rent limit shall not be further varied under this section by reason of the same circumstances.

(7) Any question whether, or by what amount, the contractual rent limit is increased or decreased by virtue of subsection (2) or subsection (4) above shall be determined by the sheriff; and any such determination—

- (a) may be made so as to relate to past rental periods; and
- (b) shall have effect with respect to rental periods subsequent to the periods to which it relates until revoked or varied by a fresh determination.

Regulation of rent during statutory periods

Limit of
rent during
statutory
periods.

21.—(1) Except as otherwise provided by the following provisions of this Part of this Act, where the rent payable for any statutory period of a regulated tenancy of a dwelling-house would exceed the rent recoverable for the last contractual period thereof, the amount of the excess shall, notwithstanding anything in any agreement, be irrecoverable from the tenant.

(2) Subject to section 43(3) of this Act, where a rent for the dwelling-house is registered under Part IV of this Act, the following provisions shall apply with respect to the rent for any statutory period of a regulated tenancy of the dwelling-house, that is to say—

- (a) if the rent payable for any statutory period would exceed the rent so registered, the amount of the excess

shall, notwithstanding anything in any agreement, be irrecoverable from the tenant; and

PART III

- (b) if the rent payable for any statutory period would be less than the rent so registered, it may, subject to section 79 below, be increased up to the amount of that rent by a notice of increase served by the landlord on the tenant and specifying the date from which the increase is to take effect.

(3) The date specified in a notice of increase under subsection (2)(b) above shall not be earlier than the date on which the rent was registered nor earlier than four weeks before the service of the notice.

(4) Where no rent for the dwelling-house is registered under Part IV of this Act the provisions of sections 22 to 24 below shall have effect with respect to the rent recoverable for any statutory period under a regulated tenancy of the dwelling-house.

22.—(1) Where section 21(4) above applies and any rates in respect of the dwelling-house are, or were during the last contractual period, borne by the landlord or a superior landlord, then, for any statutory period for which the amount of the rates, ascertained in accordance with Schedule 4 to this Act, differs from the amount, so ascertained, of the rates for the last contractual period, the recoverable rent shall, subject to subsection (2) below, be increased or decreased by the amount of the difference.

Adjustment, with respect to rates, of recoverable rent for statutory periods before registration.

(2) Where the amount of the recoverable rent is increased by virtue of this section, the increase shall not take effect except in pursuance of a notice of increase served by the landlord on the tenant and specifying the increase and the date from which it is to take effect.

(3) The date specified in a notice of increase under subsection (2) above shall be not earlier than six months before the service of the notice, and if it is earlier than the service of the notice, any rent unpaid shall become due on the day after the service of the notice.

23.—(1) Where section 21(4) above applies and for any statutory period there is with respect to—

- (a) the provision of services for the tenant by the landlord or a superior landlord, or
- (b) the use of furniture by the tenant,

Adjustment, with respect to services and furniture, of recoverable rent for statutory periods before registration.

or any circumstances relating thereto any difference, in comparison with the last contractual period, such as to affect the amount of the rent which it is reasonable to charge, the

PART III recoverable rent for the statutory period shall be increased or decreased by an appropriate amount.

(2) Any question whether, or by what amount, the recoverable rent for any period is increased or decreased by virtue of this section shall be determined by agreement in writing between the landlord and the tenant or by the sheriff; and any such determination—

(a) may be made so as to relate to past statutory periods; and

(b) shall have effect with respect to statutory periods subsequent to the periods to which it relates until revoked or varied by any such agreement as is referred to in this subsection or by the sheriff.

Increase, on account of improvements, of recoverable rent for statutory periods before registration.

24.—(1) If, in a case where section 21(4) above applies, an improvement has been effected in the dwelling-house and the improvement was completed on or after 8th December 1965 and after the time as from which the rent under the regulated tenancy was agreed, then, subject to section 29 below, the recoverable rent for any statutory period beginning after the completion of the improvement shall be increased by 12½ per cent. per annum of the amount expended on the improvement by the landlord or any superior landlord or any person from whom the landlord or any superior landlord derives title:

1968 c. 31.

Provided that this subsection shall not apply to any improvement with respect to which a grant under Part II of the Housing (Financial Provisions) (Scotland) Act 1968 is payable on or after 25th August 1969.

(2) Where the amount of the recoverable rent is increased by virtue of this section, the increase shall not take effect except in pursuance of a notice of increase served by the landlord on the tenant and specifying the increase and the date, which may be any date after the service of the notice, from which it is to take effect.

(3) Subject to subsection (4) and section 30(6) below, a tenant on whom a notice of increase specifying an increase authorised by this section is served may, not later than one month after the service of the notice or such longer time as the sheriff may allow, apply to the sheriff for an order cancelling or reducing the increase on the ground that the improvement was unnecessary or that a greater amount was expended on it than was reasonable, and the sheriff may make an order accordingly which may relate not only to future but also to past statutory periods.

(4) No application may be made under subsection (3) above if—

PART III

(a) a grant has been made in respect of the improvement—

(i) under section 15 of the Airports Authority Act 1965 c. 16. 1965 (grants towards cost of sound-proofing) ;

(ii) before 30th August 1968 under section 111 of the Housing (Scotland) Act 1950 or section 19 of 1950 c. 34. the House Purchase and Housing Act 1959 ; 1959 c. 33.

(iii) in pursuance of an application made before 25th August 1969 for a grant under section 27 or 40 of the Housing (Financial Provisions) (Scotland) Act 1968 c. 31. 1968 ; or

(b) the tenant in writing consented to the improvement and acknowledged (in whatever terms) that the rent could be increased on account of the improvement.

25.—(1) Any reference in the following provisions of this section to a notice of increase is a reference to a notice of increase under section 21(2), section 22(2) or section 24(2) of this Act. Notices of increase.

(2) A notice of increase must be in the prescribed form.

(3) Notwithstanding that a notice of increase relates to statutory periods, it may be served during a contractual period ; and where such a notice is served during a contractual period and the protected tenancy could, by a notice to quit served by the landlord at the same time, be brought to an end before the date specified in the notice of increase, the notice of increase shall operate to convert the protected tenancy into a statutory tenancy as from that date.

(4) If the sheriff is satisfied that any error or omission in a notice of increase is due to a bona fide mistake on the part of the landlord, the sheriff may order the amendment of the notice by correcting any error or supplying any omission therein which, if not corrected or supplied, would render the notice invalid and, if the sheriff so directs, the notice as so amended shall have effect and be deemed to have had effect as a valid notice.

(5) Any amendment of a notice of increase under subsection (4) above may be made on such terms and conditions with respect to arrears of rent or otherwise as appear to the sheriff to be just and reasonable.

(6) No increase of rent which becomes payable by reason of an amendment of a notice of increase under subsection (4) above shall be recoverable in respect of any statutory period which ended more than six months before the date of the order making the amendment.

PART III

Modifications applicable in special cases

Protected and statutory tenancies converted by order into regulated tenancies.

26.—(1) The provisions of this section apply in relation to a protected or statutory tenancy of a dwelling-house which becomes a regulated tenancy by virtue of an order under section 8 of this Act.

(2) In relation to any rental period of a statutory tenancy to which this section applies beginning after the order comes into operation, sections 21 to 24 above shall have effect as if references therein to the last contractual period were references to the last rental period beginning before the order comes into operation.

(3) A notice of increase under section 21(2) of this Act served in respect of a protected or statutory tenancy to which this section applies shall only be valid if the rent specified in it does not exceed by more than 15 per cent. of the controlled rent the rent payable for the rental period beginning 12 months before the notice takes effect, except so far as the increase relates to such part of the rent registered under Part IV of this Act as may, in pursuance of the order referred to in subsection (1) above, be distinguished in the register as attributable to the provision of additional or improved services or furniture or the carrying out of an improvement.

(4) In subsection (3) above “the controlled rent” means the rent payable for the last rental period beginning before the order referred to in subsection (1) above comes into operation; and in ascertaining for the purposes of subsection (3) above the amount of the rent payable for any rental period, any amount payable in respect of rates borne by the landlord or a superior landlord shall be disregarded.

(5) A protected or statutory tenancy to which this section applies shall be disregarded for the purposes of section 19(3)(a) above in determining the contractual rent limit under any subsequent regulated tenancy of the dwelling-house in question.

Regulated tenancy following controlled tenancy on death of first successor.

27.—(1) The provisions of this section apply where, by virtue of paragraph 5 of Schedule 2 to this Act, a statutory tenancy which is a controlled tenancy is, on the death of the statutory tenant, followed by a statutory tenancy which is a regulated tenancy.

(2) In relation to any rental period of the statutory tenancy which is a regulated tenancy, sections 21 to 24 above shall have effect as if references therein to the last contractual period were references to the last rental period beginning before the death referred to in subsection (1) above.

(3) The statutory tenancy which is a regulated tenancy shall be disregarded for the purposes of section 19(3)(a) above in determining the contractual rent limit under any subsequent regulated tenancy of the dwelling-house in question. PART III

28.—(1) A regulated tenancy of a dwelling-house commencing (whether before or after the commencement of this Act) while there is in operation a condition imposed under any of the enactments specified in subsection (2) below (which impose rent limits on tenancies of subsidised private houses) shall be disregarded for the purposes of section 19(3)(a) above in determining the contractual rent limit under any subsequent regulated tenancy of the dwelling-house. Certain regulated tenancies to be disregarded in determining contractual rent limit.

(2) The enactments referred to in subsection (1) above are:—

- (a) section 2 of the Housing (Financial Provisions) Act 1924 c. 35. 1924 ;
- (b) section 3 of the Housing (Rural Workers) Act 1926 ; 1926 c. 56.
- (c) section 101 of the Housing (Scotland) Act 1950 ; and 1950 c. 34.
- (d) paragraph 4(b) of Schedule 3, and Schedule 4, to the Housing (Financial Provisions) (Scotland) Act 1968. 1968 c. 31.

(3) A statutory tenancy deemed to arise by virtue of section 20(2) of the Rent Act 1965 (transitional provisions applicable to tenancies ending before commencement of that Act) shall be disregarded for the purposes of section 19(3)(a) above in determining the contractual rent limit under any subsequent regulated tenancy of the dwelling-house in question. 1965 c. 75.

Grant-aided improvements and streetworks

29. Where, in respect of an improvement,—

Grant-aided improvements.

(a) a grant has been made—

- (i) under section 15 of the Airports Authority Act 1965 c. 16. 1965 (grants towards cost of sound-proofing) ;
- (ii) before 30th August 1968 under section 111 of the Housing (Scotland) Act 1950 or section 19 of the House Purchase and Housing Act 1959 ; 1959 c. 33.
- (iii) in pursuance of an application made before 25th August 1969 for a grant under section 27 or 40 of the Housing (Financial Provisions) (Scotland) Act 1968 ; or

(b) a repayment has been made under section 12 of the Clean Air Act 1956 (adaptation of fireplaces in private dwellings), 1956 c. 52.

the reference in section 20(5) or, as the case may be, section 24(1) above to the amount expended on the improvement shall be construed as a reference to that amount diminished by the amount of the grant or repayment.

PART III
Private street
works to
count as
improvements.
1956 c. 40.

30.—(1) The following provisions of this section apply where any dwelling-house which is let on or subject to a regulated tenancy has access to a street on which works have been carried out under—

(a) any of the enactments referred to in section 1 of the Local Government (Street Works) (Scotland) Act 1956, or

(b) the corresponding provisions of any local act.

(2) Subject to the following provisions of this section, the amount—

(a) of any expenditure incurred on or after 8th December 1965 by the landlord or a superior landlord in the carrying out of the works in question, or

(b) of any liability incurred on or after that date by the landlord or a superior landlord in respect of those works to the authority by whom they were carried out,

shall be treated (whether or not apart from this section it would be so treated) as expenditure incurred by the landlord or superior landlord on an improvement effected in the dwelling-house.

(3) Subsection (2)(b) above applies whether the liability mentioned in that subsection is dischargeable in a lump sum or by instalments, but for the purposes of this section interest shall be excluded in determining the amount of any liability which is dischargeable by instalments.

(4) If benefit accrues from the carrying out of the works not only to the dwelling-house but also to other premises of the landlord or superior landlord, then for the purposes of this section the amount to be treated as expenditure on an improvement effected in the dwelling-house shall be so much only of the expenditure or liability as may be determined by agreement in writing between the landlord and the tenant or by the sheriff.

(5) For the purposes of this section, the amount of any expenditure shall be treated as diminished by the amount of any contribution made in respect of that expenditure under any enactment.

(6) No application may be made under section 24(3) above in relation to an increase authorised by virtue of this section.

Enforcement provisions

Recovery from
landlord of
sums paid in
excess of
recoverable
rent, etc.

31.—(1) Where a tenant has paid on account of rent any amount which, by virtue of this Part of this Act, is irrecoverable by the landlord, then, subject to subsection (3) below, the tenant who paid it shall be entitled to recover that amount from the landlord who received it or his personal representatives.

(2) Subject to subsection (3) below, any amount which a tenant is entitled to recover under subsection (1) above may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.

(3) No amount which a tenant is entitled to recover under subsection (1) above shall be recoverable at any time after the expiry of two years from the date of payment.

(4) Any person who, in any rent book or similar document, makes an entry showing or purporting to show any tenant as being in arrears in respect of any sum on account of rent which is irrecoverable by virtue of this Part of this Act shall be liable to a fine not exceeding £50, unless he proves that, at the time of the making of the entry, the landlord had a bona fide claim that the sum was recoverable.

(5) If, where any such entry has been made by or on behalf of any landlord, the landlord on being requested by or on behalf of the tenant to do so, refuses or neglects to cause the entry to be deleted within seven days, the landlord shall be liable to a fine not exceeding £50, unless he proves that, at the time of the neglect or refusal to cause the entry to be deleted, he had a bona fide claim that the sum was recoverable.

32. Where, in any proceedings, the recoverable rent of a dwelling-house subject to a regulated tenancy is determined by a court, then, on the application of the tenant (whether in those or in any subsequent proceedings) the court may call for the production of the rent book or any similar document relating to the dwelling-house and may direct the clerk of court to correct any entries showing, or purporting to show, the tenant as being in arrears in respect of any sum which the court has determined to be irrecoverable.

Rectification
of rent books
in light of
determination
of recoverable
rent.

33.—(1) Where the rent payable for a contractual period of a regulated tenancy is subject to the contractual rent limit specified in paragraph (a) of section 19(3) of this Act, the landlord shall, on being so requested in writing by the tenant (whether during a contractual or a statutory period of the tenancy) supply him with a statement in writing of the rent which was payable for the last rental period of the other regulated tenancy referred to in that paragraph.

Duty of
landlord
to supply
statement of
rent under
previous
tenancy.

(2) If, without reasonable excuse, a landlord who has received such a request as is referred to in subsection (1) above—

(a) fails to supply the statement referred to in that subsection within 21 days of receiving the request, or

(b) supplies a statement which is false in any material particular,

he shall be liable on a first conviction to a fine not exceeding £50 and, on a second or subsequent conviction, to a fine not exceeding £100.

PART III

(3) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager or secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

General provisions

Adjustment
for differences
in lengths
of rental
periods.

34. In ascertaining for the purposes of this Part of this Act whether there is any difference with respect to rents or rates between one rental period and another (whether of the same tenancy or not) or the amount of any such difference, any necessary adjustment shall be made to take account of periods of different lengths; and for the purposes of such an adjustment a period of one month shall be treated as equivalent to one-twelfth of a year and a period of a week as equivalent to one-fifty-second of a year.

Regulations.

35.—(1) The Secretary of State may make regulations—

- (a) prescribing the form of any notice or other document to be given or used in pursuance of this Part of this Act; and
- (b) prescribing anything required or authorised to be prescribed by this Part of this Act.

(2) Any such regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation
of Part III.

36.—(1) In this Part of this Act—

- “contractual period” means a rental period of a regulated tenancy which is a period beginning before the expiry or termination of the protected tenancy;
- “contractual rent limit” has the meaning assigned to it by section 19(1) of this Act;
- “improvement” includes structural alteration, extension or addition and the provision of additional fixtures or fittings, but does not include anything done by way of decoration or repair;
- “notice of increase” means a notice of increase under section 21(2), 22(2) or 24(2) of this Act, as the case may require;
- “prescribed” means prescribed by regulations under section 35 above, and references to a prescribed form include references to a form substantially to the same effect as the prescribed form;

“ rates ” means any charge payable in respect of a rate as defined in the Local Government (Scotland) Act 1947 ; PART III
1947 c. 43.

“ recoverable rent ” means rent which, under a regulated tenancy, is or was for the time being recoverable, having regard to the provisions of this Part of this Act ;

“ rental period ” means a period in respect of which a payment of rent falls to be made ;

“ statutory period ” means any rental period of a regulated tenancy which is not a contractual period.

(2) References in this Part of this Act to rates, in respect of a dwelling-house, include references to such proportion of any rates in respect of lands and heritages of which the dwelling-house forms part as may be agreed in writing between the landlord and the tenant or determined by the sheriff.

PART IV

REGISTRATION OF RENTS UNDER REGULATED TENANCIES

37.—(1) The registration areas for the purposes of this Act shall be— Registration
areas and
rent officers.

(a) the large burghs,

(b) the counties including any small burghs in each of them, and large burgh and small burgh shall have the meanings assigned to them in the Local Government (Scotland) Act 1947.

(2) The Secretary of State shall for every registration area, after consultation with the local authority for that area, appoint such number of rent officers for the area as he may think fit ; and for the purposes of this subsection the Secretary of State may, after consultation with the local authorities concerned, make such groupings of registration areas as may seem to him expedient.

(3) The Secretary of State may pay to rent officers such remuneration and allowances as he may, with the approval of the Minister for the Civil Service, determine, defray their expenses to such amount as he may with the like approval determine, and may provide them with such accommodation and services as they may require.

(4) The Secretary of State may, with the approval of the Minister for the Civil Service, make such arrangements to provide for the superannuation of rent officers as he may consider appropriate ; and where such arrangements in respect of a rent officer are made with a local authority the rent officer shall for the purposes of the Local Government Superannuation (Scotland) Act 1937 and of any local Act scheme within the meaning of that Act be deemed to be an officer of that local authority. 1937 c. 69.

PART IV

(5) References in this Act to the rent officer are references to any rent officer appointed for any area under this section.

(6) Any reference in this Act to a registration area shall include a reference to a grouping of registration areas.

Rent
assessment
committees.

38. Rent assessment committees shall be constituted in accordance with the provisions of Schedule 5 to this Act.

Register
of rents.

39.—(1) The rent officer for any area shall prepare and keep up to date a register for the purposes of this Part of this Act and shall make the register available for inspection in such place or places and in such manner as the Secretary of State may direct.

(2) The register shall contain, in addition to the rent payable under a regulated tenancy of a dwelling-house—

(a) the prescribed particulars with regard to the tenancy; and

(b) a specification of the dwelling-house.

(3) A copy of an entry in the register certified under the hand of the rent officer or any person duly authorised by him shall be receivable in evidence, and shall be sufficient evidence of that entry, in any court and in any proceedings.

(4) A person requiring such a certified copy shall be entitled to obtain it on payment of the prescribed fee.

Applications
for registration
of rents.

40.—(1) An application for the registration of a rent for a dwelling-house may be made to the rent officer by the landlord or the tenant, or jointly by the landlord and the tenant, under a regulated tenancy of the dwelling-house.

(2) Any such application must be in the prescribed form and contain the prescribed particulars in addition to the rent which it is sought to register.

(3) Where a rent for a dwelling-house has been registered under this Act no application by the tenant alone or by the landlord alone for the registration of a different rent for that dwelling-house shall be entertained before the expiry of three years from the relevant date (as defined in subsection (4) below) except on the ground that, since that date, there has been such a change in the condition of the dwelling-house (including the making of any improvement therein), the terms of the tenancy or any other circumstances taken into consideration when the rent was registered or confirmed as to make the registered rent no longer a fair rent.

(4) In this section and the next following section “ the relevant date ”, in relation to a rent which has been registered under this Part of this Act, means the following date, that is to say,—

PART IV

(a) where on an application for the registration of a different rent the registered rent has been confirmed, the date of that application or, if there was more than one such application, the date of the last of them ; and

(b) in any other case, the date on which the registration of rent took effect.

(5) No application for the registration of a rent for a dwelling-house shall be entertained at a time when there is in operation, with respect to that dwelling-house, a condition relating to rent imposed under any of the following enactments, that is to say,—

(a) section 2 of the Housing (Financial Provisions) Act 1924 c. 35. 1924 ;

(b) section 3 of the Housing (Rural Workers) Act 1926 ; 1926 c. 56.

(c) section 101 of the Housing (Scotland) Act 1950 ; or 1950 c. 34.

(d) paragraph 4(b) of Schedule 3, and Schedule 4, to the Housing (Financial Provisions) (Scotland) Act 1968. 1968 c. 31.

(6) Subject to sections 41(4) and 45(3) below, the provisions of Part I of Schedule 6 to this Act shall have effect with respect to the procedure to be followed on applications for the registration of rents.

41.—(1) A person intending—

Certificates
of fair rent.

(a) to provide a dwelling-house by the erection or conversion of any premises or to make any improvements in a dwelling-house, or

(b) to let on a regulated tenancy a dwelling-house which is not for the time being subject to such a tenancy and which satisfies the condition either that no rent for it is registered under this Part of this Act or that a rent is so registered but not less than three years have elapsed since the relevant date (as defined in section 40(4) above),

may apply to the rent officer for a certificate, to be known as a certificate of fair rent, specifying a rent which, in the opinion of the rent officer, would be a fair rent under a regulated tenancy of the dwelling-house or, as the case may be, of the dwelling-house after the erection or conversion or after the completion of the improvements.

(2) The regulated tenancy to which the application for the certificate of fair rent relates shall be assumed to be a tenancy on such terms as may be specified in the application and,

PART IV except in so far as other terms are so specified, on the terms that the tenant would be liable for internal decorative repairs, but no others, and that no services or furniture would be provided for him.

(3) The provisions of Schedule 7 to this Act shall have effect with respect to applications for certificates of fair rent.

(4) Subject to section 40(5) above, where a certificate of fair rent has been issued in respect of a dwelling-house, an application for the registration of a rent for the dwelling-house in accordance with the certificate may be made within three years of the date of the certificate either,—

(a) by the landlord under such a regulated tenancy of the dwelling-house as is specified in the certificate ; or

(b) by a person intending to grant such a regulated tenancy of the dwelling-house ;

and, in lieu of the provisions of Part I of Schedule 6 to this Act, the provisions of Part II of that Schedule shall have effect with respect to an application so made.

Determination
of fair rent.

42.—(1) In determining for the purposes of this Part of this Act what rent is or would be a fair rent under a regulated tenancy of a dwelling-house, regard shall be had, subject to the following provisions of this section, to all the circumstances (other than personal circumstances) and in particular to the age, character and locality of the dwelling-house and to its state of repair.

(2) For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.

(3) There shall be disregarded—

(a) any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof, and

(b) any improvement, or the replacement of any fixture or fitting, carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant under the regulated tenancy or any predecessor in title of his.

Amount to be
registered
as rent.

43.—(1) The amount to be registered as the rent of any dwelling-house shall include any sums payable by the tenant to the landlord for the use of furniture or for services, whether or not

those sums are separate from the sums payable for the occupation of the dwelling-house or are payable under separate agreements.

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(2) Where any rates in respect of a dwelling-house are borne by the landlord or a superior landlord, the amount to be registered under this Part of this Act as the rent of the dwelling-house shall be the same as if the rates were not so borne; but the fact that they are so borne shall be noted on the register.

(3) Where subsection (2) above applies, the amount of the rates for any rental period, ascertained in accordance with Schedule 4 to this Act,—

- (a) shall be added to the limit imposed by section 19(2) of this Act; and
- (b) if the rental period is a statutory period, as defined in section 36 of this Act, shall be recoverable, without service of any notice of increase, in addition to the sums recoverable from the tenant apart from this subsection.

(4) Where, under a regulated tenancy, the sums payable by the tenant to the landlord include any sums varying according to the cost from time to time of any services provided by the landlord or a superior landlord or of any works of maintenance or repair carried out by the landlord or a superior landlord, the amount to be registered under this Part of this Act as rent may, if the rent officer is satisfied or, as the case may be, the rent assessment committee are satisfied, that the terms as to the variation are reasonable, be entered as an amount variable in accordance with those terms.

44.—(1) The registration of any rent for a dwelling-house shall take effect as from the date of the application for registration unless the rent officer or, as the case may be, the rent assessment committee determine that it shall take effect as from a later date. Effect of registration of rent.

(2) The date from which the registration takes effect shall be entered in the register and as from that date any previous registration of a rent for the dwelling-house shall cease to have effect.

(3) Where a valid notice of increase under any provision of Part III of this Act has been served on a tenant and, in consequence of the registration of a rent, part but not the whole of the increase specified in the notice becomes irrecoverable from the tenant, the registration shall not invalidate the notice, but the notice shall, as from the date from which the registration takes effect, have effect as if it specified such part only of the increase as has not become irrecoverable.

PART IV
Dwelling-
houses
improved
with local
authority
assistance.
1968 c. 31.

45.—(1) The provisions of this section apply where a condition relating to rent has been imposed before 25th August 1969 with respect to a dwelling-house under section 30 of the Housing (Financial Provisions) (Scotland) Act 1968 (conditions appropriate to improvement grants) or under that section as extended by section 43 of that Act (application of conditions in relation to standard grants).

(2) If no rent for the dwelling-house is registered under this Part of this Act, no application for the registration of such a rent shall be entertained while the condition in question is in operation.

(3) If a rent for the dwelling-house different from the limit imposed by the condition in question is registered under this Part of this Act, Part I of Schedule 6 to this Act shall not apply in relation to an application for the registration of a rent equal to that limit made by the landlord under a regulated tenancy of the dwelling-house, but on an application so made the rent officer shall register that rent.

(4) If the limit imposed by the condition in question includes an amount in respect of any rates borne or to be borne by the landlord or a superior landlord, that limit shall be treated for the purposes of this section as reduced by that amount.

Regulations.

46.—(1) The Secretary of State may make regulations—

- (a) prescribing the form of any notice, application, register or other document to be given, made or used in pursuance of this Part of this Act ;
- (b) regulating the procedure to be followed by rent officers and rent assessment committees ; and
- (c) prescribing anything required or authorised to be prescribed by this Part of this Act.

(2) Regulations under subsection (1)(b) above may contain provisions modifying section 40, 41, 44 or 45 of this Act or Schedule 6 or 7 thereto ; but no regulations containing such provisions shall have effect unless approved by a resolution of each House of Parliament.

(3) Regulations made under this section shall be made by statutory instrument which, except in a case falling within subsection (2) above, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation
of Part IV.

47.—(1) In this Part of this Act—

“improvement” includes structural alteration, extension or addition and the provision of additional fixtures or

fittings, but does not include anything done by way of decoration or repair ; PART IV

“ prescribed ” means prescribed by regulations under section 46 above, and references to a prescribed form include references to a form substantially to the same effect as the prescribed form ;

“ rates ” means any charge payable in respect of a rate as defined in the Local Government (Scotland) Act 1947 ; 1947 c. 43.

“ rental period ” means a period in respect of which a payment of rent falls to be made.

(2) References in this Part of this Act to rates, in respect of a dwelling-house, include references to such proportion of any rates in respect of lands and heritages of which the dwelling-house forms part as may be agreed in writing between the landlord and the tenant or determined by the sheriff.

PART V

RENTS UNDER CONTROLLED TENANCIES

48. Subject to any variation by virtue of the following provisions of this Part of this Act, the rent recoverable for any rental period from the tenant under a controlled tenancy shall not exceed the limit specified in Schedule 8 to this Act. Rent limit for controlled tenancies.

49.—(1) Where a dwelling-house is let on or subject to a controlled tenancy, and the landlord is responsible, wholly or in part, for the repair of the dwelling-house, then, subject to the provisions of this Part of this Act,— Repairs increase.

(a) if and so long as the following conditions (hereafter in this Part of this Act referred to as “ the conditions justifying an increase of rent ”) are fulfilled, that is to say,

(i) that the dwelling-house is in good and tenable repair, and

(ii) that it is not in any other respect unfit for human habitation,

and

(b) if in accordance with Schedule 9 to this Act the landlord has produced satisfactory evidence that work to the value specified in that Schedule has been carried out on the dwelling-house during the period so specified,

the rent recoverable from the tenant shall, notwithstanding anything in the terms of the tenancy or any enactment, be increased

PART V by virtue of this subsection so as to exceed by the amount hereinafter mentioned the rent which apart from this subsection would be recoverable from the tenant under the tenancy having regard to the provisions of any enactment.

(2) The amount of any increase payable by virtue of the foregoing subsection (which increase is hereinafter referred to as a "repairs increase") shall be an amount equal to one-half of the rent which was recoverable in respect of the dwelling-house immediately before 30th August 1954 :

Provided that where the landlord is responsible in part only for the repair of the dwelling-house, the amount of the repairs increase shall be reduced proportionately.

(3) The foregoing provisions of this section shall not apply if—

(a) the standard rent of the dwelling-house is such as is mentioned in paragraph (a) or (b) of section 59(1) below ; or

1968 c. 31.

(b) the rent for the dwelling-house, or a property comprising the dwelling-house, has at any time been fixed under section 32(1) of the Housing (Financial Provisions) (Scotland) Act 1968 ; or

(c) the rent for the dwelling-house has at any time been fixed under paragraph 3 of Schedule 4 to the said Act of 1968.

(4) Any question arising under the foregoing provisions of this section whether the landlord is responsible for repairs or as to the amount of any reduction under the proviso to subsection (2) of this section shall, subject to section 56 below, be determined by agreement in writing between the landlord and the tenant or, on the application of either of them, by the sheriff.

Increase of controlled rents.

50.—(1) Where a dwelling-house is let on or subject to a controlled tenancy, and the landlord is responsible, wholly or in part, for the repair of the dwelling-house, then, subject to the provisions of this section, if and so long as the conditions justifying an increase of rent, that is to say the conditions specified in section 49(1)(a) above are fulfilled, the rent recoverable from the tenant shall, notwithstanding anything in the terms of the tenancy or any enactment, be increased by virtue of this subsection so as to exceed by the amount hereinafter mentioned the rent which apart from this subsection would be recoverable from the tenant under the tenancy having regard to the provisions of any enactment.

(2) The amount of any increase payable by virtue of subsection (1) above (which increase is hereinafter referred to as a

“ section 50 increase ”) shall be an amount equal to one-quarter of the rent which was recoverable in respect of the dwelling-house immediately before 30th August 1954:

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Provided that where the landlord is responsible in part only for the repair of the dwelling-house, the amount of the section 50 increase shall be reduced proportionately.

(3) The foregoing provisions of this section shall not apply in relation to a dwelling-house—

- (a) if it is one in relation to which, by virtue of section 49(3) above, the said section 49 does not apply ; or
- (b) if it is one in respect of which a repairs increase is recoverable.

(4) Any question arising under the foregoing provisions of this section whether the landlord is responsible for repairs or as to the amount of any reduction under the proviso to subsection (2) of this section shall, subject to section 56 below, be determined by agreement in writing between the landlord and the tenant or, on the application of either of them, by the sheriff.

(5) The provisions of sections 51 to 57 and 69 of, and Schedule 11 to, this Act shall apply in relation to a section 50 increase as they apply in relation to a repairs increase, and as so applied shall have effect subject to the modification that for any reference to a repairs increase or an increase under this Part of this Act there shall be substituted a reference to a section 50 increase, and subject also to the further modifications set out in Schedule 10 to this Act.

(6) The rent recoverable from the tenant of a dwelling-house shall be subject to be increased by way of a repairs increase in accordance with the provisions of this Part of this Act notwithstanding that that rent has already been increased by way of a section 50 increase, but no sum shall be recoverable by way of a section 50 increase in respect of any period in respect of which any sum is recoverable by way of repairs increase.

(7) Any certificate of a local authority granted under this Part of this Act (including Schedule 11 thereto), any notice served by a local authority revoking such a certificate, any certificate of a sanitary authority having effect as such a certificate of a local authority, and any finding or order of the sheriff made under this Act, the effect of which is to establish whether either or both of the conditions justifying an increase of rent under section 49 above are fulfilled, shall have effect for the purpose of establishing whether the conditions justifying an increase of rent by way of a section 50 increase are fulfilled as if it were a certificate, notice, finding or order granted, served or made for

PART V

the purposes of this section ; and any such certificate, notice, finding or order granted, served or made for the purposes of this section shall have effect for the purpose of establishing whether either or both of the conditions justifying an increase of rent by way of a repairs increase are fulfilled as if it were granted, served or made for the purposes of this Part of this Act (other than this section).

Notices of repairs increase.

51.—(1) No sum shall be recoverable by way of repairs increase unless the landlord has served on the tenant or a former tenant of the dwelling-house a notice in the prescribed form of his intention to increase the rent (hereafter in this Part of this Act referred to as a “notice of repairs increase”), containing—

- (a) a declaration that at the date of service of the notice the dwelling-house was not a dwelling-house to which section 53 below applies and that at that date the conditions justifying an increase of rent were fulfilled, and
- (b) a declaration such as is mentioned in Schedule 9 to this Act,

and no such sum shall be recoverable before, or in respect of any period before, such date as may be specified in the notice.

(2) The date specified in a notice of repairs increase shall not be earlier than eight clear weeks after the service of the notice.

(3) Any form prescribed for the purposes of this section may contain such information as appears to the Secretary of State expedient for informing the tenant of the effect of this Part of this Act, and in particular of the circumstances in which the repairs increase is recoverable from or may be withheld by the tenant, and of the amount of the increase.

(4) A notice of repairs increase shall not be served under this section in respect of a dwelling-house at any time within a period of four months after a notice of intention to increase the rent thereof by way of a section 50 increase has been served in respect of the dwelling-house, and any notice served in contravention of this subsection shall be void.

Determination whether conditions fulfilled to justify increase of rent.

52.—(1) On the service of a notice of repairs increase under section 51 above or at any subsequent time, the tenant of the dwelling-house to which the notice relates may apply to the local authority for a certificate that either or both of the conditions justifying an increase of rent are not fulfilled ; and the local authority if satisfied that the dwelling-house fails to fulfil either or both of the conditions shall certify accordingly in the prescribed form, and shall serve a copy of the certificate on the landlord, and the certificate shall be deemed to have been in force as from the date of the application therefor.

(2) Where the local authority have granted a certificate under subsection (1) above and have served a copy of the certificate on the landlord, then in respect of any period during which the certificate is in force no sum shall be recoverable by way of repairs increase in respect of the dwelling-house.

(3) Where after the granting of a certificate under subsection (1) above there has been executed by or at the expense of the landlord to the satisfaction of the local authority such work as requires to be executed in order that the dwelling-house shall fulfil both the conditions justifying an increase of rent, the local authority shall on the application of the landlord revoke the certificate. The local authority shall serve on the landlord notice of their decision on any application made by him under this subsection.

(4) If, in proceedings for the recovery of any sum by way of repairs increase in respect of a dwelling-house in respect of which the local authority have refused to grant a certificate under subsection (1) above, the tenant satisfies the court that during the period in respect of which the proceedings are brought either or both of the conditions justifying an increase of rent were not fulfilled, then in respect of that period no sum shall be recoverable by way of repairs increase in respect of the dwelling-house.

(5) If the landlord of a dwelling-house is aggrieved by the granting of a certificate under subsection (1) above, or by the refusal of the local authority to revoke under subsection (3) above a certificate granted under subsection (1) above, then, subject to section 123 of this Act, he may appeal to the sheriff by giving notice of appeal within 21 days after the date of the service on him of the copy of the certificate or of the notice of the decision of the local authority to refuse to revoke the certificate, as the case may be ; and if on the hearing of the appeal the sheriff is satisfied that, at the time when the certificate was granted or, as the case may be, the local authority refused to revoke the certificate, the conditions justifying an increase of rent were fulfilled, he shall revoke the certificate and thereupon it shall be deemed—

(a) in the case of a certificate granted under subsection (1) above, never to have been in force ;

(b) in the case of a certificate which the local authority have refused to revoke under subsection (3) above, to have been revoked on the date on which the local authority refused to revoke it.

(6) On any application under subsection (1) or subsection (3) above there shall be paid to the local authority a fee of 5p ; but where on an application under the said subsection (1)

PART V the local authority grant a certificate, the applicant shall be entitled to deduct the fee from any subsequent payment of rent to the landlord.

Application of provisions of this Part of this Act to certain classes of dwelling-house.

53.—(1) The provisions of sections 49, 51 and 52 above and Schedule 9 to this Act shall, in their application to any dwelling-house to which this section applies, have effect subject to the modifications set out in Schedule 11 to this Act.

(2) A dwelling-house to which this section applies is any such dwelling-house let on or subject to a controlled tenancy as is hereinafter mentioned, that is to say—

(a) any dwelling-house in respect of which there was in force at any time during the period between 13th November 1953 and 30th August 1954—

(i) a certificate of a sanitary authority under the Rent and Mortgage Interest Restrictions Acts 1920 to 1939 that the dwelling-house was not in a reasonable state of repair ; or

(ii) an order of the court under this Act suspending an increase under paragraph 1(3)(c) or 1(3)(d) of Schedule 8 to this Act until the court is satisfied that the necessary repairs have been executed ;

1950 c. 34.

(b) any dwelling-house in respect of which a notice under section 7 of the Housing (Scotland) Act 1950, requiring the execution of works on the dwelling-house was operative at any time during the period aforesaid ;

1897 c. 38.

(c) any dwelling-house being or forming part of premises on which there arose or continued, or which were affected by, a nuisance within the meaning of the Public Health (Scotland) Act 1897 (being a nuisance arising from any want or defect of a structural character) in respect of which at any time during the period aforesaid intimation under section 19 of that Act was given to, or a notice under section 20 of that Act was served on, the owner of the dwelling-house, or in respect of which at any time before the commencement of the period aforesaid a notice under the said section 20 was so served and the requirements of such notice were not complied with before the commencement of that period.

Passing on of increase to sub-tenant.

54.—(1) Where—

(a) the landlord of a dwelling-house let on or subject to a controlled tenancy is entitled to recover from the tenant of the dwelling-house in respect of any period any sum

by way of repairs increase or under the following provisions of this section, and

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- (b) the tenant had or will have during that period a sub-tenant of premises (hereinafter referred to as "the sub-tenant's dwelling-house") being or comprised in the dwelling-house mentioned in paragraph (a) above, and the sub-tenant is sub-tenant under a controlled tenancy,

the rent recoverable from the sub-tenant in respect of that period shall be increased by virtue of this section so as to exceed by the amount set out in subsection (2) below the rent which apart from this section would be recoverable from the sub-tenant under the tenancy having regard to the provisions of any enactment.

(2) The said amount is—

- (a) where the sub-tenant's dwelling-house is the whole of the dwelling-house mentioned in paragraph (a) of subsection (1) above, an amount equal to the sum mentioned in the said paragraph (a);
- (b) where the sub-tenant's dwelling-house is part only of the dwelling-house mentioned in the said paragraph (a), an amount equal to the just proportion of the said sum;

and for the purposes of this subsection the just proportion of any sum shall be determined by agreement in writing between the tenant and the sub-tenant or, on the application of either of them, by the sheriff.

(3) The foregoing provisions of this section shall be without prejudice to any right of the tenant to recover from the sub-tenant any sum by way of repairs increase under section 49 above; but any sum recoverable from the sub-tenant under this section shall be limited so as to secure that the amount thereof, together with the amount of any sum recoverable from the sub-tenant by way of repairs increase under section 49 above, shall not exceed an amount equal to one-half of the rent which was recoverable in respect of the sub-tenant's dwelling-house immediately before 30th August 1954.

(4) Section 52 above shall with the necessary modifications apply to sums recoverable under this section as it applies to sums recoverable by way of repairs increase.

(5) Where, at the time at which a notice of repairs increase was served on the tenant under section 51(1) above, the tenant had a sub-tenant of the sub-tenant's dwelling-house, no sum shall be recoverable from the sub-tenant under this section unless the tenant has served on the sub-tenant or a former sub-tenant

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of that dwelling-house a notice in the prescribed form of the tenant's intention to increase the rent; and section 51(3) above shall apply to the form of any such notice.

(6) Any notice under subsection (5) above shall specify a date, not earlier than four clear weeks after the service of the notice, and not earlier than the beginning of the earliest period in respect of which the repairs increase is recoverable from the tenant, as the date on which the increase under this section is to begin; and no sum shall be recoverable on account of the increase under this section before, or in respect of any period before, that date.

1954 c. 50.

(7) Where the rent recoverable from the sub-tenant has already been increased by way of a repairs increase of an amount limited in accordance with section 21(3) of the Housing (Repairs and Rents) (Scotland) Act 1954 as originally enacted, this section shall apply in respect of a further increase under this section up to the amount specified in subsection (3) above as if, in subsection (6) above, for the word "four" there were substituted the word "eight".

Increase
not to be
payable
twice over.

55. Where apart from this section a tenant would by virtue of any agreement (however expressed) affecting a controlled tenancy be under an obligation to pay any increase of rent in consequence of the foregoing provisions of this Part of this Act, then without prejudice to the recovery from him of any increase under this Part of this Act he shall be relieved from that obligation.

Responsibility
of landlord
for repairs.

56.—(1) For the purposes of this Part of this Act and Schedule 9 thereto and of paragraph 1(3)(d) of Schedule 8 to this Act the landlord shall be deemed, as between himself and the tenant, to be wholly responsible for the repair of a dwelling-house in any case where the tenant is under no express liability to carry out any repairs.

(2) Subject to the provisions of subsection (1) above—

(a) the landlord shall be deemed for the purposes aforesaid to be responsible, as between himself and the tenant, for any repairs which he is under an express liability to carry out, and for any other repairs (whether of the dwelling-house or of other premises) from time to time required for securing that the dwelling-house is in good and tenantable repair, not being repairs which the tenant is under an express liability to carry out; and

(b) the tenant shall be deemed for those purposes to be responsible, as between himself and the landlord, for

any repairs which he is under an express liability to carry out but for no other repairs ;

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and the extent to which the landlord is to be deemed responsible as aforesaid for the repair of the dwelling-house shall be determined by comparing the burden of the responsibility specified in paragraph (a) above with that of the responsibility specified in paragraph (b) above.

57.—(1) For the purposes of this Part of this Act there shall be disregarded, in determining whether a dwelling-house is in good and tenantable repair, any defect due to any act, neglect or default by the tenant or any person claiming under him or to any breach by the tenant or such a person of an express agreement: Supplementary provisions as to repair.

Provided that this subsection shall not have effect in determining under subsection (1) or (3) of section 52 above whether a certificate should be granted or revoked.

(2) Subject to subsection (1) above, for the purposes aforesaid a dwelling-house which is a part only of a building shall not be treated as in good and tenantable repair unless every part of the building which a tenant of the dwelling-house requires to use in connection with his occupation of the dwelling-house is also in good and tenantable repair.

58.—(1) Notwithstanding any agreement to the contrary, and subject to subsection (5) below, no increase of rent of a dwelling-house under a controlled tenancy shall be recoverable until or in respect of any period prior to the expiry of four clear weeks, or, where such increase is on account of an increase in rates by virtue of Schedule 8 to this Act, one clear week, after the landlord has served upon the tenant a valid notice in writing of his intention to increase the rent (hereafter in this Part of this Act referred to as a “notice of increase”). Notices of increase of rent.

(2) A notice of increase shall be in the prescribed form.

(3) Where a notice of increase was valid when it was served on the tenant, the increase may be continued without service of any fresh notice on any subsequent tenant.

(4) Where a notice of increase is served in accordance with this section and a notice to terminate the tenancy is necessary in order to make such increase of rent effective, the notice of increase shall have effect as if it were also a notice to terminate the existing tenancy on the day immediately preceding the day as from which the increase is to take effect or on the earliest day

PART V thereafter on which, if it had been a notice to terminate the tenancy, it would have been effective for that purpose.

(5) Nothing in this section shall apply to an increase of rent by virtue of section 49, 50 or 54 above or paragraph 1(3)(e) of Schedule 8 to this Act.

Variation of
standard
rents by rent
tribunal.

59.—(1) Where apart from this section the standard rent of a dwelling-house let on or subject to a controlled tenancy would be—

- (a) the rent at which it was let on a letting beginning after 1st September 1939 or
- (b) an amount ascertainable by apportionment of the rent at which a property of which it formed part was let on such a letting as aforesaid (whether such an apportionment has been made or not),

then, subject to the provisions of this section, the landlord or the tenant may make application to the rent tribunal constituted under section 84 of this Act (hereafter in this and the two next following sections referred to as “the tribunal”) to determine what rent is reasonable for that dwelling-house, and on any such application the tribunal shall determine that rent and shall notify the parties of their determination:

Provided that an application shall not be made in respect of a dwelling-house if a previous application in respect thereof has been made under this subsection.

(2) Subject to the provisions of subsection (3) below, if the rent so determined by the tribunal as aforesaid differs from what would be the standard rent apart from this section, it shall, as from the date of the determination thereof, be the standard rent of the dwelling-house.

(3) If on the hearing of the application it appears to the tribunal that the limit which apart from this section would be imposed on the rent recoverable in respect of the dwelling-house exceeds what would be the standard rent apart from this section, the tribunal shall determine the amount of the excess; and if the rent determined in accordance with subsection (1) above, reduced by the amount of the excess, differs from what would be the standard rent apart from this section, the rent so determined and reduced shall as from the date of the tribunal's determination be the standard rent of the dwelling-house.

(4) Subject to the provisions of this section, the rent which is reasonable for a dwelling-house shall, for the purposes of this section, be the rent which is in all the circumstances reasonable on a letting of that dwelling-house on the terms and conditions,

other than terms and conditions fixing the amount of rent, on which the dwelling-house is let at the time of the application.

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(5) In determining under this section what rent is reasonable for a dwelling-house, no regard shall be had to the fact that any premium has been paid in respect of the grant, continuance or renewal of a tenancy.

(6) In determining under this section what rent is reasonable for a dwelling-house forming part of another dwelling-house let on or subject to a controlled tenancy, regard shall not be had to the rent of the said other dwelling-house or any part thereof if no determination in respect of the dwelling-house or part has been made under this section.

(7) No application shall be made under this section in respect of any house while any limitation of the rent is in force, being a limitation imposed by or under any enactment not contained in this Act.

(8) In relation to a dwelling-house or property let at a progressive rent, subsection (1) above shall have effect with the substitution, for references to the rent at which the dwelling-house or property was let, of references to the maximum rent under the letting.

60.—(1) Where, in the case of a property being a dwelling-house let on or subject to a controlled tenancy, the standard rent of the property is a rent determined under section 59 above, then—

Provisions as to apportionment where s. 59 applies.

- (a) for the purpose of any apportionment which is necessary for determining the standard rent of a dwelling-house comprised in that property, the property shall be deemed, at the date in relation to which the standard rent of the dwelling-house is to be fixed, to have been let at the rent determined under subsection (1) of section 59 above or, where the tribunal determine the excess mentioned in subsection (3) of that section, the said rent reduced by the amount of the excess ;
- (b) any such apportionment made before the determination under section 59 above, whether it was made before or after the commencement of this Act, may be varied accordingly :

Provided that nothing in this subsection shall affect rent in respect of any period before the determination under section 59 above.

(2) Where the standard rent of a dwelling-house, being part of a property which is a dwelling-house let on or subject to a controlled tenancy, has been determined under section 59 above

PART V then, in making any apportionment for the purpose of ascertaining the standard rent of any other part of the property, no regard shall be had to the determination under section 59 above.

Register of determinations of tribunal. **61.**—(1) The tribunal shall prepare and keep up to date a register for the purposes of section 59 above, and shall make the register available for inspection in such place or places and in such manner as may be prescribed.

(2) The register shall be so prepared and kept up to date as to contain, with regard to any dwelling-house in respect of which a determination has been made under section 59 above, being a dwelling-house in the area of the tribunal,—

- (a) a specification of the dwelling-house to which the determination relates ;
- (b) the prescribed particulars with regard to the terms and conditions of the tenancy ; and
- (c) the reasonable rent determined under subsection (1) of the said section 59 and any determination of the tribunal under subsection (3) of that section.

(3) A document purporting to be a certificate signed by the clerk or other authorised officer of the tribunal relating to any entry in the register under subsection (2) above shall, until the contrary is shown, be deemed to have been signed by such clerk or other officer, and shall be sufficient evidence of the matters contained in the entry in the register.

Errors and misrepresentations in notice of increase. **62.**—(1) If the sheriff is satisfied that any error or omission in a notice of increase is due to a bona fide mistake on the part of the landlord, he may order the amendment of the notice by correcting any errors or supplying any omission therein which, if not corrected or supplied, would render the notice invalid and, if the sheriff so directs, the notice as so amended shall have effect and be deemed to have had effect as a valid notice.

(2) Any such amendment of a notice of increase may be made on such terms and conditions with respect to arrears of rent or otherwise as appear to the court to be just and reasonable.

(3) No increase of rent which becomes payable by reason of an amendment of a notice of increase under subsection (1) above shall be recoverable in respect of any rental period which ended more than six months before the date of the order making the amendment.

(4) If a notice of increase contains any statement or representation which is false or misleading in any material respect,

the landlord shall be liable to a fine not exceeding £10 unless he proves that the statement was made innocently and without intent to deceive.

PART V

Enforcement provisions

63.—(1) Where a tenant has paid on account of rent any amount which, by virtue of this Part of this Act, is irrecoverable by the landlord, then, subject to subsection (3) below, the tenant who paid it shall be entitled to recover that amount from the landlord who received it or his personal representatives.

Recovery from landlord of sums paid in excess of recoverable rent, etc.

(2) Subject to subsection (3) below, any amount which a tenant is entitled to recover under subsection (1) above may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.

(3) No amount which a tenant is entitled to recover under subsection (1) above shall be recoverable at any time after the expiry of two years from the date of payment.

(4) Any person who, in any rent book or similar document, makes an entry showing or purporting to show any tenant as being in arrears in respect of any sum on account of rent which is irrecoverable by virtue of this Part of this Act shall be liable to a fine not exceeding £50, unless he proves that, at the time of the making of the entry, the landlord had a bona fide claim that the sum was recoverable.

(5) If, where any such entry has been made by or on behalf of any landlord, the landlord, on being requested by or on behalf of the tenant to do so, refuses or neglects to cause the entry to be deleted within seven days, the landlord shall be liable to a fine not exceeding £50, unless he proves that, at the time of the neglect or refusal to cause the entry to be deleted, he had a bona fide claim that the sum was recoverable.

64.—(1) Where, in any proceedings for possession, in such circumstances as are specified in Case 9 in Schedule 3 to this Act, of a dwelling-house let on or subject to a controlled tenancy—

Apportionment or determination by court of rent.

- (a) the sub-let part in question is let on or subject to a controlled tenancy, and
- (b) it appears to the court that there has not previously been made by the sheriff, either—
 - (i) an apportionment of the standard rent, as between the dwelling-house and the sub-let part, or
 - (ii) a determination of the recoverable rent of the sub-let part,

PART V the court shall make such an apportionment or determination, whether or not an order is made for possession of the dwelling-house.

(2) The provisions of subsection (3) below apply where the sheriff has under subsection (1) above or otherwise made an apportionment or determination in relation to the recoverable rent of a dwelling-house which is let on or subject to a controlled tenancy and is itself a sub-let part of another dwelling-house let on or subject to a controlled tenancy (in this section referred to as the "superior tenancy").

(3) If, after the apportionment or determination referred to in subsection (2) above, the rent charged by the tenant under the superior tenancy for the sublet part is in excess of the recoverable rent of that part, the tenant shall be guilty of an offence under this section unless he proves—

- (a) that he did not know and could not by reasonable inquiry have ascertained that the rent charged by him was in excess of the recoverable rent; or
- (b) that the excess was solely due to an accidental miscalculation.

(4) A person guilty of an offence under this section shall be liable to a fine not exceeding £100.

Rectification of rent books in light of determination of recoverable rent.

65. Where, in any proceedings, the recoverable rent of a dwelling-house let on or subject to a controlled tenancy is determined by a court, then, on the application of the tenant (whether in those or in any subsequent proceedings) the court may call for the production of the rent book or any similar document relating to the dwelling-house and may direct the clerk of court to correct any entries showing, or purporting to show, the tenant as being in arrears in respect of any sum which the court has determined to be irrecoverable.

General provisions

Service of notices, etc. 1947 c 43.

66.—(1) Section 349 of the Local Government (Scotland) Act 1947 shall apply to any notice, certificate or other document required or authorised to be served under this Part of this Act subject to the modification that any reference in that section to a local authority shall include a reference to any person other than a local authority.

(2) Without prejudice to the generality of subsection (1) above, that subsection shall apply to the service, by virtue of section 127 of this Act, of any notice, certificate or other document as is mentioned in subsection (1) above on an agent of the landlord or a person receiving the rent.

67.—(1) A landlord of a dwelling-house let on or subject to a controlled tenancy shall, on being so requested in writing by the tenant under the tenancy, supply him with a statement in writing of the standard rent of the dwelling-house. PART V
Statement as
to standard
rent.

(2) A landlord who is requested to supply a statement in accordance with subsection (1) above and who, without reasonable excuse,—

(a) fails to supply a statement within 14 days, or

(b) supplies a statement which is false in any material particular,

shall be liable to a fine not exceeding £10.

68.—(1) The Secretary of State may make regulations prescribing matters as to which notice is to be given to a tenant of a dwelling-house let on or subject to a controlled tenancy by means of notices inserted in rent books and similar documents and the forms of such notices. Regulations.

(2) The Secretary of State may make regulations prescribing the form of notices of increase.

(3) The Secretary of State may make regulations prescribing forms for notices, certificates and other documents required or authorised under this Part of this Act and requiring such notices, certificates and documents to contain such information as may be specified in the regulations.

(4) The Secretary of State may make regulations with regard to proceedings before tribunals under this Part of this Act.

(5) The Secretary of State may make regulations prescribing the manner and place or places in which the register required by section 61 above to be kept shall be available for inspection and the particulars with regard to the terms and conditions of a tenancy which are to be contained in that register.

(6) Without prejudice to the foregoing provisions of this section, the Secretary of State may make regulations prescribing any matter in respect of which he is empowered under this Part of this Act to make provision.

(7) Any regulations made under this section shall be made by statutory instrument which, in the case of subsections (1) and (2) above, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(8) If any rent book or similar document which does not conform to the prescribed requirements is used by or on behalf of any landlord, the landlord shall be liable to a fine not exceeding £50.

PART V
Interpretation
of Part V.

69.—(1) In this Part of this Act, except in so far as the context otherwise requires,—

“dwelling-house” means, in relation to a controlled tenancy, the aggregate of the premises comprised in the tenancy ;

“improvement” includes structural alteration, extension or addition and the provision of additional fixtures or fittings but does not include anything done by way of decoration or repair ;

“local authority”, in relation to a dwelling-house, means the council of the county or burgh in which the dwelling-house is situated ;

“notice of increase” means a notice of increase under section 58 of this Act ;

“notice of repairs increase” means a notice of increase under section 51 of this Act ;

“prescribed” means prescribed by regulations under section 68 above, and “prescribe” shall be construed accordingly ;

“recoverable rent” means rent which, under a controlled tenancy, is or was for the time being recoverable, having regard to the provisions of this Part of this Act ;

“rental period” means a period in respect of which a payment of rent falls to be made ;

“repair” includes maintenance, but does not include improvement or structural alteration or the provision of additional or improved fixtures or fittings, and “repairs” shall be construed accordingly ;

“sanitary authority” means the local authority under the Public Health (Scotland) Act 1897 ;

1897 c. 38.

“services” includes attendance, the provision of heating or lighting, the supply of hot water and any other privilege or facility connected with the occupancy of a dwelling-house ;

“tenant”, in relation to a landlord, and “sub-tenant”, in relation to a tenant, mean respectively immediate tenant and immediate sub-tenant.

(2) In determining for the purposes of this Part of this Act whether a dwelling-house is fit or unfit for human habitation, regard shall be had to the extent, if any, to which by reason of disrepair or sanitary defects the dwelling-house falls short of the provisions of any building regulations in operation in the district.

(3) In the last foregoing subsection—

PART V

(a) “building regulations” and “district” have the same meanings as in the Housing (Scotland) Act 1966; 1966 c. 49.

(b) “sanitary defects” includes lack of air space or of ventilation, darkness, dampness, absence of adequate and readily accessible water supply or of sanitary arrangements or of other conveniences, and inadequate paving or drainage of courts, yards or passages.

(4) Any reference in this Part of this Act, including Schedule 9 thereto, to the rent which was recoverable in respect of a dwelling-house immediately before 30th August 1954 shall be construed as a reference to the rent which would at that time have been recoverable (it being assumed that all works necessary to secure that the dwelling-house should be in all respects reasonably fit for human habitation and otherwise in a reasonable state of repair had been carried out) from a tenant of the dwelling-house under the tenancy having regard to the provisions of any enactment, less—

(a) in any case where the rates which, but for the provisions of any Act, would be chargeable on the tenant were paid by the landlord, the amount of such rates; and

(b) in any case where the rent included a payment in respect of the provision of services or the use of furniture, so much of the rent as is fairly attributable to the provision of the services or the use of the furniture.

Any question arising under this subsection shall be determined by agreement in writing between the parties concerned or, on the application of either of them, by the sheriff.

In this subsection “rates” means assessments as defined in the House Letting and Rating (Scotland) Acts 1911 and 1920.

PART VI

RENT OF DWELLING-HOUSES IN GOOD REPAIR AND PROVIDED WITH STANDARD AMENITIES

Conversion of controlled tenancies

70.—(1) The following provisions of this section shall have effect with respect to a controlled tenancy of a dwelling-house which is certified by the local authority, on the application of the landlord, to satisfy the following conditions, that is to say, that it is provided with all the standard amenities, that it is in good repair, having regard to its age, character and locality and disregarding internal decorative repair, and that it meets the tolerable standard.

Conversion of controlled tenancies of dwelling-houses provided with standard amenities and in good repair.

PART VI

(2) The tenancy shall become a regulated tenancy on the issue of the certificate or (unless the tenancy has then become a regulated tenancy apart from this Part of this Act or has ceased to exist) on such later date as is specified in section 77 of this Act or an order made thereunder.

(3) Section 42 of this Act shall apply in relation to a controlled tenancy which becomes a regulated tenancy by virtue of this Part of this Act as if the references in subsection (3) thereof to the tenant under the regulated tenancy included references to the tenant under the controlled tenancy.

(4) The conditions mentioned in subsection (1) of this section are in this Part of this Act referred to as the qualifying conditions and a certificate issued in accordance with this section as a qualification certificate.

Application
for
qualification
certificate.

71.—(1) Except where an application for a qualification certificate is made under subsection (2) of this section it shall not be entertained unless either—

- (a) the dwelling-house has at all times since 25th August 1969 been provided with all the standard amenities; or
- (b) any of the standard amenities previously lacking were provided by means of works begun before 25th August 1969;

and shall not be entertained while the conditions of Schedule 3 to the Act of 1968 as originally enacted fall to be observed with respect to the dwelling-house.

(2) An application for a qualification certificate may be made with respect to a dwelling-house notwithstanding that at the time of the making of the application the dwelling-house lacks one or more of the standard amenities, if the application is made (whether or not as part of or in conjunction with an application for a grant under Part II of the Act of 1968) before any works are begun for providing the dwelling-house with the standard amenities which it lacks.

(3) An application for a qualification certificate must state the name of the tenant under the controlled tenancy and, if the application is made at a time when the dwelling-house does not satisfy the qualifying conditions, must state what works are required for those conditions to be satisfied and must be accompanied by plans and specifications of those works.

(4) As soon as a local authority have received an application for a qualification certificate they shall send a copy of the application to the person named in the application as the tenant.

72.—(1) Where an application for a qualification certificate is made under section 71(1) of this Act the local authority shall, at the same time as they send a copy of the application to the person named in the application as the tenant in pursuance of section 71(4) of this Act, serve on him a notice in the prescribed form—

PART VI
Procedure on
applications
under s. 71(1).

- (a) informing him that he may, within 28 days from the service of the notice or such other time as may be prescribed, make representations to the authority that the dwelling-house does not satisfy the qualifying conditions ; and
- (b) containing such other information or explanation of the effect of this Part of this Act as may be prescribed.

(2) Where the local authority are satisfied, after considering any representations made in pursuance of subsection (1) of this section, that the dwelling-house satisfies the qualifying conditions, they shall issue to the applicant a qualification certificate, but if they are not so satisfied they shall give notice to the applicant of their refusal of his application ; and they shall send a copy of the certificate or of the notice to the tenant.

73.—(1) Where an application for a qualification certificate is made under section 71(2) of this Act and it appears to the local authority that the dwelling-house will satisfy the qualifying conditions when the works specified in the application have been carried out, the local authority shall approve the application provisionally and shall issue to the applicant a certificate of provisional approval and send a copy thereof to the tenant.

Procedure on
applications
under s. 71(2).

(2) The provisions of Part I of Schedule 12 to this Act shall have effect for enabling a person who has obtained a certificate of provisional approval to apply for a certificate of fair rent.

(3) On the production by the applicant of a certificate of fair rent issued on an application under Part I of Schedule 12 to this Act and on being satisfied that the dwelling-house satisfies the qualifying conditions, the local authority shall issue the qualification certificate and shall send a copy of it to the tenant.

(4) If at the time the qualification certificate is issued the state of the dwelling-house differs in any respect from that which, at the time the application for the certificate was made, it could be expected to be in when the works specified in the application had been carried out, the local authority shall specify the differences in the certificate.

74.—(1) Where a controlled tenancy of a dwelling-house has become a regulated tenancy by virtue of this Part of this Act an application by the landlord for the first registration of rent for the dwelling-house under Part IV of this Act must

Registration
of rent on
issue of
qualification
certificate.

PART VI

be accompanied by a copy of the qualification certificate and, if the certificate was issued under section 73(3) of this Act, also by a copy of the certificate of fair rent.

(2) Part II of Schedule 12 to this Act shall have effect, in lieu of Schedule 6 to this Act, with respect to an application made in pursuance of this section in a case where a qualification certificate has been issued under section 73(3) of this Act.

Statement of reasons for refusing certificate.

75. Where, on an application for a qualification certificate, a local authority refuse to issue the certificate or to issue a certificate of provisional approval, they shall give to the applicant a written statement of their reasons for the refusal.

Appeal in certain cases against issue or refusal of qualification certificate.

76.—(1) Within 28 days of the service on him under section 72(2) of this Act of a notice of refusal or such longer period as the sheriff may allow the applicant for a qualification certificate may appeal to the sheriff on the ground that the certificate ought to be issued ; and on such an appeal the sheriff may confirm the refusal or order the local authority to issue the certificate.

(2) Within 28 days of the service on him under section 72(2) of this Act of a copy of a qualification certificate or such longer period as the sheriff may allow the tenant may appeal to the sheriff on either or both of the following grounds, that is to say—

- (a) that the certificate ought not to have been issued ;
- (b) that the certificate is invalid by reason of a failure to comply with any requirement of this Part of this Act or of some informality, defect, or error ;

and on any such appeal the sheriff may confirm or quash the certificate, but if the appeal is on the ground mentioned in paragraph (b) of this subsection the sheriff shall confirm the certificate unless satisfied that the interests of the appellant have been substantially prejudiced by the facts relied on by him.

(3) On any appeal under this section the sheriff shall have regard to any change in the state of the dwelling-house between the date of the issue or refusal of the certificate and the date of the hearing, and shall make no order for expenses unless it appears to the sheriff, having regard to the conduct of the parties and all other circumstances, that it would be equitable to do so.

(4) Any certificate issued in pursuance of an order made under subsection (1) of this section shall be deemed to be issued on the date of the order.

(5) Where a qualification certificate with respect to any dwelling-house is quashed by an order under this section after a rent for the dwelling-house has been registered in pursuance of this Part of this Act the registration shall be deemed never to have had effect and the rent officer shall delete it on being informed of the order. PART VI

77.—(1) Where a qualification certificate with respect to a dwelling-house is issued under section 72(2) of this Act before the date applicable to the dwelling-house under the following provisions of this section, the controlled tenancy of the dwelling-house shall not become a regulated tenancy by virtue of this Part of this Act until that date. Postponement in certain cases of effect of qualification certificate.

(2) Subject to subsection (3) of this section—

- (a) 1st January 1971 is the date applicable to a dwelling-house of a value of £45 or more ;
- (b) 1st July 1971 is the date applicable to a dwelling-house of a value of less than £45 but not less than £30 ;
- (c) 1st January 1972 is the date applicable to a dwelling-house of a value of less than £30.

(3) The Secretary of State may by order made by statutory instrument substitute as the date applicable to a dwelling-house of such value as may be specified in the order a date earlier than that which would be applicable to it under subsection (2) of this section ; and an order under this section may make different provision with respect to different registration areas.

(4) In this section “value” means the rateable value on the appropriate day ; and, for the purposes of the definition of “value”, “the appropriate day” means, in relation to a dwelling-house which on 25th August 1969 was or formed part of lands and heritages for which a rateable value was shown on the valuation roll then in force, that day, and in relation to any other dwelling-house, the date on which such a value is first shown on the valuation roll.

78.—(1) Where an application for a qualification certificate has been made with respect to any dwelling-house any notice of increase under section 58 of this Act which is served after the date of the application shall be void so far as it relates to an increase in rent authorised by paragraph 1(3)(a) of Schedule 8 to this Act, unless— Modification of this Act in relation to tenancies converted under Part VI.

- (a) the application was made under section 71(1) of this Act and the notice is served before the date applicable to the dwelling-house under section 77 of this Act ; or

PART VI

- (b) the application has been withdrawn ; or
 - (c) the certificate has been refused and either the time for appealing against the refusal has expired or the refusal has been confirmed on appeal or the appeal has been abandoned ; or
 - (d) the certificate has been quashed on appeal.
- (2) Where a controlled tenancy becomes a regulated tenancy by virtue of this Part of this Act—
- (a) it shall be disregarded for the purposes of section 19(3)(a) of this Act ; and
 - (b) sections 21 to 24 of this Act shall have effect in relation to the tenancy as if references therein to the last contractual period were references to the last rental period beginning before the tenancy becomes a regulated tenancy ; and
 - (c) sections 20(5) and 24(1) of this Act shall not apply to any improvement effected before the tenancy becomes a regulated tenancy.

Miscellaneous and supplementary provisions

Recovery of rent increases due to provisions of Part VI of this Act etc.

79. Schedule 13 to this Act shall have effect for securing that where an increase in the rent payable under a regulated tenancy results from this Part of this Act or from works carried out with assistance provided under Part II of the Act of 1968 it may be recovered only in such stages as are permitted under that Schedule.

Consent of tenant.

80.—(1) Where a dwelling-house which is subject to a controlled tenancy does not satisfy the qualifying conditions, and the works required for those conditions to be satisfied cannot be carried out without the consent of the tenant, then, if those works are specified in an application for a certificate of fair rent, his consent shall be of no effect unless given or confirmed in writing after the issue of the certificate.

(2) Where a dwelling-house which does not satisfy the qualifying conditions is subject to a statutory tenancy and the tenant is unwilling to give or confirm his consent to the carrying out of the works required for those conditions to be satisfied, then, if—

- (a) those works were specified in an application for a certificate of fair rent and the certificate has been issued ; and

- (b) if the tenancy is a regulated tenancy, they were also specified in an application for a grant under Part II of the Act of 1968 and the application has been approved ;

PART VI

the sheriff may, on the application of the landlord, make an order empowering him to enter and carry out the works.

(3) An order under the last foregoing subsection may be made subject to such conditions as to the time at which the works are to be carried out and as to any provision to be made for the accommodation of the tenant and his household while they are carried out as the sheriff may think fit ; and where such an order is made subject to any condition as to time, compliance with that condition shall be deemed to be also compliance with any condition imposed by the local authority under section 27(6A) or section 41(6) of the Act of 1968.

(4) In determining whether to make such an order and, if it is made, subject to what, if any, conditions, the sheriff shall have regard to all the circumstances and, in particular, to any disadvantage to the tenant that might be expected to result from the works, the accommodation that might be available for him while the works are carried out, his means in relation to the increase of rent that would result and the stages in which that increase would become recoverable under the provisions of this Part of this Act.

81.—(1) The Secretary of State may make regulations— Regulations.

- (a) prescribing the form of any notice, application, register or other document to be given, made or used in pursuance of this Part of this Act ;
- (b) regulating the procedure to be followed by rent officers and rent assessment committees ; and
- (c) prescribing anything required or authorised to be prescribed by this Part of this Act.

(2) Regulations under subsection (1)(b) above may contain provisions modifying Schedule 12 or 13 to this Act ; but no regulations containing such provisions shall have effect unless approved by a resolution of each House of Parliament.

(3) Regulations made under this section shall be made by statutory instrument which, except in a case falling within subsection (2) above, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- PART VI
Interpretation
of Part VI.
1968 c. 31.
- 82.** In this Part of this Act, except in so far as the context otherwise requires,—
- “ Act of 1968 ” means the Housing (Financial Provisions) (Scotland) Act 1968 ;
- “ certificate of fair rent ” has the same meaning as in section 41(1) of this Act ;
- “ contractual period ” has the same meaning as in section 36(1) of this Act ;
- 1966 c. 49. “ local authority ” has the same meaning as in the Housing (Scotland) Act 1966 ;
- “ qualification certificate ” and “ qualifying conditions ” have the meanings assigned to them by section 70(4) of this Act ;
- “ rent assessment committee ” has the meaning assigned to it by section 38 of this Act ;
- “ rent officer ” has the same meaning as in section 37(5) of this Act ;
- “ rental period ” has the same meaning as in section 36(1) of this Act ;
- “ registration area ” has the same meaning as in section 37(1) of this Act ;
- “ standard amenities ” has the same meaning as in section 39(1) of the Act of 1968 ;
- “ statutory period ” has the same meaning as in section 36(1) of this Act ;
- 1969 c. 34. “ the tolerable standard ” has the same meaning as in section 2 of the Housing (Scotland) Act 1969.

PART VII

FURNISHED LETTINGS

Application of Part VII

- Operation of
Part VII.
- 83.**—(1) Subject to subsection (2) below, this Part of this Act shall have effect in each of the areas (consisting of the whole or part of the area of a local authority and together comprising the areas of all the local authorities in Scotland) in which the Rent of Furnished Houses Control (Scotland) Act 1943 was in force immediately before the commencement of this Act.
- 1943 c. 44.

(2) The Secretary of State may by order under this section direct that such part of an area in which this Part of this Act has effect as is specified in the order shall be excepted therefrom and be a separate area in which this Part of this Act has effect.

(3) The power to make an order under this section shall be exercisable by statutory instrument. PART VII

84.—(1) For each area in which this Part of this Act has effect there shall be a tribunal (in this Part of this Act referred to as a “rent tribunal”) but, if the Secretary of State so directs, the same tribunal may act for more than one area. Rent tribunals.

(2) The provisions of Schedule 14 to this Act shall have effect with respect to rent tribunals.

85.—(1) Subject to the following provisions of this section, this Part of this Act applies to a contract, whether entered into before or after the commencement of this Act, whereby one person grants to another person, in consideration of a rent which includes payment for the use of furniture or for services, the right to occupy as a residence a dwelling-house to which this Part of this Act applies and which is situated in an area in which this Part of this Act has effect. Part VII contracts.

(2) Subject to subsection (3) below, a contract falling within subsection (1) above and relating to a dwelling-house which consists of only part of a house is a contract to which this Part of this Act applies whether or not the lessee is entitled, in addition to exclusive occupation of that part, to the use in common with any other person of other rooms or accommodation in the house.

(3) This Part of this Act does not apply—

- (a) to a contract under which the interest of the lessor belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster or to the Duchy of Cornwall, or to a government department, or is held in trust for Her Majesty for the purposes of a government department; nor
- (b) to a contract for the letting of any dwelling-house at a rent which includes payment in respect of board if the value of the board to the lessee forms a substantial proportion of the whole rent; nor
- (c) to a contract which creates a regulated tenancy.

(4) No right to occupy a dwelling-house for a holiday shall be treated for the purposes of this Part of this Act as a right to occupy it as a residence.

(5) A contract to which this Part of this Act applies is, in the following provisions of this Part of this Act, referred to as a “Part VII contract”.

PART VII
Dwelling-
houses to
which Part
VII applies.

86.—(1) Subject to the following provisions of this section this Part of this Act applies to any dwelling-house which has or had on the appropriate day a rateable value not exceeding £200.

(2) The Secretary of State may by order under this section provide that, as from such date as may be specified in the order, this Part of this Act shall not apply to a dwelling-house the rateable value of which on such day as may be specified in the order exceeds such amount as may be so specified.

(3) An order under this section—

(a) may be made so as to relate to the whole of Scotland or to such area in Scotland as may be specified in the order, and so as to apply generally or only to, or except to, such classes or descriptions of dwelling-houses as may be specified in the order; and

(b) may contain such transitional provisions as appear to the Secretary of State to be desirable.

(4) The power to make an order under this section shall be exercisable by statutory instrument and no such order shall have effect unless it is approved by a resolution of each House of Parliament.

Control of rents

Reference
of contracts
to rent
tribunals and
obtaining
by them of
information.

87.—(1) Either the lessor or the lessee under a Part VII contract or the local authority may refer the contract to the rent tribunal for the area in question.

(2) Where a Part VII contract is referred to a rent tribunal under subsection (1) above they may, by notice in writing served on the lessor, require him to give to them, within such period (which shall not be less than seven days from the date of the service of the notice) as may be specified in the notice, such information as they may reasonably require regarding such of the prescribed particulars relating to the contract as are specified in the notice.

(3) If, within the period specified in a notice under subsection (2) above, the lessor fails without reasonable cause to comply with the provisions of the notice he shall be liable on a first conviction to a fine not exceeding £50 and on a second or subsequent conviction to a fine not exceeding £100.

Powers of
rent tribunals
on reference
of contracts.

88.—(1) Where a Part VII contract is referred to a rent tribunal and the reference is not, before the tribunal have entered upon consideration of it, withdrawn by the party or the local authority who made it, the tribunal shall consider it and then, after making such inquiry as they think fit and giving to each party to the contract and, if the dwelling-house is or forms part

of a dwelling-house to which section 60 of the Housing (Financial Provisions) (Scotland) Act 1968 applies, to the local authority, an opportunity of being heard or, at his or their option, of submitting representations in writing, the tribunal, subject to subsection (2) below,—

PART VII
1968 c. 31.

- (a) may approve the rent payable under the contract, or
- (b) may reduce the rent to such sum as they may, in all the circumstances, think reasonable, or
- (c) may, if they think fit in all the circumstances, dismiss the reference,

and shall notify the parties and the local authority of their decision.

(2) On the reference of a Part VII contract relating to a dwelling-house for which a rent is registered under Part IV of this Act, the rent tribunal may not reduce the rent payable under the contract below the amount which would be recoverable from the tenant under a regulated tenancy of the dwelling-house.

(3) An approval, reduction or increase under this section or this section as extended by section 90 below may be limited to rent payable in respect of a particular period.

(4) Notwithstanding anything in this Part of this Act, a rent tribunal shall not be required to entertain a reference made otherwise than by the local authority if they are satisfied, having regard to the length of time elapsing since a previous reference made by the same party or to other circumstances, that the reference is frivolous or vexatious.

89.—(1) The rent tribunal shall keep a register and shall make the register available for inspection in such place or places and in such manner as the Secretary of State may direct.

Register of
rents under
Part VII
contracts.

(2) The rent tribunal shall cause to be entered in the register, with regard to any contract under which a rent is payable which has been approved, reduced or increased under section 88 above or that section as extended by section 90 below,—

- (a) the prescribed particulars with regard to the contract ;
- (b) a specification of the dwelling-house to which the contract relates ; and
- (c) the rent as approved, reduced or increased by the rent tribunal, and, in a case in which the approval, reduction or increase is limited to rent payable in respect of a particular period, a specification of that period.

PART VII

(3) A document purporting to be a certificate signed by the clerk or other authorised officer of the rent tribunal relating to any entry in the register under subsection (2) above shall, until the contrary is shown, be deemed to have been signed by such clerk or other officer, and shall be sufficient evidence of the matters contained in the entry in the register.

Reconsideration of rent after registration.

90.—(1) Where the rent payable for any dwelling-house has been entered in the register under section 89 above, the lessor or the lessee or the local authority may refer the case to the rent tribunal for reconsideration of the rent so entered on the ground of change of circumstances.

(2) In its application to a reference under subsection (1) above, section 88 above shall have effect with the modification that the rent tribunal shall have power under subsection (1) of that section to increase the rent payable.

Effect of registration of rent.

91.—(1) Where the rent payable for any dwelling-house is entered in the register under section 89 above, it shall not be lawful to require or receive on account of rent for that dwelling-house under a Part VII contract payment of any amount in excess of the rent so registered in respect of any period subsequent to the date of the entry or, where a particular period is specified in the register, in respect of that period.

(2) Where any payment has been made or received in contravention of this section, the amount of the excess shall be recoverable by the person by whom it was paid.

(3) Any person who requires or receives any payment in contravention of this section shall be liable to a fine not exceeding £100 or to imprisonment for a term not exceeding six months or both, and, without prejudice to any other method of recovery, the court by which a person is found guilty of an offence under this subsection may order the amount paid in excess to be repaid to the person by whom the payment was made.

Security of tenure

Notice to quit served after reference of contract to rent tribunal.

92.—(1) If, after a Part VII contract has been referred to a rent tribunal by the lessee or the local authority under section 87 or section 90 above, a notice to quit the dwelling-house to which the contract relates is served by the lessor on the lessee at any time before the decision of the tribunal is given or within the period of six months thereafter, then, subject to

subsection (2) and sections 94 and 95 below, the notice shall not take effect before the expiry of that period.

PART VII

- (2) In a case falling within subsection (1) above,—
- (a) the rent tribunal may, if they think fit, direct that a shorter period shall be substituted for the period of six months specified in that subsection; and
 - (b) if the reference to the rent tribunal is withdrawn, the period during which the notice to quit is not to take effect shall end on the expiry of seven days from the withdrawal of the reference.

- 93.**—(1) Subject to sections 94 and 95(3) below, where—
- (a) a notice to quit a dwelling-house which is the subject of a Part VII contract has been served, and
 - (b) the Part VII contract has been referred to a rent tribunal under section 87 or section 90 above (whether before or after the service of the notice to quit) and the reference has not been withdrawn, and
 - (c) the rent tribunal has not given a direction under section 92(2)(a) above, and
 - (d) the period at the end of which the notice to quit takes effect (whether by virtue of the contract, of section 92 above or of this section) has not expired,

Application to tribunal for security of tenure where notice to quit is served.

the lessee may apply to the rent tribunal for the extension of the period referred to in paragraph (d) above.

(2) Where an application is made under this section, the notice to quit to which the application relates shall not have effect before the determination of the application unless the application is withdrawn.

(3) On an application under this section, the rent tribunal, after making such inquiry as they think fit and giving to each party an opportunity of being heard or, at his option, of submitting representations in writing, may direct that the notice to quit shall not have effect until the end of such period, not exceeding six months from the date on which the notice to quit would have effect apart from the direction, as may be specified in the direction.

(4) If the rent tribunal refuse to give a direction under this section,—

- (a) the notice to quit shall not have effect before the expiry of seven days from the determination of the application; and
- (b) no subsequent application under this section shall be made in relation to the same notice to quit.

PART VII

(5) On coming to a determination on an application under this section, the rent tribunal shall notify the parties of their determination.

Notices to quit served by owner-occupiers.

94. Where a person who has occupied a dwelling-house as a residence (in this section referred to as "the owner-occupier") has, by virtue of a Part VII contract, granted the right to occupy the dwelling-house to another person and—

- (a) at or before the time when the right was granted (or, if it was granted before 8th December 1965, not later than 7th June 1966) the owner-occupier has given notice in writing to that other person that he is the owner-occupier within the meaning of this section, and
- (b) if the dwelling-house is part of a house, the owner-occupier does not occupy any other part of the house as his residence,

neither section 92 nor section 93 above shall apply where a notice to quit the dwelling-house is served if, at the time the notice is to take effect, the dwelling-house is required as a residence for the owner-occupier or any member of his family who resided with him when he last occupied the dwelling-house as a residence.

Reduction of period of notice on account of lessee's default.

95.—(1) The provisions of this section apply where a Part VII contract has been referred to a rent tribunal and the period at the end of which a notice to quit will take effect has been determined by section 92 above or extended under section 93 above.

(2) If, in a case where this section applies, it appears to the rent tribunal, on an application made by the lessor for a direction under this section,—

- (a) that the lessee has not complied with the terms of the contract, or
- (b) that the lessee or any person residing or lodging with him has been guilty of conduct which is a nuisance or annoyance to adjoining occupiers or has been convicted of using the dwelling-house, or allowing the dwelling-house to be used, for an immoral or illegal purpose, or
- (c) that the condition of the dwelling-house has deteriorated owing to any act or neglect of the lessee or any person residing or lodging with him,

the rent tribunal may direct that the period referred to in subsection (1) above shall be reduced so as to end at a date specified in the direction.

(3) No application may be made under section 93 above with respect to a notice to quit if a direction has been given under this section reducing the period at the end of which the notice is to take effect.

PART VII

Miscellaneous and general

96. Where a Part VII contract is referred to a rent tribunal under this Part of this Act and—

Jurisdiction
of rent
tribunals.

(a) the contract relates to a dwelling-house consisting of or comprising part only of lands and heritages, and

(b) no apportionment of the rateable value of the lands and heritages has been made under section 6 of this Act,

then, unless the lessor in the course of the proceedings requires that such an apportionment shall be made and, within two weeks of making the requirement, brings proceedings in the sheriff court for the making of the apportionment, the rent tribunal shall have jurisdiction to deal with the reference if it appears to them that, had the apportionment been made, they would have had jurisdiction.

97.—(1) For the purposes of this Part of this Act, the local authority means the council of a county or burgh.

Local
authorities
for Part VII.

(2) The powers of the local authority under this Part of this Act may, if the local authority so resolve, be exercised by one of their officers appointed by them for the purpose.

(3) The local authority shall have power to publish information regarding the provisions of this Part of this Act.

98.—(1) Where rent is payable weekly under a Part VII contract, it shall be the duty of the lessor to provide a rent book or other similar document for use in respect of the dwelling-house, containing particulars of the rent and of the other terms and conditions of the contract.

Rent book to
be provided.

(2) If at any time the lessor fails to comply with the requirements of this section he, and any person who on his behalf demands or receives rent under the contract, shall in respect of each week in which the failure occurs or continues be liable to a fine not exceeding £10.

99.—(1) The Secretary of State may by statutory instrument make regulations—

Regulations.

(a) with regard to the tenure of office of chairmen and other members of rent tribunals ;

(b) with regard to proceedings before rent tribunals under this Part of this Act ;

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- (c) prescribing anything which is required by this Part of this Act to be prescribed ;
- (d) prescribing the form of, and the information to be contained in, any rent book or other similar document required by section 98(1) above to be provided ; and
- (e) generally for carrying into effect the provisions of this Part of this Act.

(2) Any statutory instrument making regulations under subsection (1)(d) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation
of Part VII.

100.—(1) In this Part of this Act, unless the context otherwise requires,—

- “ dwelling-house ” means a house or part of a house ;
- “ lessee ” means the person to whom is granted, under a Part VII contract, the right to occupy the dwelling in question as a residence and includes any person directly or indirectly deriving title from the grantee ;
- “ lessor ” means the person who, under a Part VII contract, grants to another the right to occupy the dwelling in question as a residence and includes any person directly or indirectly deriving title from the grantor ;
- “ register ” means the register kept by a rent tribunal in pursuance of section 89 above ;
- “ rent tribunal ” has the meaning assigned to it by section 84(1) above ;
- “ services ” includes attendance, the provision of heating or lighting, the supply of hot water and any other privilege or facility connected with the occupancy of a dwelling-house.

(2) References in this Part of this Act to a party to a contract include references to any person directly or indirectly deriving title from such a party.

(3) Where separate sums are payable by the lessee of any dwelling-house to the lessor for any two or more of the following, namely,—

- (a) occupation of the dwelling-house,
- (b) use of furniture, and
- (c) services,

any reference in this Part of this Act to “ rent ” in relation to that dwelling-house is a reference to the aggregate of those sums and, where those sums are payable under separate contracts, those contracts shall be deemed to be one contract.

PART VIII

PREMIUMS, ETC.

101.—(1) Any person who, as a condition of the grant, renewal or continuance of a protected tenancy, requires, in addition to the rent, the payment of any premium or the making of any loan (whether secured or unsecured) shall be guilty of an offence under this section. Prohibition of premiums and loans on grant of protected tenancies.

(2) Any person who, in connection with the grant, renewal or continuance of a protected tenancy, receives any premium in addition to the rent shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be liable to a fine not exceeding £100.

(4) The court by which a person is convicted of an offence under this section relating to requiring or receiving any premium may order the amount of the premium to be repaid to the person by whom it was paid.

102.—(1) Subject to the following provisions of this section and to section 103 below, any person who, as a condition of the assignation of a protected tenancy, requires the payment of any premium or the making of any loan (whether secured or unsecured) shall be guilty of an offence under this section. Prohibition of premiums and loans on assignation of protected tenancies.

(2) Subject to the following provisions of this section and to section 103 below, any person who, in connection with the assignation of a protected tenancy, receives any premium shall be guilty of an offence under this section.

(3) Notwithstanding anything in subsections (1) and (2) above, an assignor of a protected tenancy of a dwelling-house may, if apart from this section he would be entitled to do so, require the payment by the assignee or receive from the assignee a payment—

- (a) of so much of any outgoings discharged by the assignor as is referable to any period after the assignation takes effect ;
- (b) of a sum not exceeding the amount of any expenditure reasonably incurred by the assignor in carrying out any structural alteration of the dwelling-house or in providing or improving fixtures therein, being fixtures which, as against the landlord, he is not entitled to remove ;
- (c) where the assignor became a tenant of the dwelling house by virtue of an assignation of the protected

PART VIII

tenancy, of a sum not exceeding any reasonable amount paid by him to his assignor in respect of expenditure incurred by that assignor, or by any previous assignor of the tenancy, in carrying out any such alteration or in providing or improving any such fixtures as are mentioned in paragraph (b) above; or

(d) where part of the dwelling-house is used as a shop or office, or for business, trade or professional purposes, of a reasonable amount in respect of any goodwill of the business, trade or profession, being goodwill transferred to the assignee in connection with the assignation or accruing to him in consequence thereof.

(4) Without prejudice to subsection (3) above, the assignor shall not be guilty of an offence under this section by reason only that—

(a) any payment of outgoings required or received by him on the assignation was a payment of outgoings referable to a period before the assignation took effect; or

(b) any expenditure which he incurred in carrying out structural alterations of the dwelling-house or in providing or improving fixtures therein and in respect of which he required or received the payment of any sum on the assignation was not reasonably incurred; or

(c) any amount paid by him as mentioned in subsection (3)(c) above was not a reasonable amount; or

(d) any amount which he required to be paid, or which he received, on the assignation in respect of goodwill was not a reasonable amount;

but nothing in this subsection shall prejudice any right of recovery under section 107(1) below.

(5) Notwithstanding anything in subsections (1) and (2) above, the provisions of Schedule 15 to this Act shall have effect in relation to the assignation of protected tenancies which are regulated tenancies in cases where a premium was lawfully required or received at the commencement of the tenancy.

(6) A person guilty of an offence under this section shall be liable to a fine not exceeding £100.

(7) The court by which a person is convicted of an offence under this section relating to requiring or receiving any premium may order the amount of the premium, or so much of it as cannot lawfully be required or received under this section (including any amount which, by virtue of subsection (4) above, does not give rise to an offence) to be repaid to the person by whom it was paid.

103.—(1) Where before 2nd June 1949 a premium has been paid on the assignation of a protected tenancy, then subject as hereinafter provided section 102 above shall not prevent the requiring or receiving on an assignation of that tenancy after 29th August 1954 of a premium not exceeding the amount hereinafter specified.

PART VIII
Power to charge premium on assignation of tenancy where premium lawfully charged on earlier assignation.

(2) The said amount is an amount which bears to the premium paid on the earlier assignation the same proportion as the period of the tenancy still to run at the time of the later assignation bears to the period of the tenancy still to run at the time of the earlier assignation, it being assumed that no power to determine the tenancy not yet exercised will be exercised either by the landlord or the tenant.

(3) Where before 2nd June 1949 a premium has been paid on more than one occasion on the assignation of the same tenancy, any of those assignations except the last shall be disregarded for the purposes of this section.

(4) In so far as any premium paid on the assignation of a protected tenancy before 2nd June 1949 has been recovered under the provisions of section 107(1) below, the premium shall be treated for the purposes of the foregoing provisions of this section as not having been paid.

(5) Where apart from this subsection the requirement or receiving of a premium would be allowable both under the foregoing provisions of this section and under Schedule 15 to this Act, the foregoing provisions of this section shall have effect to the exclusion of the said Schedule 15.

(6) Any reference in this section to a premium does not include a premium which consisted only of any such outgoings, sum or amount as fall within section 102(3) above and, in the case of a premium which included any such outgoings, sum or amount, so much only of the premium as does not consist of those outgoings, sum or amount shall be treated as the premium for the purposes of this section.

104.—(1) The provisions of this section apply in relation to any dwelling-house if

Prohibition of premiums on grant or assignation of furnished lettings.

(a) under Part VII of this Act, a rent is registered for that dwelling-house in the register kept in pursuance of section 89 of this Act; and

(b) in a case where the approval, reduction or increase of the rent by the rent tribunal is limited to rent payable in respect of a particular period, that period has not expired.

(2) Subject to subsection (3) below, any person who, as a condition of the grant, renewal, continuance or assignation of

PART VIII rights under a Part VII contract, requires the payment of any premium shall be guilty of an offence under this section.

(3) Nothing in subsection (2) above shall prevent a person from requiring—

- (a) that there shall be paid so much of any outgoings discharged by a grantor or assignor as is referable to any period after the grant or assignation takes effect ; or
- (b) that there shall be paid a reasonable amount in respect of goodwill of a business, trade, or profession, where the goodwill is transferred to a grantee or assignee in connection with the grant or assignation or accrues to him in consequence thereof.

(4) A person guilty of an offence under this section shall be liable to a fine not exceeding £100.

(5) The court by which a person is convicted of an offence under this section may order the amount of the premium, or so much of it as cannot lawfully be required under this section, to be repaid to the person by whom it was paid.

Excessive price for furniture to be treated as premium.

105. Where the purchase of any furniture has been required as a condition of the grant, renewal, continuance or assignation—

- (a) of a protected tenancy, or
- (b) of rights under a Part VII contract which relates to a dwelling-house falling within section 104(1) above,

then, if the price exceeds the reasonable price of the furniture, the excess shall be treated, for the purposes of this Part of this Act, as if it were a premium required to be paid as a condition of the grant, renewal, continuance or assignation of the protected tenancy or, as the case may be, the rights under the Part VII contract.

Punishment of attempts to obtain from prospective tenants excessive prices for furniture.

106.—(1) Any person who, in connection with the proposed grant, renewal, continuance or assignation of a protected tenancy on terms which require the purchase of furniture,—

- (a) offers the furniture at a price which he knows or ought to know is unreasonably high, or otherwise seeks to obtain such a price for the furniture, or
- (b) fails to furnish, to any person seeking to obtain or retain accommodation whom he provides with particulars of the tenancy, a written inventory of the furniture, specifying the price sought for each item,

shall be liable to a fine not exceeding £100.

(2) Where a local authority have reasonable grounds for suspecting that an offence under subsection (1)(a) above has been

PART VIII

committed with respect to a protected tenancy or proposed protected tenancy of a dwelling-house, they may give notice to the person entitled to possession of the dwelling-house or his agent that, on such date as may be specified in the notice, which shall not be earlier than 24 hours after the giving of the notice or, if the dwelling-house is unoccupied, than the expiry of such period after the giving of the notice as may be reasonable in the circumstances, facilities will be required for entry to the dwelling-house and inspection of the furniture therein.

(3) A notice under this section may be given by post.

(4) Where a notice is given under this section any person authorised by the local authority may avail himself of any facilities for such entry and inspection as are referred to in subsection (2) above which are provided on the specified date but shall, if so required, produce some duly authenticated document showing that he is authorised by the local authority.

(5) If it is shown to the satisfaction of the sheriff or to a magistrate or justice of the peace having jurisdiction in the place where the dwelling-house is situated, on a sworn statement in writing, that a person required to give facilities under this section has failed to give them, the sheriff, magistrate or justice may, by warrant under his hand, empower the local authority, by any person authorised by them, to enter the dwelling-house in question, if need be by force, and inspect the furniture therein.

(6) A person empowered by or under the foregoing provisions of this section to enter a dwelling-house may take with him such other persons as may be necessary and, if the dwelling-house is unoccupied, shall leave it as effectively secured against trespassers as he found it.

(7) Any person who wilfully obstructs a person acting in pursuance of a warrant issued under subsection (5) above shall be liable on a first conviction to a fine not exceeding £20 and, on a second or subsequent conviction, to a fine not exceeding £50.

(8) A local authority shall have power to publish information, for the assistance of persons offering or seeking tenancies, as to the operation of this section.

(9) In this section "local authority" means the council of a county or burgh.

107.—(1) Where under any agreement (whether made before or after the commencement of this Act) any premium is paid after the commencement of this Act and the whole or any part of that premium could not lawfully be required or received under the preceding provisions of this Part of this Act, the amount of the premium or, as the case may be, so much of it Recovery of premiums and loans unlawfully required or received.

PART VIII as could not lawfully be required or received, shall be recoverable by the person by whom it was paid.

(2) Nothing in section 101 or 102 above shall invalidate any agreement for the making of a loan or any security issued in pursuance of such an agreement but, notwithstanding anything in the agreement for the loan, any sum lent in circumstances involving a contravention of either of those sections shall be repayable to the lender on demand.

Avoidance of requirements for advance payment of rent in certain cases.

108.—(1) Where a protected tenancy which is a regulated tenancy is granted, continued or renewed, any requirement that rent shall be payable—

- (a) before the beginning of the rental period in respect of which it is payable, or
- (b) earlier than six months before the end of the rental period in respect of which it is payable (if that period is more than six months),

shall be void, whether the requirement is imposed as a condition of the grant, renewal or continuance of the tenancy or under the terms thereof; and any requirement avoided by this section is, in the following provisions of this section, referred to as a “prohibited requirement”.

(2) Rent for any rental period to which a prohibited requirement relates shall be irrecoverable from the tenant.

(3) Any person who purports to impose any prohibited requirement shall be liable to a fine not exceeding £100, and the court by which he is convicted may order any amount of rent paid in compliance with the prohibited requirement to be repaid to the person by whom it was paid.

(4) Where a tenant has paid on account of rent any amount which, by virtue of this section is irrecoverable by the landlord, then, subject to subsection (6) below, the tenant who paid it shall be entitled to recover that amount from the landlord who received it or his personal representatives.

(5) Subject to subsection (6) below, any amount which a tenant is entitled to recover under subsection (4) above may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.

(6) No amount which a tenant is entitled to recover under subsection (4) above shall be recoverable at any time after the expiry of two years from the date of payment.

(7) Any person who, in any rent book or similar document, makes an entry showing or purporting to show any tenant as being in arrears in respect of any sum on account of rent which

is irrecoverable by virtue of this section shall be liable to a fine not exceeding £50, unless he proves that, at the time of the making of the entry, the landlord had a bona fide claim that the sum was recoverable.

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(8) If, where any such entry has been made by or on behalf of any landlord, the landlord, on being requested by or on behalf of the tenant to do so, refuses or neglects to cause the entry to be deleted within seven days, the landlord shall be liable to a fine not exceeding £50, unless he proves that, at the time of the neglect or refusal to cause the entry to be deleted, he had a bona fide claim that the sum was recoverable.

109.—(1) In this Part of this Act, unless the context otherwise requires,— Interpretation
of Part VIII.

“furniture” includes fittings and other articles;

“Part VII contract” has the same meaning as in Part VII of this Act;

“premium” includes any fine or other like sum and any other pecuniary consideration in addition to rent;

“registered rent” means the rent registered under Part IV of this Act; and

“rental period” means a period in respect of which a payment of rent falls to be made.

(2) For the avoidance of doubt it is hereby declared that nothing in this Part of this Act shall render any amount recoverable more than once.

PART IX

HERITABLE SECURITIES

110.—(1) The heritable securities with which this Part of this Act is concerned are heritable securities which— Heritable
securities
to which
Part IX
applies.

(a) were created before 8th December 1965; and

(b) are either controlled heritable securities or regulated heritable securities as hereinafter defined.

(2) For the purposes of this Part of this Act, a heritable security is a controlled heritable security at any time when, had this Act not been passed, it would have been a heritable security to which the Increase of Rent and Mortgage Interest (Restrictions) Act 1920 would have applied (whether by virtue of the modifications of that Act effected by Schedule 1 to the Rent and Mortgage Restrictions Act 1939 or otherwise). 1920 c. 17.
1939 c. 71.

(3) Any reference in this Part of this Act to a regulated heritable security shall be construed in accordance with section 111 below.

PART IX
Regulated
heritable
securities.

111.—(1) Subject to subsection (2) below, a heritable security which falls within section 110(1)(a) above but which is not a controlled heritable security is a regulated heritable security if—

- (a) it is a heritable security over land consisting of or including a dwelling-house which is let on or subject to a regulated tenancy; and
- (b) the regulated tenancy is binding on the creditor in the heritable security.

(2) Notwithstanding that a heritable security falls within subsection (1) above, it is not a regulated heritable security if—

- (a) the rateable value on the appropriate day of the dwelling-house which falls within subsection (1)(a) above, or if there is more than one such dwelling-house comprised in the heritable security, the aggregate of the rateable values of those dwelling-houses on the appropriate day, is less than one-tenth of the rateable value on the appropriate day of the whole of the land comprised in the heritable security; or
- (b) the debtor in the heritable security is in breach of agreement, but for this purpose a breach of the agreement for the repayment of the principal money shall be disregarded unless it provides for repayment by instalments.

Powers of
court to
mitigate
hardship.

112.—(1) The powers of the court under this section relate only to regulated heritable securities, and those powers become exercisable in relation to such a heritable security only on an application made by the debtor in the security within 21 days, or such longer time as the court may allow, after the occurrence of one of the following events, that is to say,—

- (a) the rate of interest payable in respect of the heritable security is increased; or
- (b) a rent for a dwelling-house comprised in the heritable security is registered under Part IV of this Act and the rent so registered is lower than the rent which was payable immediately before the registration; or
- (c) the creditor in the security, not being a creditor who was in possession on 8th December 1965, demands payment of the principal money secured by the heritable security or takes any steps for exercising any right of foreclosure or sale or for otherwise enforcing his security.

(2) If the court is satisfied on any such application as is referred to in subsection (1) above that, by reason of the event in question and of the operation of this Act the debtor in the

security would suffer severe financial hardship unless relief were given under this section, the court may by order make such provision limiting the rate of interest, extending the time for the repayment of the principal money or otherwise varying the terms of the heritable security or imposing any limitation or condition on the exercise of any right or remedy in respect thereof, as the court thinks appropriate.

PART IX

(3) Where the court makes an order under subsection (2) above in relation to a heritable security which comprises other land as well as a dwelling-house or dwelling-houses let on or subject to a regulated tenancy the order may, if the creditor in the security so requests, make provision for apportioning the money secured by the heritable security between that other land and the dwelling-house or dwelling-houses.

(4) Where such an apportionment is made as is referred to in subsection (3) above, the other provisions of the order made by the court shall not apply in relation to the other land referred to in that subsection and the money secured by the other land, and the heritable security shall have effect for all purposes as two separate heritable securities of the apportioned parts.

(5) Where the court has made an order under this section it may vary or revoke it by a subsequent order.

(6) The court for the purposes of this and the next following section is the sheriff, except that where an application under subsection (1) above is made in pursuance of any step taken by the creditor in the heritable security in the Court of Session, it is that court.

113.—(1) The provisions of Part I of Schedule 16 to this Act shall have effect with respect to the interest rate on controlled heritable securities, and the provisions of Part II of that Schedule shall have effect, subject to subsection (2) below, with respect to the enforcement of the rights and remedies of the creditor in a controlled heritable security. Restrictions applicable to controlled heritable securities and mitigation thereof.

(2) Where the creditor in a controlled heritable security satisfies the court that greater hardship would be caused if the restrictions imposed on the exercise of the rights and remedies of the creditor by Part II of Schedule 16 to this Act, continued to apply to the heritable security than if they were removed or modified, the court may by order allow him to exercise such of those rights and remedies as may be specified in the order, on such terms and conditions as may be so specified.

(3) Where the court has made an order under this section it may vary or revoke it by a subsequent order.

PART IX
 Apportionment
 of controlled
 heritable
 securities.
 1920 c. 17.

114.—(1) Where a controlled heritable security comprises other lands and heritages as well as a dwelling-house or dwelling-houses to which, immediately before the commencement of this Act, the Increase of Rent and Mortgage Interest (Restrictions) Act 1920 applied, the creditor in the security may apportion the principal money secured by the heritable security between those other lands and heritages and the dwelling-house or dwelling-houses by giving one month's notice in writing to the debtor in the security, stating the particulars of the apportionment.

(2) At any time before the expiry of a month's notice given under subsection (1) above the debtor in the security may dispute the amounts apportioned by the notice and, in default of agreement, the apportionment of the principal money secured as aforesaid shall be determined by a single arbiter appointed by the Chairman of the Scottish Committee of the Royal Institution of Chartered Surveyors.

(3) Unless subsection (2) above applies, where a notice is given under subsection (1) above then, as from the expiry of the month's notice, the provisions of this Part of this Act shall cease to apply to the heritable security in question so far as it relates to the other lands and heritages referred to in subsection (1) above and the money secured by the other lands and heritages, and the heritable security shall have effect for all purposes as two separate heritable securities of the apportioned parts.

Recovery of
 sums paid in
 excess of
 permitted rate
 of interest
 under
 controlled
 heritable
 security.

115.—(1) Where a debtor in a controlled heritable security has paid on account of interest thereon any amount which, by virtue of Schedule 16 to this Act, is irrecoverable by the creditor in the security then, subject to subsection (3) below, the debtor in the security who paid it shall be entitled to recover that amount from the creditor who received it or his personal representatives.

(2) Subject to subsection (3) below, any amount which a debtor is entitled to recover under subsection (1) above may, without prejudice to any other method of recovery, be deducted by him from any interest in respect of the heritable security payable by him to the creditor in the security.

(3) No amount which a debtor is entitled to recover under subsection (1) above shall be recoverable at any time after the expiry of two years from the date of payment.

Interpretation
 of Part IX.

116. In this Part of this Act the expressions "creditor in a heritable security" and "debtor in a heritable security", however expressed, include any person from time to time deriving title under the original creditor or debtor.

PART X

MISCELLANEOUS AND GENERAL

Release from regulation

117.—(1) Where the Secretary of State is satisfied with respect to every part of any area that the number of persons seeking to become tenants there—

- (a) of dwelling-houses exceeding a specified rateable value, or
- (b) of any class or description of dwelling-house or of dwelling-house exceeding a specified rateable value,

is not substantially greater than the number of such dwelling-houses in that part, he may by order provide that no such dwelling-house in the area shall be the subject of a regulated tenancy.

(2) An order under this section may contain such transitional provisions, including provisions to avoid or mitigate hardship, as appear to the Secretary of State to be desirable.

(3) The power to make an order under this section shall be exercisable by statutory instrument and no such order shall have effect unless it is approved by a resolution of each House of Parliament.

Shared accommodation

118. Where under any contract—

- (a) a tenant has the exclusive occupation of any accommodation, and
- (b) the terms on which he holds the accommodation include the use of other accommodation in common with his landlord or in common with his landlord and other persons, and
- (c) by reason only of the circumstances mentioned in paragraph (b) above, the accommodation referred to in paragraph (a) above is not a dwelling-house let on a protected tenancy,

Provisions where tenant shares accommodation with landlord.

Part VII of this Act shall apply to the contract notwithstanding that the rent does not include payment for the use of furniture or for services.

119.—(1) Where a tenant has the exclusive occupation of any accommodation (in this section referred to as “the separate accommodation”) and

- (a) the terms as between the tenant and his landlord on which he holds the separate accommodation include

Provisions where tenant shares accommodation with persons other than landlord.

PART X

the use of other accommodation (in this section referred to as "the shared accommodation") in common with another person or other persons, not being or including the landlord, and

- (b) by reason only of the circumstances mentioned in paragraph (a) above, the separate accommodation would not, apart from this section, be a dwelling-house let on or subject to a protected or statutory tenancy,

the separate accommodation shall be deemed to be a dwelling-house let on a protected tenancy or, as the case may be, subject to a statutory tenancy and the following provisions of this section shall have effect.

(2) For the avoidance of doubt it is hereby declared that where, for the purpose of determining the standard rent or rateable value of the separate accommodation, it is necessary to make an apportionment under this Act, regard is to be had to the circumstances mentioned in subsection (1)(a) above.

(3) For the purpose of ascertaining the standard rent, a previous letting of the separate accommodation shall not be deemed not to be a letting of the same dwelling-house by reason only of any such change of circumstances as the following, that is to say, any increase or diminution of the rights of the tenant to use accommodation in common with others, or any improvement or worsening of accommodation so used by the tenant.

(4) For the purposes of any provisions of this Act relating to increases of rent, or to the transfer to tenants of burdens or liabilities previously borne by landlords,—

- (a) any such change of circumstances as is mentioned in subsection (3) above, being a change affecting so much of the shared accommodation as is living accommodation, shall be deemed to be an alteration of rent ;
- (b) where, as the result of any such change as is mentioned in paragraph (a) above, the terms on which the separate accommodation is held are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased, whether or not the sum periodically payable by way of rent is increased ;
- (c) any increase of rent in respect of any such change as is mentioned in paragraph (a) above where, as a result of the change and of the increase of rent, the terms on which the separate accommodation is held are on the whole not less favourable to the tenant than the previous terms, shall be deemed not to be an increase of rent.

(5) Subject to subsection (6) below, while the tenant is in possession of the separate accommodation (whether as a protected or statutory tenant), any term or condition of the contract of tenancy terminating or modifying, or providing for the termination or modification of, his right to the use of any of the shared accommodation which is living accommodation shall be of no effect.

(6) Where the terms and conditions of the contract of tenancy are such that at any time during the tenancy the persons in common with whom the tenant is entitled to the use of the shared accommodation could be varied, or their number could be increased, nothing in subsection (5) above shall prevent those terms and conditions from having effect so far as they relate to any such variation or increase.

(7) Subject to subsection (8) below and without prejudice to the enforcement of any order made thereunder, while the tenant is in possession of the separate accommodation, no order shall be made for possession of any of the shared accommodation, whether on the application of the immediate landlord of the tenant or on the application of any person under whom that landlord derives title, unless a like order has been made, or is made at the same time, in respect of the separate accommodation; and the provisions of section 10(1) of this Act shall apply accordingly.

(8) Without prejudice to subsection (4) above, the sheriff, on the application of the landlord, may make such order, either terminating the right of the tenant to use the whole or any part of the shared accommodation other than living accommodation, or modifying his right to use the whole or any part of the shared accommodation, whether by varying the persons or increasing the number of persons entitled to the use of that accommodation, or otherwise, as the sheriff thinks just:

Provided that no order shall be made under this subsection so as to effect any termination or modification of the rights of the tenant which, apart from subsection (5) above, could not be effected by or under the terms of the contract of tenancy.

(9) Any question arising under subsection (4) above shall be determined on the application either of the landlord or of the tenant by the sheriff whose decision shall be final and conclusive.

(10) In this section the expression "living accommodation" means accommodation of such a nature that the fact that it constitutes or is included in the shared accommodation is sufficient to prevent the tenancy from constituting a protected or statutory tenancy of a dwelling-house.

PART X

Sublettings

Certain sublettings not to exclude any part of sublessor's premises from protection under the Act.

120.—(1) Where the tenant of any premises, consisting of a house or part of a house, has sublet a part, but not the whole, of the premises, then, as against his landlord or any superior landlord, no part of the premises shall be treated as not being a dwelling-house let on or subject to a protected or statutory tenancy by reason only that—

- (a) the terms on which any person claiming under the tenant holds any part of the premises include the use of accommodation in common with other persons ; or
- (b) part of the premises is let to any such person at a rent which includes payments in respect of board, attendance or use of furniture.

(2) Nothing in this section affects the rights against, and liabilities to, each other of the tenant and any person claiming under him, or of any two such persons.

Obligation to notify sublettings of dwelling-houses let on or subject to protected or statutory tenancies.

121.—(1) If the tenant of a dwelling-house let on or subject to a protected or statutory tenancy sublets any part of the dwelling-house on a protected tenancy, then, subject to subsection (2) below, he shall within 14 days after the subletting supply the landlord with a statement in writing of the subletting giving particulars of occupancy, including the rent charged.

(2) Subsection (1) above shall not require the supply of a statement in relation to a subletting of any part of a dwelling-house if the particulars which would be required to be included in the statement as to the rent and other conditions of the subtenancy would be the same as in the last statement supplied in accordance with that subsection with respect to a previous subletting of that part.

(3) A tenant who is required to supply a statement in accordance with subsection (1) above and who, without reasonable excuse,—

- (a) fails to supply a statement, or
- (b) supplies a statement which is false in any material particular,

shall be liable to a fine not exceeding £10.

Jurisdiction and procedure

Jurisdiction.

122.—(1) The sheriff shall have jurisdiction, either in the course of any proceedings relating to a dwelling-house or on an application made for the purpose by the landlord or the tenant, to determine any question—

- (a) as to the application of this Act or as to any matter which is or may become material for determining any such question ; or

(b) as to the amount of the rent, standard rent or net rent of any dwelling-house let on or subject to a controlled tenancy, or as to the increase of rent permitted under such a tenancy.

PART X

(2) The sheriff shall have jurisdiction to deal with any claim or other proceeding arising out of any provision of this Act which falls to be dealt with by a court unless that provision stipulates that the Court of Session shall have jurisdiction.

(3) If under any provision of this Act a person takes proceedings in the Court of Session which he could have taken before the sheriff, he shall not be entitled to recover any expenses.

123.—(1) Any application to the sheriff under any of the provisions of subsection (3) below shall be made by way of summary application, and the application shall be conducted and disposed of in like manner as proceedings brought under the Small Debt (Scotland) Acts 1837 to 1889, and the determination of the sheriff on any such application shall be final and conclusive. Applications and appeals to sheriff.

(2) The provisions of subsections (2) and (4) of section 190 of the Housing (Scotland) Act 1966 shall apply to any appeal to the sheriff under section 52(5) of this Act as they apply to appeals to the sheriff under that Act. 1966 c. 49.

(3) The provisions referred to in subsection (1) above are sections 6(2), 20(7), 23(2), 24(3), 25(4), 30(4), 36(2), 47(2), 49(4), 50(4), 54(2), 69(4) and 112(1) of this Act and paragraph 7 of Schedule 1 and paragraph 3 of Schedule 9 to this Act.

124. The Court of Session may make such act of sederunt and give such directions as they think fit for the purpose of giving effect to the provisions of this Act and may, by such act of sederunt or directions, provide— Rules as to procedure.

- (a) for the conduct so far as desirable in private of any proceedings for the purposes of those provisions and for the remission of any fees ; and
- (b) for any question arising under or in connection with those provisions being referred by consent of the parties interested for final determination by the sheriff sitting as an arbiter or by an arbiter appointed by the sheriff.

PART X

Powers
of local
authorities
for the
purposes
of giving
information.
1965 c. 75.

Miscellaneous

125.—(1) Any local authority shall have power—

- (a) to publish information, for the assistance of landlords and tenants, as to their rights and duties under Part III of the Rent Act 1965 and under the provisions of this Act and as to the procedure for enforcing those rights or securing the performance of those duties ; and
- (b) to furnish particulars as to the availability, extent and character of alternative accommodation.

(2) The functions of a local authority under this section may, in accordance with directions given by the authority, be exercised by a committee of the authority appointed under this section or under any other enactment ; and the authority may appoint as additional members of any such committee, for the purpose of exercising those functions, such persons as they think fit, whether members of the authority or not.

(3) Any expenses incurred under this section by a local authority or by a committee of the authority with the permission or approval of the authority shall be defrayed out of the rates.

(4) In this section “local authority” means the council of a county or burgh.

Prosecution
of offences.

126. Offences under this Act are punishable summarily.

Service of
notices on
landlord's
agents.

127.—(1) Subject to subsection (5) below, any document required or authorised by this Act to be served by the tenant of a dwelling-house on the landlord thereof shall be deemed to be duly served on him if it is served in accordance with the provisions of section 66 of this Act—

- (a) on any agent of the landlord named as such in the rent book or other similar document ; or
- (b) on the person who receives the rent of the dwelling-house.

(2) Where a dwelling-house is subject to a regulated tenancy, subsection (1) above shall apply also in relation to any document required or authorised by this Act to be served on the landlord by a person other than the tenant.

(3) Subject to subsection (5) below, if for the purpose of any proceedings (whether civil or criminal) brought or intended to be brought under this Act, any person serves upon any such agent or other person as is referred to in paragraph (a) or paragraph (b) of subsection (1) above a notice in writing requiring the agent or other person to disclose to him the full name and place of abode or place of business of the landlord, that agent or other person shall forthwith comply with the notice.

(4) If any such agent or other person as is referred to in subsection (3) above fails or refuses forthwith to comply with a notice served on him under that subsection, he shall be liable to a fine not exceeding £5, unless he shows to the satisfaction of the court that he did not know, and could not with reasonable diligence have ascertained, such of the facts required by the notice to be disclosed as were not disclosed by him.

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(5) Subsections (1) to (4) above shall not apply to any document required or authorised to be served by, or to any proceedings brought or intended to be brought under, Part VII or Part VIII of this Act, other than proceedings under section 108 of this Act.

128.—(1) Any condition which

(a) is mentioned in any of the enactments specified in subsection (2) below, or

(b) has effect by virtue of any undertaking or agreement entered into in pursuance of any such enactment,

Rents of subsidised private houses.

shall, in so far as it relates to the rent to be charged in respect of any dwelling-house, limit that rent, and if such condition was imposed before 6th July 1957, shall have effect as if it limited that rent, to the amount specified in subsection (3) below.

(2) The enactments referred to in subsection (1) above are—

(a) section 2 of the Housing (Financial Provisions) Act 1924 c. 35. 1924 ;

(b) section 3 of the Housing (Rural Workers) Act 1926 ; 1926 c. 56.

(c) section 101 of the Housing (Scotland) Act 1950 ; 1950 c. 34.

(d) paragraph 4(b) of Schedule 3, and Schedule 4, to the Housing (Financial Provisions) (Scotland) Act 1968. 1968 c. 31.

(3) The amount of rent specified in this subsection shall be an amount equal to the rent which might be properly charged in respect of the dwelling-house by virtue of any such condition as is mentioned in subsection (1) above together with any sum recoverable in respect thereof by way of repairs increase or by way of section 50 increase.

129.—(1) No diligence shall be done in respect of the rent of any dwelling-house let on a protected tenancy or subject to a statutory tenancy except with the leave of the sheriff ; and the sheriff shall, with respect to any application for such leave, have the same or similar powers with respect to adjournment, sist, suspension, postponement and otherwise as are conferred by section 11 of this Act, in relation to proceedings for possession of such a dwelling-house. Restriction on diligence and expenses.

(2) Where—

(a) any rent is payable in advance in respect of a dwelling-house let on or subject to a controlled tenancy,

PART X

(b) that rent has not been paid, and

(c) the landlord, in respect of the non-payment, raises an action for recovery of rent or for possession before the expiry of the period for which the rent in question is due,

the court shall not award expenses to the landlord unless it considers it reasonable to do so after considering all the circumstances of the case, including any offer made by the tenant, prior to the raising of the action, to pay the rent by instalments.

Implied condition in all protected tenancies.

130. It shall be a condition of a protected tenancy of a dwelling-house that the tenant shall afford to the landlord access to the dwelling-house and all reasonable facilities for executing therein any repairs which the landlord is entitled to execute.

Minimum length of notice to quit.

131. No notice by a landlord or a tenant to quit any premises let (whether before or after the commencement of this Act) as a dwelling-house shall be valid unless it is given not less than four weeks before the date on which it is to take effect.

Rent book to be provided.

132.—(1) Where under a protected or statutory tenancy rent is payable weekly, it shall be the duty of the landlord to provide a rent book or other similar document for use in respect of the dwelling-house.

(2) If at any time the landlord fails to comply with the requirements of this section he, and any person who on his behalf demands or receives rent in respect of the tenancy, shall in respect of each week in which the failure occurs or continues be liable to a fine not exceeding £10.

General

Interpretation. **133.**—(1) In this Act, except where the context otherwise requires,—

“ agricultural land ” means land used only for agricultural or pastoral purposes or used as woodlands, market gardens, orchards, allotments or allotment gardens and any lands exceeding one-quarter of an acre used for the purpose of poultry farming, but does not include any lands occupied together with a house as a park, garden or pleasure ground or any land kept or preserved mainly or exclusively for sporting purposes ;

“ the appropriate day ” has the meaning assigned to it by section 6(3) of this Act ;

“ controlled tenancy ” shall be construed in accordance with section 7 of this Act ;

- “ heritable security ” has the same meaning as in the Conveyancing (Scotland) Act 1924 except that it includes a security constituted by ex facie absolute disposition or assignation ; PART X
1924 c. 27.
- “ landlord ” includes any person from time to time deriving title under the original landlord and also includes, in relation to any dwelling-house, any person other than the tenant who is, or but for Part II of this Act would be, entitled to possession of the dwelling-house ;
- “ let ” includes “ sub-let ” ;
- “ order for possession ” means decree of removing or warrant of ejection or other like order ; and “ action for possession ” and “ proceedings for possession ” shall be construed accordingly ;
- “ premium ” includes any fine or other like sum and any other pecuniary consideration in addition to rent ;
- “ prescribed ” means prescribed by regulations made by the Secretary of State by statutory instrument ;
- “ protected tenant ” and “ protected tenancy ” shall be construed in accordance with section 1 of this Act ;
- “ rateable value ” shall be construed in accordance with section 6 of this Act ;
- “ regulated tenancy ” shall be construed in accordance with section 7 of this Act ;
- “ repairs increase ” means an increase in rent within the meaning of section 49 of this Act ;
- “ section 50 increase ” means an increase in rent within the meaning of section 50 of this Act ;
- “ standard rent ” has the meaning assigned to it in Schedule 8 to this Act ;
- “ statutory tenant ” and “ statutory tenancy ” shall be construed in accordance with section 3 of this Act ;
- “ tenancy ” includes “ sub-tenancy ” ;
- “ tenancy at a low rent ” has the meaning assigned to it by section 2(2) of this Act ;
- “ tenant ” includes statutory tenant and also includes a sub-tenant and any person deriving title under the original tenant or sub-tenant.

(2) Except in so far as the context otherwise requires, any reference in this Act to any other enactment shall be taken as referring to that enactment as amended by or under any other enactment, including this Act.

(3) Except in so far as the context otherwise requires, any reference in any provision of this Act to, or to things done or

PART X falling to be done under, any enactment, including this Act, or any provision of any such enactment shall be construed as including a reference to, or to things done or falling to be done under, any enactment or provision in any enactment which (being repealed) is substantially re-enacted by any such enactment or any provision therein.

Application
to Crown
property.

134.—(1) Subject to sections 4 and 85(3)(a) of this Act, this Act shall apply in relation to premises in which there subsists, or at any material time subsisted, a Crown interest as it applies in relation to premises in which no such interest subsists or ever subsisted.

(2) In this section “Crown interest” means an interest which belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster or to the Duchy of Cornwall, or to a government department, or which is held in trust for Her Majesty for the purposes of a government department.

Modifications,
amendments,
transitory
provisions,
repeals, etc.

135.—(1) In relation to such protected and statutory tenancies in existence at the commencement of this Act as are specified in Schedule 17 thereto, the provisions of this Act specified in that Schedule shall have effect subject to the modifications so specified.

(2) Subject to subsection (3) below, the enactments specified in Schedule 18 to this Act shall have effect subject to the amendments specified in that Schedule.

(3) The savings and transitory provisions in Schedule 19 to this Act shall have effect.

1889 c. 63.

(4) The inclusion in this Act of any express saving or amendment shall not be taken as prejudicing the operation of section 38 of the Interpretation Act 1889 (which relates to the effect of repeals).

(5) Subject to subsection (3) above, the enactments specified in Schedule 20 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Short title,
commence-
ment and
extent.

136.—(1) This Act may be cited as the Rent (Scotland) Act 1971.

(2) This Act shall come into force on the expiry of the period of three months beginning with the date on which it is passed.

(3) This Act shall extend to Scotland only.

SCHEDULES

SCHEDULE 1

Section 3.

STATUTORY TENANTS BY SUCCESSION

1. The provisions of paragraph 2 or, as the case may be, paragraph 3 of this Schedule shall have effect for the purpose of determining who is the statutory tenant of a dwelling-house by succession after the death of the person (in this Schedule referred to as "the original tenant") who, immediately before his death, was a protected tenant of the dwelling-house or the statutory tenant of it by virtue of his previous protected tenancy.

2. If the original tenant was a man who died leaving a widow who was residing with him at his death then, after his death, the widow shall be the statutory tenant so long as she retains possession of the dwelling-house without being entitled to do so under a contractual tenancy.

3. Where paragraph 2 above does not apply, but a person who was a member of the original tenant's family was residing with him at the time of and for the period of six months immediately before his death then, after his death, that person or if there is more than one such person such one of them as may be decided by agreement, or in default of agreement by the sheriff, shall be the statutory tenant so long as he retains possession of the dwelling-house without being entitled to do so under a contractual tenancy.

4. A person who becomes the statutory tenant of a dwelling-house by virtue of paragraph 2 or paragraph 3 above is in this Schedule referred to as "the first successor".

5. If, immediately before his death, the first successor was still a statutory tenant, the provisions of paragraph 6 or, as the case may be, paragraph 7 below shall have effect for the purpose of determining who is the statutory tenant after the death of the first successor.

6. If the first successor was a man who died leaving a widow who was residing with him at his death then, after his death, the widow shall be the statutory tenant so long as she retains possession of the dwelling-house without being entitled to do so under a contractual tenancy.

7. Where paragraph 6 above does not apply but a person who was a member of the first successor's family was residing with him at the time of and for the period of six months immediately before his death then, after his death, that person or if there is more than one such person such one of them as may be decided by agreement, or in default of agreement by the sheriff, shall be the statutory tenant so long as he retains possession of the dwelling-house without being entitled to do so under a contractual tenancy.

8. Paragraphs 5 to 7 above do not apply where the statutory tenancy of the original tenant arose by virtue of section 20 of the Rent Act 1965.

1965 c. 75.

Section 7.

SCHEDULE 2

CONTROLLED TENANCIES

PART I

PROVISIONS FOR DETERMINING WHETHER TENANCY IS A
CONTROLLED TENANCY

1. Subject to the following provisions of this Schedule, a protected tenancy or a statutory tenancy of a dwelling-house is a controlled tenancy if—

- (a) the rateable value of the dwelling-house on 7th November 1956 did not exceed £40, and
- (b) the dwelling-house is not one which consists, and consists only, of premises which, by virtue of the date of their construction or conversion, are excluded by paragraph 3 below from being the subject of a controlled tenancy, and
- (c) the tenancy or, in the case of a statutory tenancy, the preceding contractual tenancy, was created by a lease or agreement coming into operation before 6th July 1957 or is or was a tenancy to which paragraph 4 below applies.

2.—(1) Section 6 of this Act shall not apply in ascertaining the rateable value referred to in paragraph 1(a) above, but, subject to the following provisions of this paragraph, the reference in that paragraph to the rateable value of a dwelling-house on 7th November 1956 shall be construed,—

- (a) if the dwelling-house comprised lands and heritages for which a rateable value was on that date shown on the valuation roll, as a reference to the rateable value of the lands and heritages as shown on the valuation roll on that date;
- (b) if the dwelling-house formed part only of such lands and heritages, as a reference to such proportion of the said rateable value as may be or have been agreed in writing between the landlord and tenant or determined by the sheriff.

(2) Any apportionment of rateable value made by the sheriff in a case falling within sub-paragraph (1)(b) above shall be final and conclusive.

(3) Subject to sub-paragraph (4) below, where, after 7th November 1956, the valuation roll was altered so as to vary the rateable value of lands and heritages, and the alteration had effect from a date not later than 7th November 1956 and was made in pursuance of an appeal or complaint duly made in accordance with the provisions of the Lands Valuation (Scotland) Act 1854, and the Acts amending that Act, against an entry in the valuation roll, the rateable value on 7th November 1956 of any dwelling-house consisting of or wholly or partly comprised in those lands and heritages shall be ascertained as if the amount of the rateable value of those lands and heritages shown in the valuation roll on 7th November 1956 had been the amount of that value shown in the roll as altered.

(4) Where such an appeal or complaint as is referred to in subparagraph (3) above was pending on 6th July 1957 and—

SCH 2

(a) the appeal or complaint related to an alteration in the valuation roll reducing the rateable value of the dwelling-house, but,

(b) that rateable value on 15th May 1956 was such that, if it had remained unaltered, the rateable value of the dwelling-house on 7th November 1956 would have exceeded the relevant limit specified in paragraph 1(a) above,

then any alteration in the rateable value of the dwelling-house which was made in pursuance of the appeal or complaint shall be disregarded in determining whether that rateable value on 7th November 1956 did or did not exceed the relevant limit in paragraph 1(a) above.

(5) If at the time of the making of such an agreement relating to the rateable value of a dwelling-house as is mentioned in subparagraph (1)(b) above, the landlord was himself a tenant, then, unless he was a tenant under a tenancy having a period of more than seven years to run at that time, the agreement shall not have effect for the purposes of this Act except with the concurrence in writing of his immediate landlord.

3.—(1) Premises which—

(a) were erected after 29th August 1954, or

(b) are separate and self-contained premises produced by conversion, after that date, of other premises, with or without the addition of premises erected after that date,

are excluded from being the subject of a controlled tenancy.

(2) For the purposes of this paragraph, premises shall be treated as converted or erected after 29th August 1954 if the conversion or erection was completed after that date, notwithstanding that it may have been begun on or before that date.

4. This paragraph applies to a tenancy created by a lease or agreement coming into operation on or after 6th July 1957 if—

(a) it is granted to a person who, immediately before it was granted, was the tenant of any premises under a controlled tenancy, and

(b) the circumstances are such that the premises comprised in the controlled tenancy referred to in head (a) above and the premises comprised in the tenancy granted to the person in question are the same, or that one of those premises consists of or includes part of the other premises.

5.—(1) If, on the death of a statutory tenant of a dwelling-house whose statutory tenancy was a controlled tenancy, a person becomes statutory tenant of that dwelling-house by virtue of paragraph 6 or paragraph 7 of Schedule 1 to this Act, that person's statutory tenancy shall be a regulated tenancy and not a controlled tenancy.

SCH. 2
1965 c. 75.

(2) Sub-paragraph (1) above applies also to the statutory tenancy of a person who, before the commencement of this Act, became a statutory tenant by virtue of section 13 of the Rent Act 1965 (which made provision corresponding to paragraphs 6 and 7 of Schedule 1 to this Act).

PART II

1939 RATEABLE VALUE

6. The provisions of this Part of this Schedule shall have effect in determining the 1939 rateable value of a dwelling-house for the purposes of section 7(3) of this Act.

7. Subject to the following provisions of this Part of this Schedule, if, on 16th May 1939, a rateable value was shown in the valuation roll then in force with respect to a dwelling-house, the 1939 rateable value of that dwelling-house means that rateable value.

8. Subject to the following provisions of this Part of this Schedule, in relation to a dwelling-house which was first assessed after 16th May 1939, the 1939 rateable value means the rateable value shown in the valuation roll with respect to the dwelling-house on the day on which the dwelling-house was first assessed.

9. Where, for the purpose of determining the 1939 rateable value of any dwelling-house, it is necessary to apportion the 1939 rateable value of the property in which that dwelling-house is comprised, the sheriff may, on application by either party, make such apportionment as seems just, and the decision of the sheriff (whether given before or after the commencement of this Act) as to the amount to be apportioned to the dwelling-house shall be final and conclusive.

10. In respect of any period after the commencement of the relevant year, the references in paragraphs 7 and 8 above to the rateable value of the dwelling-house shall be construed as references to the rateable value of the dwelling-house reduced by an amount equal to the relevant fraction of such rateable value.

1956 c. 60. 11. Any alteration in the rateable value of any dwelling-house effected by the Valuation and Rating (Scotland) Act 1956 or by paragraph 10 above shall, in any question as to the application of section 7(3) of this Act in relation to a lease subsisting at the commencement of the relevant year, be disregarded.

12. In this Part of this Schedule, "lease", "relevant year" and "relevant fraction" have the same meanings as in paragraph 1(10) of Schedule 8 to this Act.

SCHEDULE 3

Section 10.

GROUNDS FOR POSSESSION OF DWELLING-HOUSES LET ON OR
SUBJECT TO PROTECTED OR STATUTORY TENANCIES

PART I

CASES IN WHICH COURT MAY ORDER POSSESSION

Case 1

Where any rent lawfully due from the tenant has not been paid, or any obligation of the protected or statutory tenancy which arises under this Act, or—

- (a) in the case of a protected tenancy, any other obligation of the tenancy, in so far as it is consistent with the provisions of Part II of this Act, or
- (b) in the case of a statutory tenancy, any other obligation of the previous protected tenancy which is applicable to the statutory tenancy,

has been broken or not performed.

In determining whether any rent lawfully due from a tenant has been paid in any case where the rent is payable in advance, any sums paid by the tenant in satisfaction of a decree or decrees for rent and expenses shall, if the action in which any such decree was obtained was raised before the expiry of the period in respect of which the rent sued for was due, be imputed wholly to rent and not to expenses.

Case 2

Where the tenant or any person residing or lodging with him or any sub-tenant of his has been guilty of conduct which is a nuisance or annoyance to adjoining occupiers, or has been convicted of using the dwelling-house or allowing the dwelling-house to be used for immoral or illegal purposes.

Case 3

Where the condition of the dwelling-house has, in the opinion of the court, deteriorated owing to acts of waste by, or the neglect or default of, the tenant or any person residing or lodging with him or any sub-tenant of his and, in the case of any act of waste by, or the neglect or default of, a person lodging with the tenant or a sub-tenant of his, where the court is satisfied that the tenant has not, before the making of the order in question, taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant, as the case may be.

Case 4

Where the tenant has given notice to quit and, in consequence of that notice, the landlord has contracted to sell or let the dwelling-house or has taken any other steps as the result of which he would, in the opinion of the court, be seriously prejudiced if he could not obtain possession.

SCH. 3

Case 5

Where, without the consent of the landlord, the tenant has, at any time after 8th December 1965 or, in the case of a controlled tenancy, after 1st September 1939, assigned or sub-let the whole of the dwelling-house or sub-let part of the dwelling-house the remainder being already sub-let.

Case 6

Where the protected or statutory tenancy is a controlled tenancy and the dwelling-house consists of or includes premises licensed for the sale of exciseable liquor for consumption off the premises only, and—

- (a) the tenant has committed an offence as holder of the licence, or
- (b) the tenant has not conducted the business to the satisfaction of the licensing court, or
- (c) the tenant has carried on the business in a manner detrimental to the public interest, or
- (d) the renewal of the licence has for any reason been refused.

Case 7

Where the dwelling-house is reasonably required by the landlord for occupation as a residence for some person engaged in his whole-time employment, or in the whole-time employment of some tenant from him or with whom, conditional on housing accommodation being provided, a contract for such employment has been entered into, and either

- (a) the tenant was in the employment of the landlord or a former landlord, and the dwelling-house was let to him in consequence of that employment and he has ceased to be in that employment; or
- (b) the court is satisfied by a certificate of the Secretary of State that the person for whose occupation the dwelling-house is required by the landlord is, or is to be, employed on work necessary for the proper working of an agricultural holding or as an estate workman on the maintenance and repair of the buildings, plant or equipment of agricultural holdings comprised in the estate.

Case 8

Where the dwelling-house is reasonably required by the landlord for occupation as a residence for—

- (a) himself, or
- (b) any son or daughter of his over eighteen years of age, or

(c) his father or mother, or

SCH. 3

(d) if the dwelling-house is let on or subject to a regulated tenancy, the father or mother of his wife or husband,

and the landlord did not become landlord by purchasing the dwelling-house or any interest therein after 23rd March 1965 or, if the dwelling-house is let on or subject to a controlled tenancy, after 7th November 1956.

Case 9

Where the court is satisfied that the rent charged by the tenant for any sub-let part of the dwelling-house which is also a dwelling-house let on a protected tenancy or subject to a statutory tenancy is or was in excess of the maximum rent for the time being recoverable for that part, having regard to the provisions of Part III or as the case may be, Part V of this Act.

Case 10

Where the dwelling-house is so overcrowded as to be dangerous or injurious to the health of the inmates, and the court is satisfied that the overcrowding could have been abated by the removal of any lodger or sub-tenant (not being a parent or child of the tenant) whom it would, having regard to all the circumstances of the case, including the question whether other accommodation is available for him, have been reasonable to remove, and that the tenant has not taken such steps as he ought reasonably to have taken for his removal.

PART II

CASES IN WHICH COURT MUST ORDER POSSESSION WHERE DWELLING-HOUSE SUBJECT TO REGULATED TENANCY

Case 11

Where a person who occupied the dwelling-house as his residence (in this Case referred to as "the owner-occupier") let it on a regulated tenancy and—

- (a) not later than the relevant date the landlord gave notice in writing to the tenant that possession might be recovered under this Case, and
- (b) the dwelling-house has not, since 8th December 1965, been let by the owner-occupier on a regulated tenancy with respect to which the condition mentioned in paragraph (a) above was not satisfied, and
- (c) the court is satisfied that the dwelling-house is required as a residence for the owner-occupier or any member of his family who resided with the owner-occupier when he last occupied the dwelling-house as a residence.

SCH. 3

Case 12

Where the dwelling-house is held for the purpose of being available for occupation by a minister or a full-time lay missionary of any religious denomination as a residence from which to perform the duties of his office and the dwelling-house has been let on a regulated tenancy, and—

- (a) not later than the relevant date, the tenant was given notice in writing that possession might be recovered under this Case, and
- (b) the court is satisfied that the dwelling-house is required for occupation by such a minister or missionary as such a residence.

Case 13

Where the dwelling-house was at any time occupied by a person under the terms of his employment as a person employed in agriculture and the dwelling-house has been let on a regulated tenancy, and

- (a) the tenant neither is nor at any time was so employed by the landlord and is not the widow of a person who was so employed, and
- (b) not later than the relevant date, the tenant was given notice in writing that possession might be recovered under this Case, and
- (c) the court is satisfied that the dwelling-house is required for occupation by a person employed or to be employed by the landlord in agriculture ;

1949 c. 30. and for the purposes of this Case “employed”, “employment” and “agriculture” have the same meanings as in the Agricultural Wages (Scotland) Act 1949.

Case 14

1967 c. 22. Where proposals for amalgamation, approved for the purposes of a scheme under section 26 of the Agriculture Act 1967, have been carried out and, at the time when the proposals were submitted, the dwelling-house was occupied by a person responsible (whether as owner, tenant, or servant or agent of another) for the control of the farming of any part of the land comprised in the amalgamation, and

- (a) after the carrying out of the proposals, the dwelling-house was let on a regulated tenancy otherwise than to, or to the widow of, either a person ceasing to be so responsible as part of the amalgamation or a person who is, or at any time was, employed by the landlord in agriculture, and
- (b) not later than the relevant date, the tenant was given notice in writing that possession might be recovered under this Case, and
- (c) the court is satisfied that the dwelling-house is required for occupation by a person employed or to be employed by the landlord in agriculture, and

- (d) the proceedings for possession are commenced by the landlord at any time during the period of five years beginning with the date on which the proposals for the amalgamation were approved or, if occupation of the dwelling-house after the amalgamation continued in, or was first taken by, a person ceasing to be responsible as mentioned in paragraph (a) above or his widow, during a period expiring three years after the date on which the dwelling-house next became unoccupied ; SCH. 3

and for the purposes of this Case “employed” and “agriculture” have the same meanings as in the Agricultural Wages (Scotland) Act 1949 and “amalgamation” has the same meaning as in Part II of the Agriculture Act 1967. 1949 c. 30. 1967 c. 22.

Case 15

Where a dwelling-house has been let on a regulated tenancy and—

- (a) the last occupier of the dwelling-house before the relevant date was a person, or the widow of a person, who was at some time during his occupation responsible (whether as owner, tenant, or servant or agent of another) for the control of the farming of land which formed, together with the dwelling-house, an agricultural unit within the meaning of the Agriculture (Scotland) Act 1948, and 1948 c. 45.
- (b) the tenant is neither—
- (i) a person, or the widow of a person, who is or has at any time been responsible for the control of the farming of any part of the said land, nor
 - (ii) a person, or the widow of a person, who is or at any time was employed by the landlord in agriculture, and
- (c) the creation of the tenancy was not preceded by the carrying out in connection with any of the said land of an amalgamation approved for the purposes of a scheme under section 26 of the Agriculture Act 1967, and
- (d) not later than the relevant date, the tenant was given notice in writing that possession might be recovered under this Case, and
- (e) the court is satisfied that the dwelling-house is required for occupation either by a person responsible or to be responsible (whether as owner, tenant, or servant or agent of another) for the control of the farming of any part of the said land or by a person employed or to be employed by the landlord in agriculture, and
- (f) the proceedings for possession are commenced by the landlord before the expiry of five years from the date on which the occupier referred to in paragraph (a) above ceased to occupy the dwelling-house ;

and for the purposes of this Case “employed” and “agriculture” have the same meanings as in the Agricultural Wages (Scotland) Act 1949 and “amalgamation” has the same meaning as in Part II of the Agriculture Act 1967.

SCH. 3

PART III

PROVISIONS APPLICABLE TO CASE 8 AND PART II ABOVE

Case 8

1. A court shall not make an order for possession of a dwelling-house by reason only that the circumstances of the case fall within Case 8 in Part I of this Schedule if the court is satisfied that, having regard to all the circumstances of the case, including the question whether other accommodation is available for the landlord or the tenant, greater hardship would be caused by granting the order than by refusing to grant it.

Part II

2. Any reference in Part II of this Schedule to the relevant date shall be construed as follows:—

- (a) if the protected tenancy, or, in the case of a statutory tenancy, the previous contractual tenancy, was created before 8th December 1965, the relevant date means 7th June 1966; and
- (b) in any other case, the relevant date means the date of the commencement of the regulated tenancy in question.

PART IV

SUITABLE ALTERNATIVE ACCOMMODATION

1. For the purposes of section 10(1)(a) of this Act, a certificate of the housing authority for the district in which the dwelling-house in question is situated, certifying that the authority will provide suitable alternative accommodation for the tenant by a date specified in the certificate, shall be conclusive evidence that suitable alternative accommodation will be available for him by that date.

2. Where no such certificate as is mentioned in paragraph 1 above is produced to the court, accommodation shall be deemed to be suitable for the purposes of section 10(1)(a) of this Act if it consists of either—

- (a) premises which are to be let as a separate dwelling such that they will then be let on a protected tenancy, or
- (b) premises to be let as a separate dwelling on terms which will, in the opinion of the court, afford to the tenant security of tenure reasonably equivalent to the security afforded by Part II of this Act in the case of a protected tenancy,

and, in the opinion of the court, the accommodation fulfils the relevant conditions as defined in paragraph 3 below.

3.—(1) For the purposes of paragraph 2 above, the relevant conditions are that the accommodation is reasonably suitable to the

needs of the tenant and his family as regards proximity to place of work, and either— SCH. 3

(a) similar as regards rental and extent to the accommodation afforded by dwelling-houses provided in the neighbourhood by any housing authority for persons whose needs as regards extent are, in the opinion of the court, similar to those of the tenant and his family ; or

(b) reasonably suitable to the means of the tenant and to the needs of the tenant and his family as regards extent and character.

(2) For the purposes of sub-paragraph (1)(a) above, a certificate of a housing authority stating—

(a) the extent of the accommodation afforded by dwelling-houses provided by the authority to meet the needs of tenants with families of such number as may be specified in the certificate, and

(b) the amount of the rent charged by the authority for dwelling-houses affording accommodation of that extent,

shall be conclusive evidence of the facts so stated.

4. Accommodation shall not be deemed to be suitable to the needs of the tenant and his family if the result of their occupation of the accommodation would be that it would be an overcrowded dwelling-house for the purposes of section 89 of the Housing (Scotland) Act 1966 c. 49. 1966.

5. Any document purporting to be a certificate of a housing authority named therein issued for the purposes of this Schedule and to be signed by the clerk to that authority shall be received in evidence and, unless the contrary is shown, shall be deemed to be such a certificate without further proof.

6. In this Schedule “housing authority” means a local authority for the purposes of Part VII of the Housing (Scotland) Act 1966, and “district”, in relation to such an authority, means the district for supplying the needs of which the authority has power under that Part of that Act.

SCHEDULE 4

Sections 22, 43.

CALCULATION OF AMOUNT OF RATES

1. For the purposes of sections 22 and 43 of this Act, the amount of rates for any rental period shall be taken, subject to the following provisions of this Schedule, to be an amount which bears to the total rates payable during the relevant rating period the same proportion as the length of the rental period bears to the length of the relevant rating period.

2. In this Schedule “the relevant rating period”, in relation to a rental period, means the rating period during which the rent for that rental period is payable.

SCH. 4

3. The amount of the rates for any rental period which precedes the making, by the authority levying the rates, of their first demand for, or for an instalment of, the rates for the relevant rating period shall be calculated on the basis that the rates for that rating period will be the same as for the last preceding rating period.

4.—(1) On the making, by the authority levying the rates, of their first such demand, and on the making by them of any subsequent such demand, the amount of the rates for any rental period shall if necessary be recalculated on the basis that the rates for the relevant rating period will be such as appears from the information given in the demand and any previous demands.

(2) Any such recalculation shall not affect the ascertainment of the rates for any rental period beginning more than six months before the date of the service of the demand giving rise to the recalculation.

5.—(1) If, as a result of the settlement of a question such as is mentioned in sub-paragraph (2) below, the rates payable for the relevant rating period are decreased, the amount of the rates for a rental period shall be recalculated so as to give effect to the decrease; but any such recalculation shall not affect the ascertainment of the rates for any rental period beginning more than six months before the date of the settlement of the question.

1854 c. 91.

(2) The question referred to in this paragraph is a question which is the subject of an appeal or complaint duly made in accordance with the provisions of the Lands Valuation (Scotland) Act 1854 and the Acts amending that Act.

6. In computing the rates for any rental period for the purposes of this Schedule, any discount, and any allowance made under any of the enactments relating to allowances given where rates are paid by the owner instead of by the occupier, shall be left out of account, and accordingly those rates shall be computed as if no such discount or allowance had fallen to be, or had been, allowed or made.

Section 38.

SCHEDULE 5

RENT ASSESSMENT COMMITTEES

1. The Secretary of State shall draw up and from time to time revise a panel of persons to act as chairmen and other members of rent assessment committees.

2. There shall be one panel for the registration areas in Scotland.

3. The panel shall consist of a number of persons appointed by the Secretary of State, and, if the Secretary of State thinks fit, a number of persons appointed to act only in case of absence or incapacity of other members of the panel.

4. The Secretary of State shall nominate two of the persons on the panel to act as president and vice-president of the panel.

5. Subject to the following provisions of this Schedule, the number of rent assessment committees to act for any registration area and the constitution of those committees shall be determined by the president of the panel or, in the case of the president's absence or incapacity, by the vice-president.

SCH. 5

6. Subject to paragraph 7 below, each rent assessment committee shall consist of a chairman and one or two other members.

7. The president of the panel may, if he thinks fit, direct that when dealing with such cases or dealing with a case in such circumstances as may be specified in the direction, the chairman sitting alone may, with the consent of the parties, exercise the functions of a rent assessment committee.

8. There shall be paid to members of a panel such remuneration and allowances as the Secretary of State, with the consent of the Minister for the Civil Service, may determine.

9. The president of the panel may appoint, with the approval of the Secretary of State as to numbers, such clerks and other officers and servants of rent assessment committees as he thinks fit, and there shall be paid to the clerks and other officers and servants such salaries and allowances as the Secretary of State, with the consent of the Minister for the Civil Service, may determine.

10. There shall be paid out of moneys provided by Parliament—
- (a) the remuneration and allowances of members of a panel ;
 - (b) the salaries and allowances of clerks and other officers and servants appointed under this Schedule ; and
 - (c) such other expenses of a panel as the Minister for the Civil Service may determine.

SCHEDULE 6

APPLICATIONS FOR REGISTRATION OF RENTS

PART I

APPLICATIONS UNSUPPORTED BY CERTIFICATE OF FAIR RENT

Sections 40, 41.

Procedure on applications to rent officer

1. On receiving any application for the registration of a rent, the rent officer may, by notice in writing served on the landlord or the tenant (whether or not the applicant or one of the applicants), 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 such of the particulars contained in the application as may be specified in the notice.

2. Where the application is made by the landlord alone the rent officer shall serve on the tenant, and where it is made by the tenant alone he shall serve on the landlord, a notice informing him of the application and specifying a period of not less than seven days from

SCH. 6 the service of the notice during which representations in writing may be made to the rent officer against the registration of the rent specified in the application.

3.—(1) Where—

- (a) the application is made jointly by the landlord and the tenant, or
- (b) no representations are made as mentioned in paragraph 2 above,

and it appears to the rent officer, after making such inquiry, if any, as he thinks fit and considering any information supplied to him in pursuance of paragraph 1 above, that the rent specified in the application is a fair rent, he may register that rent without further proceedings.

(2) Where the rent officer registers a rent under this paragraph he shall notify the landlord and tenant accordingly.

4.—(1) Where representations are made as mentioned in paragraph 2 above or the rent officer is not satisfied that the rent specified in the application is a fair rent or, as the case may be, that the rent for the time being registered is any longer a fair rent, he shall serve a notice under this paragraph.

(2) A notice under this paragraph shall be served on the landlord and on the tenant informing them 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 landlord and the tenant, or such of them as may appear at that time and place, what rent ought to be registered for the dwelling-house or, as the case may be, whether a different rent ought to be so registered.

(3) At any such consultation the landlord and the tenant may each be represented by a person authorised by him in that behalf, whether or not that person is an advocate or a solicitor.

5. After considering, in accordance with paragraph 4 above, what rent ought to be registered or, as the case may be, whether a different rent ought to be registered, the rent officer shall, as the case may require,—

- (a) determine a fair rent and register it as the rent for the dwelling-house ; or
- (b) confirm the rent for the time being registered and note the confirmation in the register ;

and shall notify the landlord and the tenant accordingly by a notice stating that if, within 28 days of the service of the notice or such longer period as he or a rent assessment committee may allow, an objection in writing is received by the rent officer from the landlord or the tenant the matter will be referred to a rent assessment committee.

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

(a) if it is received within the period of 28 days specified in that paragraph or a rent assessment committee so direct, the rent officer shall refer the matter to a rent assessment committee ;

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

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

Determination of fair rent by rent assessment committee

7.—(1) The rent assessment committee to whom a matter is referred under paragraph 6 above—

(a) may by notice in the prescribed form served on the landlord or the tenant require him to give to the committee, within such period of not less than 14 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 paragraph 1 above, as they may reasonably require ; and

(b) shall serve on the landlord and on the tenant a notice specifying a period of not less than 14 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.

(2) If any person fails without reasonable cause to comply with any notice served on him under sub-paragraph (1)(a) above, he shall be liable on a first conviction to a fine not exceeding £50 and, on a second or subsequent conviction, to a fine not exceeding £100.

(3) Where an offence under sub-paragraph (2) above committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager or secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

8. Where, within the period specified in paragraph 7(1)(b) above, or such further period as the committee may allow, the landlord or the tenant requests to make oral representations the committee shall give him an opportunity to be heard either in person or by a person authorised by him in that behalf, whether or not that person is an advocate or a solicitor.

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9.—(1) The committee shall make such inquiry, if any, as they think fit and consider any information supplied or representation made to them in pursuance of paragraph 7 or 8 above and—

(a) if it appears to them that the rent registered or confirmed 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 paragraph they shall notify the landlord, the tenant 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.

PART II

APPLICATIONS SUPPORTED BY CERTIFICATE OF FAIR RENT

Procedure on applications to rent officer

10.—(1) On receiving an application for the registration of a rent which is made as mentioned in section 41(4) of this Act, the rent officer shall ascertain whether the works specified in the certificate of fair rent have been carried out in accordance with the plans and specifications which accompanied the application for the certificate or, as the case may be, whether the condition of the dwelling-house is the same as at the date of the certificate.

(2) If the rent officer is satisfied that the works have been so carried out or, as the case may be, that the dwelling-house is in the same condition as at the date of the certificate, he shall register the rent in accordance with the certificate.

(3) If the rent officer is not satisfied as mentioned in sub-paragraph (2) above, he shall serve on the applicant a notice stating the matters with respect to which he is not so satisfied and informing him that if, within 14 days from the service of the notice or such longer period as the rent officer or a rent assessment committee may allow, the applicant makes a request in writing to that effect, the rent officer will refer the matter to a rent assessment committee.

11. If such a request as is mentioned in paragraph 10(3) above is made, then—

(a) if it is made within the period of 14 days specified in that paragraph or a rent assessment committee so direct, the rent officer shall refer the matter to a rent assessment committee ;

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

Procedure on references to rent assessment committee

SCH. 6

12.—(1) The rent assessment committee to whom a matter is referred under paragraph 11 above shall give the applicant an opportunity to make representations in writing or to be heard either in person or by a person authorised by him in that behalf, whether or not that person is an advocate or a solicitor.

(2) After considering any representations made under sub-paragraph (1) above, the rent assessment committee shall notify the rent officer and the applicant whether they are satisfied as mentioned in paragraph 10(2) above and—

- (a) if they are so satisfied they shall direct the rent officer to register the rent in accordance with the certificate ;
- (b) if they are not so satisfied they shall direct the rent officer to refuse the application for registration.

Provisional registration

13. Where a rent is registered in pursuance of such an application as is mentioned in paragraph 10(1) above by a person who intends to grant a regulated tenancy, the registration shall be provisional only until the regulated tenancy is granted and shall be of no effect unless the rent officer is notified in the prescribed manner, within one month from the date of the registration or such longer time as the rent officer may allow, that the regulated tenancy has been granted.

14. Where a registration is made as mentioned in paragraph 13 above, the rent officer shall indicate in the register that it is so made and—

- (a) if he is notified as mentioned in that paragraph that the regulated tenancy has been granted he shall indicate that fact in the register ;
- (b) if he is not so notified he shall delete the registration.

SCHEDULE 7

Section 41(3).

CERTIFICATES OF FAIR RENT

1. An application for a certificate of fair rent—

- (a) must be in the prescribed form ;
- (b) must state the rent to be specified in the certificate ; and
- (c) in the case mentioned in paragraph (a) of section 41(1) of this Act, must be accompanied by plans and specifications of the works to be carried out and, if the works to be carried out are works of improvement, must state whether the dwelling-house is for the time being subject to a regulated tenancy.

2.—(1) If it appears to the rent officer that the information supplied to him is insufficient to enable him to issue a certificate of fair rent he shall serve on the applicant a notice stating that he will

SCH. 7 not entertain the application and that, if a request in writing to that effect is made by the applicant within 14 days from the service of the notice or such longer period as a rent officer or a rent assessment committee may allow, the rent officer will refer the application to a rent assessment committee.

(2) If such a request is made, then—

(a) if it is made within the period of 14 days referred to in sub-paragraph (1) above or a rent assessment committee so direct, the rent officer shall refer the application to a rent assessment committee ;

(b) if it is made after the expiry of that period, the rent officer may either refer the application to a rent assessment committee or seek the directions of a rent assessment committee whether so to refer it.

3. If it appears to the rent officer that the information supplied to him is sufficient and that the rent stated in the application would be a fair rent he may, unless the dwelling-house is subject to a regulated tenancy, issue a certificate specifying that rent and the other terms referred to in section 41(2) of this Act.

4.—(1) If it appears to the rent officer that the information is sufficient but either—

(a) he is not satisfied that the rent stated in the application would be a fair rent, or

(b) the dwelling-house is subject to a regulated tenancy,

he shall serve on the applicant a notice stating that he 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 applicant, if present at that time and place, what rent ought to be specified in the certificate.

(2) At any such consultation the applicant may be represented by a person authorised by him in that behalf, whether or not that person is an advocate or a solicitor.

5. After considering in accordance with paragraph 4 above what rent ought to be specified in the certificate, the rent officer shall determine a fair rent and shall serve on the applicant a notice stating that he proposes to issue a certificate specifying that rent, unless within 14 days from the service of the notice, or such longer period as the rent officer or a rent assessment committee may allow, the applicant requests in writing that the application should be referred to a rent assessment committee.

6.—(1) If such a request as is referred to in paragraph 5 above is made, then—

(a) if it is made within the period of 14 days referred to in that paragraph or a rent assessment committee so direct, the rent officer shall refer the application to a rent assessment committee ;

(b) if it is made after the expiry of that period, the rent officer may either refer the application to a rent assessment committee or seek the directions of a rent assessment committee whether so to refer it.

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(2) If no such request is made or if such a request is made but the application is not referred to a rent assessment committee, the rent officer shall issue the certificate.

7.—(1) Where an application is referred to a rent assessment committee, then if the reference is under paragraph 2 above and it appears to the committee that the information supplied by the applicant to the rent officer is insufficient to enable a certificate of fair rent to be issued they shall notify the applicant accordingly.

(2) In any other case where an application is referred to a rent assessment committee, they shall serve on the applicant a notice specifying a period of not less than 14 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.

(3) Where, within the period specified under sub-paragraph (2) above or such further period as the committee may allow, the applicant requests to make oral representations, the committee shall give him an opportunity to be heard either in person or by a person authorised by him in that behalf, whether or not that person is an advocate or a solicitor.

8.—(1) After considering any representation made to them in pursuance of paragraph 7 above, the committee shall determine a fair rent for the dwelling-house and shall notify the applicant and the rent officer accordingly.

(2) On receiving the notification the rent officer shall issue to the applicant a certificate of fair rent specifying the rent determined by the committee.

9. Where an application under this Schedule is made with respect to a dwelling-house which it is intended to improve and the dwelling-house is subject to a regulated tenancy—

(a) a notice under paragraph 4, 5, 7(2) or 8 above shall be served on the tenant as well as on the applicant and any notice served under paragraph 4, 5 or 7(2) above shall refer to consultation with, or, as the case may be, a request or representations by, the tenant as well as the applicant ;

(b) the tenant may make representations, request reference to a rent assessment committee and be present or represented in like manner as the applicant, and references in this Schedule to the applicant shall be construed accordingly ; and

(c) a copy of any certificate of fair rent issued in pursuance of the application shall be sent to the tenant.

Section 48.

SCHEDULE 8

RENT RESTRICTIONS APPLICABLE TO CONTROLLED TENANCIES

1.—(1) This paragraph applies to a controlled tenancy to which immediately before the commencement of this Act the Rent and Mortgage Interest Restrictions Acts 1920 to 1938 applied.

(2) If the rent of a dwelling-house under a tenancy to which this paragraph applies has been, at any time since 25th March 1920, or is, after the commencement of this Act, increased beyond the limit permitted under this paragraph, the amount of the excess over that limit is irrecoverable from the tenant, notwithstanding any agreement to the contrary.

(3) The limit to which the rent payable in respect of a tenancy to which this paragraph applies may be increased is the standard rent as increased by the following amounts:—

- (a) where the landlord has since 4th August 1914 incurred, or after the commencement of this Act incurs, expenditure on the improvement or structural alteration of the dwelling-house let on or subject to the tenancy (including expenditure on the provision of additional or improved fixtures and fittings but not including expenditure on decoration or repairs or an amount equal to the amount of any repayment under section 12(1) of the Clean Air Act 1956), an amount calculated at a rate per annum not exceeding eight, or, in the case of such expenditure incurred after 3rd July 1962, $12\frac{1}{2}$ per cent. of the amount so expended:

Provided that the tenant may apply to the sheriff for an order suspending or reducing such increase on the ground that such expenditure is or was unnecessary in whole or in part, and the sheriff may make an order accordingly; but the sheriff shall not make such an order unless the tenant proves either—

(i) that he was the tenant when the expenditure was incurred and had not given his written consent to the improvement or alteration and the expenditure thereon; or

(ii) that, the landlord having been in possession of the premises at the date when the expenditure was incurred, the tenant is the first tenant subsequent to that date and became tenant without notice of—

- (a) the nature of the improvement or alteration;
 (b) the amount of the expenditure thereon; and
 (c) the amount of the maximum increase of rent chargeable on account thereof;

- (b) an amount not exceeding any increase in the amount for the time being payable by the landlord in respect of rates over the corresponding amount paid in respect of the yearly, half-yearly or other period which included 3rd August 1914, or in the case of a dwelling-house for which

1956 c. 52.

no rates were payable in respect of any period which included the said date, the period which included the date on which the rates first became payable thereafter:

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Provided that the amount payable by the landlord hereunder shall be treated as including the amount of any allowance made to him under any enactment relating to allowances given where rates are paid by the owner instead of by the occupier ;

- (c) in addition to any such amounts as aforesaid, an amount not exceeding 15 per cent. of the net rent ;
- (d) in addition to any such amounts as aforesaid—
- (i) where the landlord is responsible for the whole of the repairs, an amount not exceeding 25 per cent. of the net rent ; or
- (ii) where the landlord is responsible for part and not the whole of the repairs, such lesser amount as may be agreed, or as may, on the application of the landlord or the tenant, be determined by the sheriff to be fair and reasonable having regard to such liability ;
- (e) in addition to any such amounts as aforesaid, where part of a dwelling-house under a tenancy to which this paragraph applies is sub-let and that part is also a dwelling-house under such a tenancy—
- (i) in respect of the dwelling-house comprised in the sub-tenancy, an amount not exceeding 10 per cent. of the net rent of that dwelling-house ;
- (ii) in respect of the dwelling-house comprised in the tenancy, an amount equivalent to 5 per cent. of the net rent of the dwelling-house comprised in the sub-tenancy:
- Provided that, if the interest of the tenant in the dwelling-house comprised in the tenancy is determined and the sub-tenant becomes the tenant of the landlord, then, notwithstanding anything in section 17(2) of this Act, the maximum additional amount of rent allowable under sub-head (i) above shall be reduced to 5 per cent. of the net rent of the dwelling-house comprised in the sub-tenancy ;
- (f) in the case of dwelling-houses let by a railway company to persons in the employment of the company, such additional amount, if any, as is required in order to give effect to the agreement dated 1st March 1920, relating to the rates of pay and conditions of employment of certain persons in the employment of railway companies, or any agreement extending or modifying that agreement.

(4) Any transfer to a tenant of any burden or liability previously borne by the landlord shall, for the purposes of this paragraph, be treated as an alteration of rent, and where, as the result of such a transfer, the terms on which a dwelling-house is held are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased, whether or not the sum periodically

SCH. 8 payable by way of rent is increased, and any increase of rent in respect of any transfer to a landlord of any burden or liability previously borne by the tenant where, as the result of such transfer, the terms on which any dwelling-house is held are on the whole not less favourable to the tenant than the previous terms, shall be deemed not to be an increase of rent for the purposes of this paragraph:

Provided that, for the purposes of this paragraph, the rent shall not be deemed to be increased where the liability for rates is transferred from the landlord to the tenant, if a corresponding reduction is made in the rent.

(5) Any question arising under this paragraph shall be determined, on the application either of the landlord or superior landlord or of the tenant, by the sheriff whose decision shall be final and conclusive.

(6) Subject to the following provisions of this paragraph, in this paragraph—

(a) “the standard rent” means—

(aa) in the case of a dwelling-house let under a tenancy on 3rd August 1914, the rent payable at that date;

(bb) where the dwelling-house in question was not let on that date, the rent at which it was last let under the tenancy before that date;

(cc) where the dwelling-house in question was first let after that date, the rent at which it was first let under the tenancy:

Provided that—

(i) in the case of any dwelling-house let at a progressive rent payable under a tenancy agreement or lease, the maximum rent payable under that agreement or lease shall be the standard rent; and where, at the date by reference to which the standard rent is calculated, the rent was less than the rateable value, the rateable value at that date shall be the standard rent;

(ii) if, in any proceedings in which the standard rent of any dwelling-house let under a tenancy to which this paragraph applies is required to be determined, the court is satisfied that it is not reasonably practicable to obtain sufficient evidence to enable the court to ascertain the standard rent as defined above, the court may determine the standard rent as being, for the purposes of those proceedings, of such amount as the court thinks proper having regard to the standard rents of similar dwelling-houses in the neighbourhood; and as from the date of such

determination the standard rent of the dwelling-house shall, unless the court making the determination otherwise directs, be deemed for all purposes to be of that amount ; SCH. 8

- (iii) where a dwelling-house let under a tenancy to which this paragraph applies is part of another such dwelling-house, the standard rent of the first-mentioned dwelling-house as from 28th November 1938 shall be ascertained by apportioning the standard rent of the second-mentioned dwelling-house, and the provisions of proviso (iv) below shall apply to this proviso ;
 - (iv) where, for the purpose of determining the standard rent of any dwelling-house, it is necessary to apportion the rent at the date in relation to which the standard rent is to be fixed, the sheriff may, on application by either party, make such apportionment as seems just, and the decision of the sheriff thereon shall be final and conclusive ;
 - (v) where assistance has been given in respect of the provision or improvement of a dwelling-house by the making of a grant under Part VII of the Housing (Scotland) Act 1950, Part III of the House Purchase and Housing Act 1959 or Part II of the Housing (Financial Provisions) (Scotland) Act 1968 before 25th August 1969, then—
 - (a) the provisions of this paragraph relating to standard rent and permitted increases of rent shall not apply during the period when the conditions specified in Schedule 3 to the said Act of 1968, as originally enacted, are required by section 30 or 43 of that Act to be observed with respect to the dwelling-house, but
 - (b) the rent under the first tenancy of the dwelling-house granted after the expiry of the said period shall be deemed to be the standard rent ;
- (b) “ the net rent ” means—
- (i) where the landlord at the time by reference to which the standard rent is calculated paid the rates chargeable on, or which but for the provisions of any Act would be chargeable on, the occupier, the standard rent less the amount of such rates ; and
 - (ii) in any other case, the standard rent ;
- (c) “ rates ” means assessments as defined in the House Letting and Rating (Scotland) Acts 1911 and 1920.

SCH. 8 (7) Any reference in any enactment (including this Act), order or other document to the net rent or the standard rent of a dwelling-house under a tenancy to which this paragraph applies shall, in respect of any period after the commencement of the relevant year, be construed—

- (a) in the case of the net rent, as a reference to such rent reduced by an amount equal to the relevant fraction of that rent ; and
- (b) in the case of the standard rent, as a reference to such rent reduced by an amount equal to the relevant fraction of the net rent of that dwelling-house :

Provided that the foregoing provisions of this sub-paragraph shall not apply in relation to the net rent or the standard rent of any dwelling-house of which—

- (i) the standard rent is the rent at which it was let on a lease entered into after the commencement of the relevant year or is an amount ascertainable by apportionment of the rent at which a property of which it formed part was let on such a lease as aforesaid (whether such an apportionment has been made or not) ;
- (ii) the standard rent has been determined by the court under proviso (ii) to paragraph 1(6)(a) above after such commencement ;
- (iii) the standard rent is the rent determined under section 59 of this Act after such commencement ;
- (iv) the standard rent is the amount deemed to be the standard rent by virtue of head (b) of proviso (v) to paragraph 1(6)(a) above, and the tenancy referred to in that head begins after such commencement ;
- (v) the standard rent is—

1951 c. 65.

(a) under section 16(4)(a), 16(5)(a) or 17(2)(a) of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951, the rent payable in respect of a tenancy qualifying for protection beginning after such commencement or an amount to be ascertained by apportionment of the rent at which a property of which it formed part was let on such a tenancy as aforesaid ; or

(b) the amount specified in a notice under section 16(5)(b) of the said Act, being a notice served after such commencement ; or

(c) the rent determined under section 16(5)(c) of the said Act by the Tribunal after such commencement ;

and for the purposes of this proviso the references to the provisions of the said section 16 shall include references to those provisions as applied by section 17(2)(b) or 18(2)(b) of the said Act of 1951 ;

- (vi) the standard rent is a rent which has been determined under section 26 of the Housing (Repairs and Rents) (Scotland) Act 1954 by the local authority after such commencement. SCH. 8 1954 c. 50.
- (8) Any reference in any enactment (including this Act), order or other document to the permitted increase in rent—
- (a) under paragraph 1(3)(a), (c) or (d) above shall, in relation to such an increase due and recoverable in respect of a tenancy immediately before the commencement of the relevant year, be construed in respect of any period after the commencement of that year as a reference to the said increase reduced by an amount equal to the relevant fraction of such increase ;
- (b) under paragraph 1(3)(b) above shall, so far as such an increase is in respect of an increase in the amount of the rates payable by the landlord in respect of a dwelling-house other than rates for which he is responsible under the House Letting and Rating (Scotland) Acts 1911 and 1920, be construed in respect of any period after the commencement of the relevant year as a reference to the said increase reduced by an amount equal to the relevant fraction of such increase.
- (9) Any alteration in the rent of any dwelling-house effected by the Act of 1956 or by sub-paragraphs (7) and (8) above shall, in any question as to the application of section 2(1)(a) or 7(3) of this Act in relation to a lease subsisting at the commencement of the relevant year, be disregarded.
- (10) For the purposes of sub-paragraphs (7) to (9) above—
- (a) the expression “lease” means a letting for a term of years or for lives or for lives and years or from year to year or for a part of a year, and includes a sub-lease ; and “landlord” shall be construed accordingly ;
- (b) a lease shall be deemed to have been entered into on the date of the term of entry thereunder ;
- (c) the expression “relevant fraction” means, as applied to any amount related to lands and heritages, a fraction of which the numerator is the number of pence per pound of rateable value payable by way of owner’s rates in respect of such lands and heritages for the year in which the Act of 1956 passed and the denominator is 240 ;
- (d) the expression “relevant year” means the year first commencing after the passing of the Act of 1956 ;
- (e) the expression “year” has the meaning assigned to it by section 43(1) of the Act of 1956 ;
- (f) the expression “Act of 1956” means the Valuation and Rating (Scotland) Act 1956. 1956 c. 60.
- 2.—(1) This paragraph applies to a controlled tenancy to which the Rent and Mortgage Interest Restrictions Acts 1920 to 1938, as modified by Schedule 1 to the Rent and Mortgage Interest Restrictions Act 1939, applied immediately before the commencement of this Act. 1939 c. 71.

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(2) In so far as the rent of a dwelling-house under a tenancy to which this paragraph applies has been, at any time since 1st September 1939, or is, after the commencement of this Act, increased beyond the limit permitted under this paragraph, the amount of the excess over that limit is irrecoverable from the tenant, notwithstanding any agreement to the contrary.

(3) Sub-paragraphs (3)(a), (3)(b), (4), (5), (6)(c) and (7) to (10) of paragraph 1 above shall have effect for the purposes of this paragraph with the substitution—

- (a) in sub-paragraph (3)(a), for the reference to 4th August 1914 of a reference to 2nd September 1939; and
- (b) in sub-paragraph (3)(b), for the reference to 3rd August 1914 of a reference to the day before 2nd September 1939.

(4) Sub-paragraph (6)(a) of paragraph 1 above shall have effect for the purposes of this paragraph with the substitution for the reference in sub-head (aa) to 3rd August 1914 of a reference to the day before 2nd September 1939.

1952 c. 40.

3.—(1) In relation to a tenancy to which paragraph 2(1) above applies but which became a tenancy to which the Acts referred to in that paragraph applied by virtue of the Crown Lessees (Protection of Sub-Tenants) Act 1952—

- (a) sub-paragraphs (2) and (3) of paragraph 2 above shall have effect with the substitution for any reference to 1st or, as the case may be, 2nd September 1939 of a reference to the critical date; and
- (b) sub-paragraph (6)(a) of paragraph 1 above shall have effect with the substitution for sub-heads (aa) to (cc) thereof of a reference to the rent payable on the critical date.

(2) In this paragraph, “the critical date” means—

- (a) in the case of a tenancy to which the said Act of 1952 applied on 1st September 1952, 8th February 1952 or, if the dwelling-house was not then let, the date on which it was first let thereafter;
- (b) in the case of a tenancy to which the said Act of 1952 subsequently became applicable, the date on which that Act became applicable to the tenancy.

1954 c. 50.

4. In relation to a tenancy to which paragraph 2(1) above applies but which became a tenancy to which the Acts referred to in that paragraph applied by virtue of section 25 of the Housing (Repairs and Rents) (Scotland) Act 1954, sub-paragraphs (2) to (4) of paragraph 2 above shall have effect with the substitution for any reference to 1st, or as the case may be, 2nd September 1939 of a reference to the following date, that is to say—

- (a) 13th November 1953, if on that date the dwelling-house in question was let under a tenancy to which the Acts referred to in paragraph 2(1) above applied as from the commencement of the said Act of 1954; and

- (b) in any other case, the date between 13th November 1953 and the commencement of that Act (30th August 1954) on which it was first so let. SCH. 8

5.—(1) The following provisions of this paragraph apply where a dwelling-house which is let on or subject to a controlled tenancy has access to a street on which works have been carried out under—

- (a) any of the enactments referred to in section 1 of the Local Government (Street Works) (Scotland) Act 1956, or
 (b) the corresponding provisions of any local enactment.

(2) Subject to the following provisions of this paragraph, the amount—

- (a) of any expenditure incurred after 5th July 1957 by the landlord or a superior landlord in the carrying out of the works in question, or
 (b) of any liability incurred after that date by the landlord or a superior landlord in respect of those works to the authority by whom they were carried out,

shall be treated (whether or not apart from this paragraph it would be so treated) as expenditure incurred by the landlord or superior landlord on an improvement as mentioned in paragraph 1(3)(a) above.

(3) Sub-paragraph (2)(b) above applies whether the liability mentioned in that sub-paragraph is dischargeable in a lump sum or by instalments, but, for the purposes of this paragraph, interest shall be excluded in determining the amount of any liability which is dischargeable by instalments.

(4) If benefit accrues from the carrying out of the works not only to the dwelling-house but also to other premises of the landlord or superior landlord, the amount to be treated as mentioned in sub-paragraph (2) above shall be so much only of the expenditure or liability as may be determined, by agreement in writing between the landlord and the tenant or by the sheriff, to be properly apportionable to the dwelling-house, having regard to the benefit accruing from the carrying out of the works, to the dwelling-house and to the other premises.

(5) Any apportionment made by the sheriff under sub-paragraph (4) above shall be final and conclusive.

(6) For the purposes of this paragraph the amount of any expenditure shall be treated as diminished by the amount of any contribution made in respect of that expenditure under any enactment.

(7) The proviso to paragraph 1(3)(a) above shall not apply to any increase authorised by virtue of this paragraph.

SCHEDULE 9

Sections 49, 51.

PROOF OF PAST REPAIRS BY LANDLORD

1. The declaration mentioned in section 51(1)(b) of this Act is a declaration in the prescribed form that during the period of 12 months ending with the date of service of the notice of repairs increase containing the declaration (which date is hereinafter referred

SCH. 9 to as "the relevant date"), work (the nature of which shall be specified in general terms in the declaration) has been carried out on the dwelling-house to a value of not less than three-fifths of the rent which was recoverable in respect of the dwelling-house immediately before 30th August 1954.

2. Where—

- (a) under the terms of the tenancy, if the dwelling-house was let at the relevant date, or,
- (b) under the terms of the last subsisting tenancy, if the dwelling-house had been let before the relevant date but was not let at that date,

the landlord is or was responsible in part only for the repair of the dwelling-house, paragraph 1 above shall have effect with the substitution for the value therein mentioned of that value proportionately reduced.

3.—(1) Within 28 days after the relevant date the tenant may apply to the sheriff to determine whether work has been carried out on the dwelling-house during the period specified in the declaration to a value not less than that so specified and whether that value is at least the value required by the foregoing provisions of this Schedule; and if on such an application the sheriff is not satisfied that work has been carried out as aforesaid and that the value specified in the declaration is at least the value required as aforesaid, he shall certify accordingly and thereupon the notice of repairs increase shall be, and be deemed always to have been, of no effect.

(2) Where, on such an application as aforesaid, it is necessary for the sheriff to determine the extent to which the landlord is or was responsible for the repair of the dwelling-house,—

- (a) section 123 of this Act shall apply to that determination, and
- (b) notwithstanding anything in subsection (4) of section 49 of this Act, the determination shall have effect (so far as relevant) for the purposes of that section.

4. Subject to the provisions of paragraph 3 above, the service of a notice of repairs increase containing such a declaration as is required by this Schedule shall be treated for the purposes of subsection (1) of section 49 of this Act as the production of satisfactory evidence that work has been carried out as mentioned in paragraph (b) of that subsection; and subject as aforesaid the validity of a declaration shall not be questioned on the ground that the value of the work stated in the declaration to have been carried out on the dwelling-house is less than that required by the foregoing provisions of this Schedule.

5. If in such a declaration as is required by this Schedule any person makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular, he shall be liable to a fine not exceeding £30.

6.—(1) For the purposes of this Schedule work which enured solely for the benefit of the dwelling-house shall be treated as having been carried out on the dwelling-house notwithstanding that the site of the work was not comprised in the dwelling-house.

(2) Subject to the provisions of sub-paragraph (3) below, work which enured for the benefit of the dwelling-house and also of other premises shall, whether the work was carried out on a site comprised in the dwelling-house or elsewhere, be treated for the purposes of this Schedule as having been carried out on the dwelling-house to a value equal to such proportion of the value of the work as ought to be apportioned to the dwelling-house.

SCH. 9

(3) Where two or more dwelling-houses are contained in one building and work has during any period been carried out on all or any of the dwelling-houses in the building or on the building or so as to enure for the benefit of all or any of the dwelling-houses in the building, work shall be treated for the purposes of this Schedule as having been carried out during that period on any one of those dwelling-houses to a value bearing the like proportion to so much of the cost of that work as was borne by the landlord of that dwelling-house as the floor area or rateable value of that dwelling-house bears to the total floor areas or rateable values of all the dwelling-houses contained as aforesaid of which that landlord is the landlord.

For the purpose of this sub-paragraph—

- (a) where a building contains premises other than a dwelling-house as well as one or more dwelling-houses, those premises shall be treated as if they were a dwelling-house ;
- (b) where a building contains premises other than a dwelling-house which are occupied otherwise than by a tenant thereof, the owner of the premises shall be treated as if he were the landlord thereof ;
- (c) the floor area of a dwelling-house shall be ascertained in such manner as the Secretary of State shall prescribe, and the regulations may provide for the exclusion from computation, or for bringing into computation at a reduced figure, of floor space in any part of a dwelling-house which is of less than a specified height.

7. The landlord, or any person authorised by him in writing, shall be entitled at reasonable times of the day, on giving 24 hours' notice in writing to the occupier of his intention, to enter any dwelling-house for the purpose of ascertaining the floor area thereof for the purposes of paragraph 6(3) above.

8. For the purposes of this Schedule work shall be disregarded—

- (a) if or in so far as it was carried out by and at the cost of the tenant or any predecessor in title of his, or by and at the cost of any person claiming under the tenant or any predecessor in title of his ;
- (b) if or in so far as the cost thereof has been or will be reimbursed under Part I of the War Damage Act 1943 ; 1943 c. 21.
- (c) if or in so far as the cost thereof has been or will be repaid under section 12 of the Clean Air Act 1956. 1956 c. 52.

9. In this Schedule the expression "work" means work required for securing that premises used for human habitation are in good and tenable repair and are not in any other respect unfit for human habitation.

Section 50.

SCHEDULE 10

MODIFICATION OF PART V OF THIS ACT IN APPLICATION
TO SECTION 50 INCREASES

- Section 51 ... In subsection (1), paragraph (b) shall be omitted, and for subsection (4) there shall be substituted the following subsection—
- “ (4) A notice of intention to increase the rent by way of a section 50 increase shall not be served under this section in respect of a dwelling-house at any time within a period of four months after a notice of repairs increase has been served in respect of the dwelling-house, and any notice served in contravention of this subsection shall be void ”.
- Section 53 ... In subsection (1) the words “ and Schedule 9 to this Act ” shall be omitted.
- Section 54 ... In subsection (3) for the word “ one-half ” there shall be substituted the word “ one-quarter ”.
- Section 56 ... In subsection (1) the words “ and Schedule 9 thereto ” shall be omitted.
- Section 69(4) ... The reference to Schedule 9 to this Act shall be omitted.
- Schedule 11 ... Any reference to section 49 of this Act shall include a reference to section 50 of this Act.
In paragraph 3, sub-paragraphs (b) and (c) shall be omitted.
Paragraph 5 shall be omitted.

Section 53.

SCHEDULE 11

MODIFICATION OF PART V OF THIS ACT IN APPLICATION TO
CERTAIN CLASSES OF DWELLING-HOUSE

1. For the purposes of section 49(1) of this Act, the conditions justifying an increase of rent shall be deemed not to be fulfilled in respect of the dwelling-house unless the local authority, on the application of the landlord and on being satisfied that the dwelling-house fulfils both the conditions justifying an increase of rent, have certified accordingly in the prescribed form ; and where a certificate has been granted under this paragraph in respect of a dwelling-house, any such certificate of a sanitary authority and any such order of a court as is referred to in section 53(2)(a) of this Act and any certificate granted under paragraph 2 below which is then in force in relation to the dwelling-house shall cease to have effect.

2. Where the local authority have refused to grant, on the application of the landlord, a certificate under paragraph 1 above

they shall forthwith certify accordingly in the prescribed form and shall serve a copy of the certificate on the landlord and on the tenant of the dwelling-house ; and the certificate shall come into force as from the date of such service on the landlord and shall have effect for the purposes of Part V of this Act as if it were a certificate granted by the local authority under section 52(1) of this Act.

SCH. 11

3. In section 51(1) of this Act for paragraphs (a) and (b) there shall be substituted the following paragraphs—

- “(a) a declaration that at the date of service of the notice there is in force a certificate granted under paragraph 1 of Schedule 11 to this Act ;
- (b) a declaration such as is mentioned in Schedule 9 to this Act ;
- (c) a declaration that the landlord and the tenant have agreed in writing, or that the sheriff has determined, that work has been carried out as specified in the last-mentioned declaration.”

4. The provisions of subsection (5) of section 52 of this Act shall apply in relation to the granting of a certificate under paragraph 2 above as it applies in relation to the granting of a certificate under subsection (1) of that section ; and, if the sheriff revokes a certificate granted under the said paragraph 2, the local authority shall forthwith grant a certificate under paragraph 1 above.

5. In Schedule 9 to this Act—

(a) for sub-paragraph (1) of paragraph 3 there shall be substituted the following sub-paragraph—

“(1) The service of a notice of repairs increase containing such a declaration as is required by this Schedule shall be treated for the purposes of subsection (1) of section 49 of this Act as the production of satisfactory evidence that work has been carried out as mentioned in paragraph (b) of that subsection if, but only if, before the service of that notice, either—

- (a) the landlord and the tenant have agreed in writing that work has been carried out as so mentioned ;
or
- (b) the sheriff, on the application of the landlord, is satisfied that work has been carried out as so mentioned and has determined accordingly ;

and, where the landlord and the tenant have so agreed or the sheriff has so determined, the validity of a declaration shall not be questioned on the ground that the value of the work stated in the declaration to have been carried out on the dwelling-house is less than that required by the foregoing provisions of this Schedule.” ; and

(b) paragraph 4 shall be omitted

Sections 73
and 74.

SCHEDULE 12

CERTIFICATES OF FAIR RENT AND REGISTRATION OF RENT FOR CONVERTED TENANCIES

PART I

APPLICATIONS FOR CERTIFICATES OF FAIR RENT BY LANDLORDS UNDER CONTROLLED TENANCIES

1. Where, on an application for a qualification certificate, a local authority have issued a certificate of provisional approval, the applicant may apply to the rent officer for a certificate of fair rent.

2. An application made under paragraph 1 of this Schedule must be accompanied by copies of the plans and specifications which accompanied the application for the qualification certificate and of the certificate of provisional approval.

3. A certificate of fair rent issued on an application under this Schedule shall specify the rent which would be a fair rent under the regulated tenancy that might arise by virtue of section 70 of this Act if the works shown in the plans and specifications were carried out.

4. Schedule 7 to this Act shall have effect with respect to an application made under this Schedule as if—

- (a) in paragraph 1 after the word “form” there were inserted the word “and” and sub-paragraph (c) were omitted; and
- (b) paragraph 3 were omitted; and
- (c) in paragraph 4 for the words from the beginning to “he shall serve” there were substituted the words “The rent officer shall serve”; and
- (d) in paragraph 9 the words preceding sub-paragraph (a) were omitted.

PART II

APPLICATIONS FOR REGISTRATION

Procedure on application to rent officer

5. On receiving the application for registration the rent officer shall ascertain whether any differences are specified in the qualification certificate in accordance with section 73(4) of this Act.

6. If no differences are so specified and the application was made not later than three months after the issue of the qualification certificate, the rent officer shall register the rent in accordance with the certificate of fair rent.

7. In any other case he shall serve a notice on the tenant informing him of the application and specifying a period of not less than 7 days from the service of the notice during which representations in writing may be made to the rent officer against the registration of the rent specified in the certificate.

8. Where no such representations are made then, unless it appears to the rent officer that the rent specified in the certificate of fair rent is higher than a fair rent, he shall register that rent and notify the landlord and tenant accordingly.

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9.—(1) Where representations are made as mentioned in paragraph 7 of this Schedule or the rent officer is of opinion that the rent specified in the certificate of fair rent is higher than a fair rent, he shall serve notice on the landlord and on the tenant informing them that he proposes, at a time (which shall not be earlier than 7 days after the service of the notice) and place specified in the notice to consider in consultation with the landlord and the tenant, or such of them as may appear at that time and place, what rent, not exceeding that specified in the certificate of fair rent, ought to be registered.

(2) At any such consultation the landlord and tenant may each be represented by a person authorised by him in that behalf, whether or not that person is an advocate or a solicitor.

10.—(1) The rent officer shall consider, in accordance with the last foregoing paragraph, what rent ought to be registered, and—

(a) if, after considering it, he is of opinion that the rent specified in the certificate is not higher than a fair rent he shall register it as the rent for the dwelling-house ; but

(b) if, after considering it, he is of opinion that the rent so specified is higher than a fair rent he shall determine a fair rent and register that rent as the rent for the dwelling-house ;

and shall give notice of the registration to the landlord and the tenant.

(2) The notice shall state that if, within 28 days of the service of the notice or such longer period as the rent officer or a rent assessment committee may allow, an objection in writing is received by the rent officer from the landlord or the tenant the matter will be referred to a rent assessment committee.

11.—(1) If such an objection is received, then—

(a) if it is received within the period of 28 days mentioned in the last foregoing paragraph or a rent assessment committee so direct, the rent officer shall refer the matter to a rent assessment committee ;

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

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

Determination of fair rent by rent assessment committee

12. The rent assessment committee to whom a matter is referred under paragraph 11 of this Schedule shall serve on the landlord and on the tenant a notice specifying a period of not less than 14 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.

SCH. 12

13. Where, within the period specified under paragraph 12 of this Schedule or such further period as the committee may allow, the landlord or the tenant requests to make oral representations the committee shall give him an opportunity to be heard either in person or by a person authorised by him in that behalf, whether or not that person is an advocate or a solicitor.

14.—(1) The committee shall make such inquiry, if any, as they think fit and consider any representation made to them in pursuance of the two last foregoing paragraphs and—

- (a) if it appears to them that the rent registered by the rent officer has been rightly registered they shall confirm it ;
- (b) in any other case they shall designate as the rent for the dwelling either the rent specified in the certificate of fair rent or such lower rent as appears to them to be a fair rent, as the case may require ;

and they shall notify the landlord, the tenant and the rent officer accordingly.

(2) 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 designated by the committee as the rent for the dwelling.

Section 79.

SCHEDULE 13

RESTRICTION ON RENT INCREASES

Restriction on rent increases after first registration

1. Where a rent for a dwelling-house which is subject to a regulated tenancy is registered under Part IV of this Act and the registration is the first—

- (a) after the tenancy has become a regulated tenancy by virtue of Part VI of this Act ; or
- (b) after the completion, during the existence of the tenancy, of works towards the cost of which a grant was payable under Part II of the Act of 1968 ;

then if the rent payable under the tenancy for any statutory period beginning during the period of delay imposed by paragraph 2 of this Schedule is less than the rent so registered, it shall not be increased by a notice of increase under section 21(2)(b) of this Act except to the extent (if any) permitted under the following provisions of this Schedule ; and any such notice which purports to increase it further shall have effect to increase it to the extent so permitted but no further.

Period of delay

2. There shall be a period of delay with respect to any rent registered as mentioned in paragraph 1 of this Schedule, which shall be—

- (a) if the rent is registered as mentioned in sub-paragraph (a) of that paragraph, a period of four years.

(b) if the rent is registered as mentioned in sub-paragraph (b) of that paragraph, a period of two years, beginning with the date of registration.

SCH. 13

Permitted increase

3.—(1) The rent may be increased to the aggregate of the following:—

- (a) the amount of the previous limit, calculated in accordance with paragraph 4 of this Schedule ;
- (b) the amount (if any) apportioned to services in accordance with paragraph 5 of this Schedule ; and
- (c) the appropriate proportion of the difference between the registered rent and the aggregate of the amounts specified in paragraphs (a) and (b) above.

(2) The appropriate proportion mentioned in sub-paragraph (1)(c) of this paragraph shall be ascertained for any rental period in accordance with the following Table, in which the year of the period of delay in which the rental period begins is shown in the first column and the appropriate proportion in the second or third column, according as the period of delay imposed by paragraph 2 of this Schedule is two years or four years.

TABLE

Year of period of delay	Appropriate Proportion	
	Where period of delay is two years	Where period of delay is four years
1st year	one-third	one-fifth
2nd year	two-thirds	two-fifths
3rd year	—	three-fifths
4th year	—	four-fifths

(3) Notwithstanding anything in the foregoing provisions of this paragraph, the amount to which the rent may be increased for any rental period shall not in any case be less than 37½p a week above the following, that is to say—

- (a) if the rental period begins in the first year of the period of delay, the aggregate of the amounts specified in sub-paragraphs (1)(a) and (1)(b) of this paragraph ;
- (b) if the rental period begins in a subsequent year, the amount to which the rent could be increased for a rental period beginning in the previous year ;

but nothing in this paragraph shall be taken to enable the rent to be increased above the amount registered.

SCH. 13

Previous limit

1969 c. 62.
1968 c. 42.

4.—(1) For the purposes of this Schedule the previous limit of a rent shall be taken to be, subject to sub-paragraph (2) of this paragraph, the amount which at the date of registration was recoverable by way of the rent or would have been so recoverable if all notices of increase authorised by the Rent (Control of Increases) Act 1969, by this Act or by regulations under section 9 of the Prices and Incomes Act 1968 had been served.

(2) Where the rent includes an amount payable in respect of rates, the amount so payable, ascertained in accordance with Schedule 4 to this Act, shall be deducted from the amount specified in sub-paragraph (1) of this paragraph in calculating the previous limit of the rent.

Amount to be apportioned to services

5.—(1) Where the registered rent includes a payment in respect of services provided by the landlord, then if—

- (a) the rent is not registered as a variable rent in accordance with section 43(4) of this Act, but
- (b) not less than 10 per cent. of the amount of the registered rent is in the opinion of the rent officer or, as the case may be, rent assessment committee fairly attributable to the provision of the services,

the amount so attributable shall be noted in the register.

(2) Where it appears to the rent officer or rent assessment committee that some amount was in the previous limit attributable to the provision of services by the landlord and was less than the amount noted in pursuance of sub-paragraph (1) of this paragraph, then—

- (a) if the amount so attributable can be ascertained the difference between it and the amount so noted shall be the amount apportioned to the services ;
- (b) if the amount so attributable cannot be ascertained it shall be taken to be an amount bearing to the previous limit the same proportion as the amount noted in pursuance of sub-paragraph (1) of this paragraph bears to the amount of the registered rent, and the difference between the amount so taken and the amount so noted shall be the amount apportioned to the services ;

and the amount apportioned to the services in accordance with this sub-paragraph shall also be noted in the register.

(3) Where it appears to the rent officer or rent assessment committee that no amount was in the previous limit attributable to the provision of services by the landlord, the amount noted in pursuance of sub-paragraph (1) of this paragraph shall be the amount apportioned to the services and shall be noted as such in the register.

*Restriction on rent increases in cases of further
registration during period of delay*

SCH. 13

6.—(1) Where a rent (in this paragraph referred to as the first rent) for a dwelling-house which is subject to a regulated tenancy has been registered as mentioned in paragraph 1 of this Schedule and, in any year of the period of delay imposed by paragraph 2 of this Schedule, a new rent for the dwelling-house is registered under Part IV of this Act, then, if the new rent exceeds the rent for the time being recoverable under the regulated tenancy the following provisions of this paragraph shall apply and the foregoing provisions of this Schedule shall not apply.

(2) The rent for any statutory period beginning before the end of the period of delay shall not be increased by a notice of increase under section 21(2)(b) of this Act except to the extent permitted by the following provisions of this paragraph; and any such notice which purports to increase it further shall have effect to increase it to the extent so permitted but no further.

(3) If the new rent is less than the first rent the rent payable under the regulated tenancy may be increased (up to the amount registered) to the same extent as if the first rent had remained registered.

(4) If the new rent exceeds the first rent the registration shall not affect the amount recoverable for any rental period beginning in the year mentioned in sub-paragraph (1) of this paragraph; and the rent for any statutory period beginning after that year may be increased to an amount arrived at by adding the difference between the first rent and the new rent to the amount to which the rent for that period could have been increased had the first rent remained registered.

Successive tenancies

7. Where a rent for a dwelling-house which is subject to a regulated tenancy is registered as mentioned in paragraph 1 of this Schedule and, during the period of delay imposed by paragraph 2 of this Schedule with respect to the rent, the tenant, or any person who might succeed him as a statutory tenant, becomes the tenant under a new regulated tenancy of the dwelling-house—

- (a) the rent limit for any contractual period of the new regulated tenancy beginning during that period of delay shall be the amount to which, if the first-mentioned tenancy had continued, the rent payable thereunder could have been increased in accordance with this Schedule for a statutory period beginning at the same time, and in relation to such a contractual period the reference in section 43(3)(a) of this Act to section 19(2) of this Act shall be construed as a reference to this paragraph; and
- (b) in relation to any statutory period of the new tenancy beginning during that period of delay the foregoing provisions of this Schedule shall have effect as if it were a statutory period of the first-mentioned tenancy.

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8. Where—

- (a) a controlled tenancy of a dwelling-house becomes a regulated tenancy by virtue of Part VI of this Act, or
- (b) a dwelling-house improved by works towards the cost of which a grant is payable under Part II of the Act of 1968 is, at the time the works are completed, subject to a regulated tenancy,

and the tenant, or any person who might succeed him as a statutory tenant becomes the tenant under a new regulated tenancy of the dwelling-house, then, if during the continuance of the new regulated tenancy a rent for the dwelling-house is registered under Part IV of this Act and the registration would be such a registration as is mentioned in paragraph 1 of this Schedule had the regulated tenancy mentioned in sub-paragraph (a) or (b) of this paragraph continued, paragraphs 1 to 6 of this Schedule shall apply as if it had continued and paragraph 7(a) of this Schedule shall apply with the necessary modifications.

*Application to tenancies converted by order
under section 8(1) of this Act*

9. Where a regulated tenancy of a dwelling-house has become a regulated tenancy by virtue of an order under section 8(1) of this Act and a rent for the dwelling-house is registered as mentioned in paragraph 1(b) of this Schedule, section 26 of this Act shall thereupon cease to apply to the tenancy.

Supplemental

10. In ascertaining for the purposes of this Schedule whether there is any difference between amounts or what that difference is, such adjustments shall be made as may be necessary to take account of periods of different lengths; and for that purpose a month shall be treated as one-twelfth and a week as one fifty-second of a year.

11. Where the rent specified in a certificate of fair rent includes a payment in respect of services provided by the landlord and the amount which in the opinion of the rent officer or rent assessment committee is fairly attributable to the provision of the services is not less than ten per cent. of the amount of the rent then, if the application for the certificate is made in pursuance of section 73(2) of this Act or the applicant so requests, the amount so attributable shall be noted in the certificate together with the amount to be entered in the register under paragraph 5 of this Schedule as the amount to be apportioned to the services.

12. Any amount to be noted in the register or in a certificate of fair rent in pursuance of paragraph 5 or paragraph 11 of this Schedule as an amount fairly attributable to the provision of services shall be included among the matters to be specified in an application for the registration or for the certificate and any such amount and any amount to be so noted as an amount apportioned or to be apportioned to the services shall be included among the matters with

respect to which representations may be made or consultations are to be held or notices to be given under Schedule 6, 7 or 12 to this Act.

SCH. 13

13. Where a rent designated or determined by a rent assessment committee is registered in substitution for a rent determined by the rent officer, the foregoing provisions of this Schedule shall have effect as if only the rent designated or determined by the rent assessment committee had been registered ; but the date of registration shall be deemed for the purpose of this Schedule (but not for the purposes of section 21(2)(b) of this Act) to be the date on which the rent determined by the rent officer was registered.

SCHEDULE 14

Section 84.

RENT TRIBUNALS

1. A rent tribunal shall consist of a chairman and two other members.
- 2.—(1) The chairman and other members of a rent tribunal shall be appointed by the Secretary of State.
(2) During the absence or incapacity of any member of a rent tribunal a person appointed by the Secretary of State shall act in his place.
3. The members and acting members of a rent tribunal shall receive such remuneration and such travelling and other allowances as the Secretary of State may, with the consent of the Minister for the Civil Service, determine.
- 4.—(1) The Secretary of State shall assign to a rent tribunal a clerk and such other officers and servants as he may, with the consent of the Minister for the Civil Service, determine.
(2) There shall be paid to the clerk and other officers and servants such salary and allowances as the Secretary of State may, with the consent of the Minister for the Civil Service, determine.
5. There shall be defrayed out of moneys provided by Parliament—
 - (a) the remuneration and allowances of members and acting members of a rent tribunal ; and
 - (b) the salaries and allowances of the clerk and other officers and servants appointed under this Schedule.

SCHEDULE 15

Section 102.

PREMIUM ALLOWED ON ASSIGNATION OF TENANCY WHERE
PREMIUM LAWFULLY PAID ON GRANT

- 1.—(1) The provisions of this Schedule apply where—
 - (a) a premium was lawfully required and paid, or lawfully received, in respect of the grant, continuance or renewal of a protected tenancy of a dwelling-house which is a regulated tenancy ; and

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- (b) since that grant, continuance or renewal, the landlord has not granted a tenancy of the dwelling-house under which, as against the landlord, a person became entitled to possession, other than the person who was so entitled to possession of the dwelling-house immediately before that tenancy began ; and
- (c) a rent for the dwelling-house is registered under Part IV of this Act and the rent so registered is higher than the rent payable under the tenancy.

(2) Any reference in this Schedule to a premium does not include a premium which consisted only of any such outgoings, sum or amount as fall within section 102(3) of this Act and, in the case of a premium which included any such outgoings, sum or amount, so much only of the premium as does not consist of those outgoings, sum or amount shall be treated as the premium for the purposes of this Schedule.

2. In a case where this Schedule applies, nothing in section 102 of this Act shall prevent any person from requiring or receiving on an assignation of the protected tenancy referred to in paragraph 1(1)(a) above or any subsequent protected tenancy of the same dwelling-house, a premium which does not exceed an amount calculated (subject to paragraph 4 below) in accordance with the formula in paragraph 3 below.

3. The formula mentioned in paragraph 2 above is—

$$\frac{P \times A}{G}$$

where

P is the premium referred to in paragraph 1(1)(a) above ;

A is the length of the period beginning on the date on which the assignation in question takes effect and ending on the relevant date ; and

G is the length of the period beginning on the date of the grant, continuance or renewal in respect of which the premium was paid and ending on the relevant date.

4.—(1) If, although the registered rent is higher than the rent payable under the tenancy, the lump sum equivalent of the difference is less than the premium, paragraph 3 above shall have effect as if P were the lump sum equivalent.

(2) For the purposes of this Schedule, the lump sum equivalent of the difference between the two rents referred to in sub-paragraph (1) above shall be taken to be that difference multiplied by the number of complete rental periods falling within the period beginning with the grant, continuance or renewal in respect of which the premium was paid and ending on the relevant date.

5. Where any rates in respect of the dwelling-house are borne by the landlord or a superior landlord, the amount of the registered rent shall be taken, for the purposes of this Schedule, to be increased

by the amount of the rates so borne in respect of the rental period comprising the date from which the registration took effect. SCH. 15

6.—(1) Any reference in this Schedule to the relevant date shall be construed in accordance with this paragraph.

(2) Where at the date when the assignation takes effect the tenancy referred to in paragraph 1(1)(a) above was granted, continued or renewed for a specified period exceeding seven years and that period has not terminated, the relevant date is the termination of that period.

(3) In any other case the relevant date is the date of the expiration of seven years from the commencement of the tenancy, or, as the case may be, from the continuance or renewal of the tenancy, in respect of which the premium was paid.

(4) The provisions of this paragraph shall apply to a tenancy for a specified period exceeding seven years notwithstanding that it is liable to be terminated by re-entry or on the happening of any event other than the giving of notice by the landlord to terminate the tenancy; and where a tenancy may be terminated by the giving of such notice by the landlord it shall be deemed to be a tenancy for a specified period expiring on the earliest date on which such a notice given after the date of the assignation would be capable of taking effect.

SCHEDULE 16

Section 113.

RESTRICTIONS APPLICABLE TO CONTROLLED HERITABLE SECURITIES

PART I

RESTRICTIONS RELATING TO INTEREST RATES

1.—(1) This paragraph applies to a controlled heritable security which was created before 2nd July 1920 and to which, on that date and immediately before the commencement of this Act, the Increase of Rent and Mortgage Interest (Restrictions) Act 1920 applied. 1920 c. 17.

(2) If the rate of interest on a heritable security to which this paragraph applies has been, at any time since 25th March 1920, or is, after the commencement of this Act, increased beyond the limit permitted under this paragraph, the amount of the excess over that limit is irrecoverable from the debtor in a heritable security, notwithstanding any agreement to the contrary.

(3) The limit to which the rate of interest payable in respect of a heritable security to which this paragraph applies may be increased is 1 per cent. per annum above the standard rate of interest or $6\frac{1}{2}$ per cent. per annum, whichever is the less.

(4) In this paragraph “the standard rate of interest” means—

- (a) in the case of a heritable security which was subsisting on 3rd August 1914, the rate of interest payable at that date; and
- (b) in the case of any other heritable security to which this paragraph applies, the original rate of interest.

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1939 c. 71.
- 2.—(1) This paragraph applies to a controlled heritable security to which the Rent and Mortgage Interest Restrictions Acts 1920 to 1938, as modified by Schedule 1 to the Rent and Mortgage Interest Restrictions Act 1939, applied immediately before the commencement of this Act.
- (2) In so far as the rate of interest on a heritable security to which this paragraph applies has been, at any time since 1st September 1939, or is, after the commencement of this Act, increased beyond the standard rate of interest, the amount of the excess is irrecoverable from the debtor in the heritable security, notwithstanding any agreement to the contrary.
- (3) In this paragraph “ the standard rate of interest ” means—
- (a) in the case of a heritable security which was subsisting on 1st September 1939, the rate of interest payable at that date ; and
- (b) in the case of any other heritable security to which this paragraph applies, the original rate of interest.
- 1952 c. 40.
3. In relation to a heritable security to which paragraph 2 above applies but which became a heritable security to which the Acts referred to in that paragraph applied by virtue of the Crown Lessees (Protection of Sub-Tenants) Act 1952, for any reference in paragraph 2 above to 1st September 1939 there shall be substituted a reference to 8th February 1952.
- 1954 c. 50.
4. In relation to a heritable security to which paragraph 2 above applies but which became a heritable security to which the Acts referred to in that paragraph applied by virtue of section 25 of the Housing (Repairs and Rents) (Scotland) Act 1954, for the reference to 1st September 1939 in paragraph 2(2) above and in paragraph 2(3) above there shall be substituted respectively a reference to the following date and a reference to the day before the following date, that is to say,—
- (a) 13th November 1953, if on that date the dwelling-house in question was let under a tenancy to which the Acts referred to in paragraph 2(1) above applied as from the commencement of the said Act of 1954 ; and
- (b) in any other case, the date between 13th November 1953 and the commencement of that Act (30th August 1954) on which it was first so let.

PART II

RESTRICTIONS ON ENFORCEMENT OF SECURITY

5.—(1) Subject to the following provisions of this Part of this Schedule, a creditor under a controlled heritable security shall not be entitled to call in his heritable security or to take any steps for exercising any right of foreclosure or sale, or for otherwise enforcing his security or for recovering the principal money thereby secured if and so long as—

- (a) interest at the rate permitted under this Schedule is paid and is not more than 21 days in arrears ; and

- (b) the obligations of the debtor in the heritable security are performed and observed (but for this purpose the obligation for the repayment of the principal money secured shall be disregarded); and
- (c) the debtor in the heritable security keeps the property in a proper state of repair; and
- (d) the debtor in the heritable security pays all interest and instalments of principal recoverable under any prior heritable security.
- (2) Nothing in this paragraph affects any power of sale exercisable by a creditor in a heritable security who,—
- (a) in the case of a heritable security falling within paragraph 1 above, was in possession on 25th March 1920; or
- (b) in the case of a heritable security falling within paragraph 2 above, was in possession on 1st September 1939 or whichever other date is relevant for the purposes of sub-paragraph (2) of that paragraph, having regard to the provisions of paragraphs 3 and 4 above.

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6.—(1) Paragraph 5 above does not apply to a heritable security where the principal money secured thereby is repayable by means of periodical instalments extending over a term of not less than ten years from the creation of the security.

(2) Paragraph 5 above does not apply in any case where the debtor in the heritable security consents to the exercise by the creditor in the heritable security of the powers conferred by the security.

7.—(1) If a controlled heritable security is a security of an interest in a lease and the creditor in the heritable security satisfies the sheriff that his security is seriously diminishing in value or is otherwise in jeopardy, and for that reason it is reasonable that the heritable security should be called in and enforced, the sheriff may by order authorise him to call in and enforce the same, and thereupon paragraph 5 above shall not apply to the heritable security.

(2) Any order under sub-paragraph (1) above may be made subject to a condition that it shall not take effect if the debtor in the heritable security, within such time as the sheriff directs, pays to the creditor in the heritable security such portion of the principal sum secured as appears to the sheriff to correspond to the diminution of the security.

SCHEDULE 17

MODIFICATIONS APPLICABLE TO CERTAIN EXISTING PROTECTED AND STATUTORY TENANCIES

Dwelling-houses controlled before 1939

Section 135(1).

1.—(1) If, in relation to a dwelling-house which immediately before the commencement of this Act was let on or subject to a controlled tenancy within the meaning of the Rent Act 1957, the relevant enactment in force at that time for the purpose of determining whether any land or premises let together with such a

1957 c. 25.

- SCH. 17 dwelling-house was to be treated as part of the dwelling-house was proviso (iii) to section 12(2) of the Act of 1920 (and not section 3(3) of the Act of 1939), then, in relation to that controlled tenancy, for subsection (2) of section 1 of this Act there shall be substituted the following subsection:—
- (2) For the purposes of this Act, any land or premises let together with a dwelling-house shall, if the original rateable value of the land or premises let separately would be less than one-quarter of the original rateable value of the dwelling-house, be treated as part of the dwelling-house; and for the purposes of this subsection “the original rateable value” means the value which, before the commencement of this Act, was the rateable value for the purposes of the Increase of Rent and Mortgage Interest (Restrictions) Act 1920.
- 1920 c. 17.
- (2) If, immediately before the commencement of this Act, a dwelling-house was let on or subject to a controlled tenancy within the meaning of the Rent Act 1957 and, for the purpose of determining that the controlled tenancy was not excluded from the Act of 1920 by virtue of section 12(7) of that Act (tenancies at less than two-thirds of rateable value), the expression “rateable value” fell to be construed in accordance with paragraph (e) of section 12(1) (as modified by section 18(1)(a)) of the Act of 1920 as originally enacted (and not in accordance with the substituted paragraph set out in Schedule 1 to the Act of 1939) then, in relation to that controlled tenancy, for paragraph (a) of section 7(3) of this Act there shall be substituted the following paragraph:—
- (a) the rent payable under the tenancy is not less than two-thirds of the value which, before the commencement of this Act, was the rateable value of the dwelling-house for the purposes of the Increase of Rent and Mortgage Interest (Restrictions) Act 1920 reduced, in respect of any period after the commencement of the relevant year, by an amount equal to the relevant fraction of such rateable value:
- 1957 c. 25.
- Provided that any alteration in the rateable value of any dwelling-house effected by the Valuation and Rating (Scotland) Act 1956 or by this paragraph shall, in any question as to the application of this subsection in relation to a lease subsisting at the commencement of the relevant year, be disregarded.
- 1956 c. 60.
- (3) In this paragraph “the Act of 1920” means the Increase of Rent and Mortgage Interest (Restrictions) Act 1920, “the Act of 1939” means the Rent and Mortgage Interest Restrictions Act 1939 and “lease”, “relevant year” and “relevant fraction” have the same meanings as in paragraph 1(10) of Schedule 8 to this Act.
- 1939 c. 71.

*Controlled tenancies of dwelling-houses over
1965 limit of rateable value*

2. If the rateable value of a dwelling-house on 23rd March 1965 exceeded the limit in paragraph (a) of section 1(1) of this Act but the rateable value (determined in accordance with paragraph 2 of Schedule 2 to this Act) of that dwelling-house on 7th November 1956 did not exceed the limit in paragraph 1(a) of that Schedule, then no

account shall be taken of paragraph (a) of section 1(1) of this Act in determining whether the dwelling-house is let on or subject to a controlled tenancy.

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SCHEDULE 18

AMENDMENTS OF OTHER ENACTMENTS

PART I

Section 135(2).

General Provisions

1. Any reference in any enactment (other than this Act) to any provision in any enactment repealed by this Act shall be construed as a reference to the corresponding provision in this Act; and the following amendments of other enactments shall have effect without prejudice to the generality of this provision.

2. Any reference, however expressed, in any enactment to the Rent Acts or the Rent Restrictions Acts shall be construed as a reference to the corresponding provisions of this Act.

3. Any reference in any enactment to a repairs increase and to a 1957 Act increase shall be construed respectively as a reference to a repairs increase and a section 50 increase each as defined in section 133(1) of this Act.

PART II

Specific Amendments

<i>Enactment</i>	<i>Amendment</i>
The Removal Terms (Scotland) Act 1886 (49 & 50 Vict. c. 50).	In section 5, there shall be added at the end the following— Provided that in no case shall notice of removal be given less than 28 days before the date on which it is to take effect.
The Sheriff Courts (Scotland) Act 1907 (7 Edw. 7. c. 51).	In section 38, there shall be added at the end the following— Provided that in no case shall notice of removal be given less than 28 days before the date on which it is to take effect.
The House Letting and Rating (Scotland) Act 1911 (1 & 2 Geo. 5. c. 53).	In section 4, for the words "the next payment" in the first place where they occur there shall be substituted the words "a payment", and for those words in the second place where they occur there shall be substituted the words "that payment", and in paragraph (b) of the proviso for the words from "except" to the end of the section there shall be substituted the words "so, however, that in no case shall the notice be given less than 28 days before the date on which it is to take effect." In section 5, for the words "forty-eight hours" there shall be substituted the words "28 days".

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Enactment

The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (14 & 15 Geo. 6. c. 65).

Amendment

In section 14(2), for paragraph (a) there shall be substituted the following paragraph:—
 (a) is a dwelling-house which consists of or comprises premises licensed for the sale of exciseable liquor on the premises; or

In section 15, in subsection (1), for the words in paragraph (a) from “subsection” to “1946” there shall be substituted the words “section 85(1) of the Rent (Scotland) Act 1971”; for the words from “(c) the conditions” to the end of the subsection there shall be substituted the following:—

(c) the condition specified in subsection (1)(b) of section 93 of the Rent (Scotland) Act 1971 is not fulfilled,

the said section 93 shall apply in relation to the notice to quit as if that condition had been fulfilled as to the contract under which that tenancy subsists.;

for subsection (3) of that section there shall be substituted the following subsection:—

(3) The subsistence of a Crown interest in premises shall not affect the operation of this section if the interest of the immediate landlord of the tenant under the tenancy in question is not a Crown interest; but nothing in this subsection shall be construed as excluding the operation of this Part of this Act in cases where there subsists a Crown interest not being the interest of the immediate landlord of the tenant under the tenancy in question.;

in subsection (4) of that section, for the words “section eleven”, in each place where they occur, there shall be substituted the words “section 93”.

In section 16, in subsection (1), for the words “the Rent Restrictions Acts” there shall be substituted the words “the Rent (Scotland) Act 1971”; for subsection (2) of that section there shall be substituted the following subsection:—

(2) The circumstances referred to in the preceding subsection are any one or more of the following, that is to say,—

(a) that the rateable value on the appropriate day (as defined for

Enactment

The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (14 & 15 Geo. 6. c. 65)—*cont.*

Amendment

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- the purposes of the Rent (Scotland) Act 1971) of the premises which are the rented family residence, or of a property of which at the ending of the tenancy qualifying for protection those premises form part, exceeded the limit specified in subsection (1)(a) of section 1 of that Act;
- (b) that the interest of the immediate landlord of the tenant under the tenancy qualifying for protection belongs to any of the bodies or entities specified in subsection (2) of section 5 of the Rent (Scotland) Act 1971 other than the Housing Corporation;
- (c) that the interest of the immediate landlord of the tenant under the tenancy qualifying for protection belongs to such a housing association as is referred to in subsection (4) of section 5 of the Rent (Scotland) Act 1971 and that one of the conditions specified in subsection (5) of that section is fulfilled;
- (d) that immediately before the ending of the tenancy qualifying for protection those premises were let together with agricultural land exceeding two acres in extent but were not a dwelling-house comprised in an agricultural holding and occupied by the person responsible for the control (whether as tenant or as servant or agent of the tenant) of the farming of the holding;
- (e) that immediately before the ending of the tenancy qualifying for protection the circumstances mentioned in paragraph (a) of section 2(1) of the Rent (Scotland) Act 1971 applied with respect to that tenancy or with respect to a tenancy having effect subject to that tenancy.;

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Enactment

The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (14 & 15 Geo. 6. c. 65)—*cont.*

Amendment

and in subsections (4)(b) and (7) for references to section one of the Rent Act of 1949 there shall be substituted references to section 59 of the Rent (Scotland) Act 1971; and in subsection (7) for the words from “ paragraph (b) ” to “ section one ” there shall be substituted the words “ section 68(4) of that Act ”.

In section 17, in subsection (1)(b), for the words from “ section eight of the Rent Act ” to “ his landlord) ” there shall be substituted the words “ section 119 of the Rent (Scotland) Act 1971 ”; in subsections (1) and (2), for any reference to section eight there shall be substituted a reference to section 119; and in subsection (2)(a), for the words “ section one of the Rent Act of 1949 ” there shall be substituted the words “ section 59 of the Rent (Scotland) Act 1971 ”.

In section 18(2), for the words “ section one of the Rent Act of 1949 ” there shall be substituted the words “ section 59 of the Rent (Scotland) Act 1971 ”, and for the words from “ subsection (7) ” to “ 1920 ” there shall be substituted the words “ section 2(1)(a) of the Rent (Scotland) Act 1971 ”.

In section 19, in subsection (1), for the words “ the Rent Restrictions Acts ” there shall be substituted the words “ the Rent (Scotland) Act 1971 ”; and in subsection (5) of that section, for the word “ mortgage ” wherever it occurs there shall be substituted the words “ heritable security ”, for the words “ mortgage to which the Rent Restrictions Acts apply ” there shall be substituted the words “ controlled heritable security ” and for the words from “ the expression ” to the end of the subsection there shall be substituted the words “ the expression ‘ controlled heritable security ’ has the same meaning as in Part IX of the Rent (Scotland) Act 1971 ”.

In section 20, in subsection (1), for the words “ paragraph (a) of the First Schedule to the Rent Act of 1933 ” there shall be substituted the words “ Case 1 in Schedule 3 to the Rent (Scotland) Act 1971 ”; in subsection (2) of that section, for the words “ Paragraph (g) of the said First Schedule ” there

Enactment

The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (14 & 15 Geo. 6. c. 65)—*cont.*

Amendment

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shall be substituted the words " Case 7 in the said Schedule 3 ", and for the words " the Rent Restrictions Acts apply ", in paragraph (b) of that subsection, there shall be substituted the words " the Rent (Scotland) Act 1971 applies in relation "; in subsection (3) of that section, for the words " the said First Schedule " there shall be substituted the words " the Cases in Part I of the said Schedule 3 " and for the words " subsection (1) of section 3 of the Rent Act of 1933 " there shall be substituted the words " section 10(1) of the Rent (Scotland) Act 1971 ".

In section 22, in subsection (1), for the words from " brought before " to " 1946 " there shall be substituted the words " brought under Part III of the Rent Act 1965 or under the Rent (Scotland) Act 1971, or of any proceedings consequential upon the making of a reference or application to a rent tribunal under Part VII of that Act "; and after subsection (3) of that section there shall be inserted the following subsection:—

(3A) In relation to any proceedings before a rent officer or rent assessment committee, within the meaning of the Rent (Scotland) Act 1971, subsections (1) to (3) of this section shall have effect as if the references to the court or tribunal included references to a rent officer or rent assessment committee.

In section 23, in subsection (1), in the definition of " agricultural land " for the words " the Rent Act of 1939 " there shall be substituted the words " section 133(1) of the Rent (Scotland) Act 1971 ", in the definitions of " landlord " and " tenant " and of " statutory tenancy " for the words " the Rent Restrictions Acts " and " those Acts " there shall be substituted the words " the Rent (Scotland) Act 1971 "; and in subsection (3) of that section, for the words " the Rent Restrictions Acts " there shall be substituted the words " the Rent (Scotland) Act 1971 ".

In section 24, there shall be added the following paragraph:—

(j) for any reference to the Rent Restrictions Acts there shall be substituted

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*Enactment**Amendment*

The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (14 & 15 Geo. 6. c. 65)—*cont.*

a reference to the Rent (Scotland) Act 1971; and for any reference, however expressed, to a dwelling-house to which the Rent Restrictions Acts apply there shall be substituted a reference to a dwelling-house subject to a statutory tenancy within the meaning of the Rent (Scotland) Act 1971.

The Valuation and Rating (Scotland) Act 1956 (4 & 5 Eliz. 2. c. 60).

In section 16(2)(b), for the words “to which the Rent and Mortgage Interest Restrictions Acts 1920 to 1939 apply” there shall be substituted the words “let on or subject to a protected or statutory tenancy to which the Rent (Scotland) Act 1971 applies”.

In section 16(2), for the words “the said Schedule” there shall be substituted the words “Schedule 3 to this Act and sub-paragraphs (7) to (10) of paragraph 1 of Schedule 8 to the Rent (Scotland) Act 1971”.

In Schedule 3, in paragraph 1, after the words “this Schedule” there shall be inserted the words “and sub-paragraphs (7) to (10) of paragraph 1 of Schedule 8 to the Rent (Scotland) Act 1971”.

In Schedule 3, in paragraph 2, after the words “this Schedule” there shall be inserted the words “and sub-paragraphs (7) to (10) of paragraph 1 of Schedule 8 to the Rent (Scotland) Act 1971”.

In Schedule 3, in paragraph 15(c), after the words “Act, 1920” there shall be inserted the words “or by virtue of being a statutory tenant within the meaning of the Rent (Scotland) Act 1971”, and after the word “1939” there shall be inserted the words “or the Rent (Scotland) Act 1971”.

The Tribunals and Inquiries Act 1958 (6 & 7 Eliz. 2. c. 66).

In Schedule 1, in Part II, in the entry beginning “Rents”, for the words “under section one of, and the Schedule to, the Rent of Furnished Houses Control (Scotland) Act 1943” there shall be substituted the words “in accordance with section 84 of the Rent (Scotland) Act 1971”.

<i>Enactment</i>	<i>Amendment</i>	SCH. 18
The Rent Act 1965 (1965 c. 75).	<p>In section 32, in subsection (1), after the words “ which is not a ” there shall be inserted the word “ statutorily ”; and at the end of subsection (4) there shall be added the words “ within the meaning of the Rent (Scotland) Act 1971 ”.</p> <p>In section 34, for the words “ protected tenancy ” there shall be substituted the words “ statutorily protected tenancy ” and for paragraph (a) of that section there shall be substituted the words—</p> <p style="padding-left: 40px;">“ (a) a protected tenancy within the meaning of the Rent (Scotland) Act 1971; ”.</p>	
The Housing (Scotland) Act 1966 (1966 c. 49).	<p>In section 95, in subsection (3), the word “ existing ” shall be omitted and for the words from “ section 11(2) ” to the end of the first paragraph thereof there shall be substituted the words “ the first tenancy of the dwelling or any part thereof created thereafter shall not, by virtue only of being created by a lease or agreement coming into operation on or after 6th July 1957, be prevented from being a controlled tenancy and the tenant shall not thereby be prevented from retaining possession as a statutory tenant on the coming to an end of such a tenancy ”, and for the second paragraph of subsection (3) there shall be substituted the following:—</p> <p style="padding-left: 40px;">Expressions used in this subsection have the same meanings as in the Rent (Scotland) Act 1971.</p> <p>In section 122(4), for the words from the beginning to “ Rent Acts) ” there shall be substituted the words “ Section 5 of the Rent (Scotland) Act 1971 (which excludes lettings by local authorities from being protected tenancies within the meaning of that Act) ”, for the words from “ a tenancy ” to “ continuing to apply ” there shall be substituted the words “ a protected or statutory tenancy, within the meaning of the Rent (Scotland) Act 1971, nothing in this Part of this Act relating to control orders shall prevent the continuance of that protected or statutory tenancy nor affect the continued operation of that Act in relation to that protected or statutory tenancy ”.</p>	

SCH. 18	<i>Enactment</i>	<i>Amendment</i>
	The Housing (Scotland) Act 1966 (1966 c. 49)— <i>cont.</i>	<p>In section 123(3), for the words from “ section 1 ” to “ 1943 ” there shall be substituted the words “ section 84 of the Rent (Scotland) Act 1971 ”.</p> <p>In Schedule 6, for the words “ s. 11(2) of the Rent Act 1957 ” in the cross-heading preceding paragraph 2, and for the words in that paragraph from “ section 11(2) ” to “ Rent Acts) ”, there shall be substituted the words “ paragraph 1(c) of Schedule 2 to the Rent (Scotland) Act 1971 ”.</p>
	The New Towns Act 1968 (1968 c. 16).	<p>In section 22(3), for the words “ the Rent and Mortgage Interest Restrictions Acts 1920 to 1939 ” there shall be substituted the words “ Part II of the Rent (Scotland) Act 1971 ”.</p> <p>In section 22(4), for the words from “ section ” to “ 1957 ” there shall be substituted the words “ section 131 of the Rent (Scotland) Act 1971 ”.</p>
	The Housing (Financial Provisions) (Scotland) Act 1968 (1968 c. 31).	<p>In section 38, there shall be inserted the following subsection:—</p> <p>(5) Nothing in the foregoing provisions of this Part of this Act shall exclude the application of the Rent (Scotland) Act 1971 to a dwelling provided or improved by means of improvement works in respect of which an improvement grant has been made.</p>
	The Rent (Control of Increases) Act 1969 (1969 c. 62).	<p>In section 5, in subsection (1), for the words “ Part II of the Rent Act 1965 ” there shall be substituted the words “ Part IV of the Rent (Scotland) Act 1971 ”; in subsection (2)(a), for the words from “ section 28(2) ” to “ section 3(2) ” there shall be substituted the words “ section 43(3) of the Rent (Scotland) Act 1971 to section 19(2) ”; and in subsection (3)(b), for the words from “ paragraph ” to “ 1965 ” there shall be substituted the words “ section 41(4) of the Rent (Scotland) Act 1971 ”.</p> <p>In section 6(2), for the words “ section 7 of the Rent Act 1965 ” there shall be substituted the words “ section 21(2) of the Rent (Scotland) Act 1971 ”.</p> <p>In the Schedule, in paragraph 3(1), after the words “ Rent Act 1968 ” there shall be inserted the words “ the Rent (Scotland) Act 1971 ”; and in paragraph 3(2), for the words from “ Schedule 2 ” to “ Act 1965 ” there shall be substituted the words “ Schedule 4 to the Rent (Scotland) Act 1971 ”.</p>

<i>Enactment</i>	<i>Amendment</i>	SCH. 18
The Rent (Control of Increases) Act 1969 (1969 c. 62)— <i>cont.</i>	<p>In the Schedule, in paragraph 4(1), for the words “ section 28(3) of the Rent Act 1965 ” there shall be substituted the words “ section 43(4) of the Rent (Scotland) Act 1971 ”.</p> <p>In the Schedule, in paragraph 5, for the words from “ paragraph 16 ” to “ 1965 ” there shall be substituted the words “ section 41(4) of the Rent (Scotland) Act 1971 ”.</p> <p>In the Schedule, in paragraph 7, for the words “ section 7(b) of the Rent Act 1965 ” there shall be substituted the words “ section 21(3) of the Rent (Scotland) Act 1971 ”.</p> <p>In the Schedule, in paragraph 8, for the words from “ paragraphs ” to the end there shall be substituted the words “ Schedule 6 to the Rent (Scotland) Act 1971 ”.</p>	

SCHEDULE 19

Section 135(3).

SAVINGS AND TRANSITORY PROVISIONS

General transitional provisions

1. In so far as any regulation, order, scheme, agreement, dissent, election, reference, representation, appointment or apportionment made, notice served, certificate issued, statement supplied, undertaking or direction given, rent registered or other thing done, under or by virtue of an enactment repealed by this Act could have been made, served, issued, supplied, given, registered or done under or by virtue of the corresponding provision of this Act, it shall have effect as if made, served, issued, supplied, given, registered or done under or by virtue of that corresponding provision.

2. Subject to the following provisions of this Schedule, any document made, served or issued before the passing of this Act or at any time thereafter (whether before or after the commencement of this Act) and containing a reference to an enactment repealed by this Act shall, except in so far as a contrary intention appears, be construed as referring, or as the context requires, as including a reference, to the corresponding provision of this Act.

3. Where a period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision thereof had been in force when that period began to run.

4. A conviction of an offence under an enactment repealed by this Act shall be treated for the purposes of this Act as a conviction of an offence under the corresponding provision of this Act.

5. Subject to the provisions of Schedule 18 to this Act, any reference in any document or enactment to a dwelling-house to which the Rent and Mortgage Interest Restrictions Acts 1920 to 1939, or any of those Acts, apply shall be construed, except in so far as

SCH. 19 the context otherwise requires, as a reference to a dwelling-house let on or subject to a protected or statutory tenancy within the meaning of this Act.

Existing statutory tenants

1965 c. 75. 6. If, immediately before the commencement of this Act, a person (in this and the next following paragraph referred to as the "existing statutory tenant") was a statutory tenant of a dwelling-house by virtue of the old Rent Acts or by virtue of section 13 of the Rent Act 1965, that person shall, immediately after the commencement of this Act, be a statutory tenant of the dwelling-house for the purposes of this Act.

7.—(1) If, immediately before the existing statutory tenant became a statutory tenant, he was a tenant of the dwelling-house under a tenancy then, for the purposes of this Act, he shall be the statutory tenant by virtue of his previous protected tenancy.

(2) If the existing statutory tenant became a statutory tenant on the death of a person who was himself a tenant or statutory tenant of the dwelling-house then, for the purposes of this Act, the existing statutory tenant shall be a statutory tenant by succession; and, unless he became a statutory tenant by virtue of section 13 of the Rent Act 1965, he shall be deemed to be the first successor within the meaning of Schedule 1 to this Act.

1957 c. 25. (3) If the existing statutory tenant became a statutory tenant by virtue of an exchange under section 17 of the Rent Act 1957 then, for the purposes of this Act, he shall be deemed to be the statutory tenant by virtue of his previous protected tenancy or a statutory tenant by succession according as, at the date of exchange, the provisions of the old Rent Acts referred to in subsection (1) of that section had or had not had effect or, as the case may be, were capable of having effect again by virtue of an agreement making the provision referred to in subsection (3) of that section.

(4) If, by virtue of sub-paragraph (3) above, the existing statutory tenant is for the purposes of this Act a statutory tenant by succession, he shall be deemed to be the first successor, within the meaning of Schedule 1 to this Act, if, and only if, the person who was the statutory tenant immediately before the date of exchange was a statutory tenant by virtue of the old Rent Acts and not by virtue of section 13 of the Rent Act 1965.

(5) Without prejudice to the case where, by virtue of sub-paragraph (3) or sub-paragraph (4) above, the existing statutory tenant is deemed to be a statutory tenant by succession but is not deemed to be the first successor, within the meaning of Schedule 1 to this Act, paragraphs 5 to 7 of that Schedule shall not apply where the existing statutory tenant, or the person on whose death he became a statutory tenant, became a statutory tenant by virtue of an exchange under section 17 of the Rent Act 1957.

8.—(1) A person who, at any time before the commencement of this Act, became a statutory tenant of a dwelling-house by virtue of the enactment specified in sub-paragraph (2) below (and not by way

of succession to a previous statutory tenant) shall be treated for the purposes of this Act as having become the statutory tenant of that dwelling-house on the expiry of a protected tenancy thereof.

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(2) The enactment referred to in sub-paragraph (1) above is section 12(10) of the Act of 1920 (under which workmen housed in certain dwelling-houses taken over by the Government during the 1914-18 war were to be treated as tenants of the landlords of those houses).

(3) A person who, on or after the commencement of the Rent Act 1965, retained possession of a dwelling-house by virtue of section 20 of that Act (which made transitional provisions in relation to tenancies which expired before the commencement of that Act) shall be deemed to have done so under a statutory tenancy arising on the termination of a tenancy which was a regulated tenancy, and the terms as to rent and otherwise of that tenancy shall be deemed to have been the same, subject to any variation specified by the court, as those of the tenancy mentioned in subsection (1) of that section (that is to say, the tenancy which ended before the commencement of the Rent Act 1965 but which would have been a regulated tenancy if that Act had then been in force). 1965 c. 75.

9. Notwithstanding anything in Schedule 2 to this Act a statutory tenancy which is subsisting at 6th July 1957 by virtue of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 and which immediately before that date is a controlled tenancy shall continue as a controlled tenancy after that date. 1951 c. 65.

Miscellaneous transitory provisions

10. Notwithstanding anything in Part I of this Act, a tenancy which came to an end before 8th December 1965 and which, immediately before it came to an end, was not a controlled tenancy shall not be treated for the purposes of this Act as a protected tenancy (nor, accordingly, as a regulated tenancy); but where, after such a tenancy ended, a statutory tenancy was deemed to arise by virtue of section 20 of the Rent Act 1965 then, without prejudice to section 28(3) of this Act, that statutory tenancy is a regulated tenancy for the purposes of this Act.

11. Where, before the commencement of this Act, a landlord has obtained an order for possession of a dwelling-house on either of the grounds specified in paragraph (g) or paragraph (h) of Schedule 1 to the Act of 1933 (which correspond to Cases 7 and 8 in Schedule 3 to this Act) and, after the commencement of this Act, it is made to appear to the court that the order was obtained by misrepresentation or concealment of material facts, the repeal by this Act of subsections (6) and (7) of section 5 of the Act of 1920 shall not prevent the court from exercising any power to order the payment of compensation by the landlord to the former tenant which it could have exercised if this Act had not been passed.

12. Any notice given to a tenant before the commencement of this Act under section 14, section 15 or section 16 of the Rent Act 1965 stating that possession may be recovered under that section shall be deemed to be a notice stating that possession may be

SCH. 19 recovered under the corresponding Case in Part II of Schedule 3 to this Act ; and any notice given to a tenant before the commencement of this Act stating that possession may be recovered under section 38 of the Agriculture Act 1967 or section 101 of the Agriculture Act 1970 shall be deemed to be a notice stating that possession may be recovered respectively under Case 14 or Case 15 in Schedule 3 to this Act.

1967 c. 22.
1970 c. 40.

13. Subject to section 11 of this Act, every order for possession of any dwelling-house let on a protected tenancy or subject to a statutory tenancy shall remain in force for three months from the day next after the last day named in the order for possession and for such further period or periods, if any, as the court shall from time to time, whether before or after the expiry of those three months, direct.

Savings

1949 c. 40. 14.—(1) The repeal by this Act of the Landlord and Tenant (Rent Control) Act 1949 shall not affect the continued operation—

(a) of section 2(5) of that Act (and that section as extended by section 12(3) of that Act) in so far as it entitles any person to recover the whole or any part of any premium lawfully required or received before the commencement of this Act, and of the proviso to that section (which renders voidable certain agreements providing for the payment of premiums) in relation to any agreement made after 25th March 1949 and before 2nd June 1949 which, immediately before the commencement of this Act, was voidable by any person by virtue of that proviso ;

(b) of section 5(2)(d) of that Act in relation to the matters therein required to be contained in the register for the purposes of section 59 of this Act ; and

1965 c. 75. (c) of Schedule 1 to that Act (as amended by the Rent Act 1965) in relation to any premium lawfully required and paid on the grant, continuance or renewal of a controlled tenancy.

1952 c. 40. (2) If, immediately before the commencement of this Act, sections 2 and 12 of the Landlord and Tenant (Rent Control) Act 1949 did not, by virtue of the Crown Lessees (Protection of Sub-Tenants) Act 1952, affect the payment of any premium or other sum required under an agreement made before 8th February 1952, then—

(a) sections 101, 102 and 104 of this Act shall not affect the payment under that agreement of that premium or other sum after the commencement of this Act ; and

(b) nothing in this Act shall affect the operation (or continued operation) of Schedule 1 to the said Act of 1949 (as amended by the said Act of 1952) in relation to a premium lawfully required and paid under that agreement.

1954 c. 50. 15. Nothing in this Act shall affect any power of the Secretary of State under section 25(7) of the Housing (Repairs and Rents) (Scotland) Act 1954, or that section as extended by paragraph 32(2)

of Schedule 6 to the Rent Act 1957, to approve or determine variations in arrangements between housing associations and local authorities entered into before the commencement of the said Act of 1954 or, as the case may be, the said Act of 1957. SCH. 19
1957 c. 25.

16.—(1) Subject to the following provisions of this paragraph nothing in this Act shall affect the continued operation of Schedule 4 to the Rent Act 1957 (which contains transitional provisions in relation to dwelling-houses which ceased to be controlled at the commencement of that Act) in relation to—

- (a) a dwelling-house of which any person was entitled, immediately before the commencement of this Act, to retain possession by virtue of paragraph 2 of that Schedule and not by virtue of a tenancy ; and
- (b) a dwelling-house which, immediately before the commencement of this Act, was let on a tenancy which is not a regulated tenancy by reason only that the rateable value of the dwelling-house is in excess of the relevant limit in section 1(1) of the Rent Act 1965 but which could be brought to an end by a notice served under paragraph 2(2) of that Schedule. 1965 c. 75.

(2) If a notice under paragraph 2(2) of Schedule 4 to the Rent Act 1957 is served on a person who retains possession, as mentioned in sub-paragraph (1)(a) above, of a dwelling-house which is within the limit of rateable value in section 1(1)(a) of this Act, then—

- (a) from the date specified in that notice that person shall be entitled to retain possession of the dwelling-house as statutory tenant under a statutory tenancy arising on the termination of a tenancy which was a regulated tenancy ; and
- (b) the terms as to rent and otherwise of the tenancy referred to in paragraph (a) above shall be deemed to have been the same, subject to any variations the court may specify, as those of the tenancy under which he or any other person was last entitled to possession of the dwelling-house.

(3) Sub-paragraph (2) above applies to notices—

- (a) served at or after the commencement of this Act ; or
- (b) served before the commencement of this Act but specifying a date at or after the commencement of this Act.

(4) The statutory tenancy referred to in sub-paragraph (2)(a) above shall be disregarded for the purposes of section 19(3)(a) of this Act in determining the contractual rent limit under any subsequent regulated tenancy of the dwelling-house in question.

17. Nothing in this Act shall affect the continued operation of paragraph 7 of Schedule 4 to the Rent Act 1957 (which, in certain cases, affects the amount of rent recoverable for periods after decontrol under tenancies to which paragraph 2(1) of that Schedule does not extend).

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1965 c. 75. 18. Nothing in this Act shall affect the continued operation of section 20(1)(b) of the Rent Act 1965 (under which the court may rescind or vary orders for possession made, but not executed, before the commencement of that Act where the orders relate to dwelling-houses formerly let on tenancies which would have been regulated tenancies if the Rent Act 1965 had then been in force).

General

1957 c. 25. 19.—(1) In relation to any time before the commencement of this Act, any reference in this Schedule to a controlled tenancy is a reference to a controlled tenancy within the meaning of the Rent Act 1957 and any reference therein to a regulated tenancy is a reference to a regulated tenancy within the meaning of the Rent Act 1965.

(2) In this Schedule,—

1920 c. 17. “the Act of 1920” means the Increase of Rent and Mortgage Interest (Restrictions) Act 1920 ;

1933 c. 32. “the Act of 1933” means the Rent and Mortgage Interest Restrictions (Amendment) Act 1933 ;

“the old Rent Acts” means the Rent and Mortgage Interest Restrictions Acts 1920 to 1939 or any of them.

Section 135(5).

SCHEDULE 20

ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
10 & 11 Geo. 5. c. 17.	The Increase of Rent and Mortgage Interest (Restrictions) Act 1920.	The whole Act.
13 & 14 Geo. 5. c. 13.	The Rent Restrictions (Notices of Increase) Act 1923.	The whole Act.
13 & 14 Geo. 5. c. 32.	The Rent and Mortgage Interest Restrictions Act 1923.	The whole Act.
14 & 15 Geo. 5. c. 18.	The Prevention of Eviction Act 1924.	The whole Act.
15 & 16 Geo. 5. c. 32.	The Rent and Mortgage Interest (Restrictions Continuation) Act 1925.	The whole Act.
23 & 24 Geo. 5. c. 32.	The Rent and Mortgage Interest Restrictions (Amendment) Act 1933.	The whole Act.
25 & 26 Geo. 5. c. 13.	The Increase of Rent and Mortgage Interest (Restrictions) Act 1935.	The whole Act.
1 & 2 Geo. 6. c. 26.	The Increase of Rent and Mortgage Interest (Restrictions) Act 1938.	The whole Act.
2 & 3 Geo. 6. c. 71.	The Rent and Mortgage Interest Restrictions Act 1939.	The whole Act.

Chapter	Short Title	Extent of Repeal
6 & 7 Geo. 6. c. 44.	The Rent of Furnished Houses Control (Scotland) Act 1943.	The whole Act.
12 & 13 Geo. 6. c. 40.	The Landlord and Tenant (Rent Control) Act 1949.	The whole Act.
14 Geo. 6. c. 34.	The Housing (Scotland) Act 1950.	Sections 120 and 125.
14 & 15 Geo. 6. c. 65	The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.	In section 15, subsection (5). In section 19, subsections (3), (4) and (6). In section 64(1), the definition beginning "Rent Restrictions Acts".
15 & 16 Geo. 6 and 1 Eliz. 2. c. 40.	The Crown Lessees (Protection of Sub-Tenants) Act 1952.	The whole Act.
1 & 2 Eliz. 2. c. 47.	The Emergency Laws (Miscellaneous Provisions) Act 1953.	In Schedule 1, paragraph 4.
2 & 3 Eliz. 2. c. 50.	The Housing (Repairs and Rents) (Scotland) Act 1954.	Part II. Section 41. Schedules 1 to 3.
4 & 5 Eliz. 2. c. 60.	The Valuation and Rating (Scotland) Act 1956.	In Schedule 3, paragraphs 6 to 8.
5 & 6 Eliz. 2. c. 25.	The Rent Act 1957.	The whole Act.
7 & 8 Eliz. 2. c. 64.	The Landlord and Tenant (Furniture and Fittings) Act 1959.	The whole Act.
10 & 11 Eliz. 2. c. 28.	The Housing (Scotland) Act 1962.	Section 16.
1964 c. 56.	The Housing Act 1964.	Section 3(9). Section 107(c).
1964 c. 97.	The Protection from Eviction Act 1964.	Section 5.
1965 c. 75.	The Rent Act 1965.	Parts I, II and IV. Sections 43 and 46. In section 47, subsections (1) and (2). Sections 50 to 52. Schedules 1 to 7.
1966 c. 49.	The Housing (Scotland) Act 1966.	In section 208(1), the definition of "the Rent Acts".
1967 c. 20.	The Housing (Financial Provisions &c.) (Scotland) Act 1967.	Section 19.
1967 c. 22.	The Agriculture Act 1967.	Section 38.
1969 c. 34.	The Housing (Scotland) Act 1969.	Sections 44 to 57. Section 61. Schedules 3 and 4. In Schedule 6, the entry relating to the Housing (Repairs and Rents) (Scotland) Act 1954.
1970 c. 40.	The Agriculture Act 1970.	Section 101.

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