

1972 No. 1851

COUNTER-INFLATION**The Counter-Inflation (Rents) (England and Wales)
Order 1972**

<i>Made - - - -</i>	<i>1st December 1972</i>
<i>Laid before Parliament</i>	<i>1st December 1972</i>
<i>Coming into Operation</i>	<i>1st December 1972</i>

The Secretary of State for the Environment (as respects England, except Monmouthshire) and the Secretary of State for Wales (as respects Wales and Monmouthshire), in exercise of their powers under sections 2(4) and 10(2) of and paragraphs 1, 2 and 4 of the Schedule to the Counter-Inflation (Temporary Provisions) Act 1972(a) and of all other powers enabling them in that behalf, hereby make the following order:—

Citation and commencement

1. (1) This order may be cited as the Counter-Inflation (Rents) (England and Wales) Order 1972 and shall come into operation on 1st December 1972.

Interpretation

2. (1) The Interpretation Act 1889(b) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

(2) In this order, unless otherwise expressly provided or the context otherwise requires—

“the Rent Act” means the Rent Act 1968(c);

“the Housing Act” means the Housing Finance Act 1972(d);

“the Counter-Inflation Act” means the Counter-Inflation (Temporary Provisions) Act 1972;

“housing association” has the meaning given by section 104(1) of the Housing Act;

“housing trust” has the meaning given by section 5(3) of the Rent Act;

“section 2” means section 2 of the Counter-Inflation Act;

“section 22 notice” means a notice of increase under section 22(2)(b) of the Rent Act;

“the standstill period” means that part of the period during which section 2 is in force occurring after the coming into operation of this order and other expressions used shall be construed as in the Rent Act.

(3) In this order, unless the context otherwise requires, references to any enactment shall be construed as references to that enactment as amended extended or applied by or under any other enactment.

(a) 1972 c. 74.

(b) 1889 c. 63.

(c) 1968 c. 23.

(d) 1972 c. 47.

(4) Any reference in this order to a numbered article is a reference to the article bearing that number in this order.

Definitions

3. For the purposes of this order the following expressions used in section 2(4) of the Counter-Inflation Act are defined as follows—

“rent” shall, in relation to a controlled or regulated tenancy or a Part VIII tenancy (as defined in article 9) to which this order applies, include any sum payable by the tenant to the landlord for the use of furniture or for services, and which would be treated as rent for any of the purposes of the Rent Act, and

“preventing increases” shall include preventing increases which took effect on or after 6th November 1972 from continuing to have effect during the standstill period and preventing increases consequent upon the conversion of a controlled tenancy to a regulated tenancy by postponing the date of such conversion.

Modifications and adaptations of enactments relating to rent

4. During the standstill period the Rent Act and the Housing Act shall have effect subject to the modifications and adaptations specified in this order.

Controlled tenancies

5.—(1) For the purposes of section 35 of the Housing Act (conversion of controlled tenancies: general decontrol) the date applicable under that section to a dwelling-house to which this article applies shall be the date following that on which the standstill period expires and not 1st January 1973.

(2) Where pursuant to section 40 of the Housing Act (early application for registration of rent) an application has been made under section 44 or section 44A of the Rent Act before the coming into operation of this order in relation to a dwelling-house to which this article applies, nothing in this article shall invalidate that application, and where a rent is registered on an application so made, section 40(5) of the Housing Act shall apply to that registration accordingly.

(3) This article applies to any dwelling-house in Greater London where, for the purposes of the said section 35, the rateable value on 31st March 1972 was £95 or more and to any dwelling-house elsewhere in England and Wales where the rateable value on that date was £60 or more.

Limit of rent under regulated tenancies before registration

6. Where no rent is registered for a dwelling-house under a regulated tenancy (whether granted before or after the coming into operation of this order), the rent recoverable in respect of the standstill period, for any contractual or statutory period of that tenancy, shall not exceed the recoverable rent on 5th November 1972, and, accordingly, the amount of any excess shall, notwithstanding anything in any agreement, be irrecoverable from the tenant:

Provided that nothing in the foregoing provisions of this article shall prevent the rent recoverable in respect of the standstill period being increased above the recoverable rent on 5th November 1972 by virtue of section 21

(except subsection (4)) or sections 23 and 25 of the Rent Act or section 37(3) of the Housing Act (which provide for adjustments before a rent is registered).

Rent agreements

7.—(1) No agreement to which this article applies shall operate to increase the recoverable rent in respect of the standstill period above the recoverable rent on 5th November 1972 (with any adjustment made before the said agreement takes effect by virtue of any of the provisions mentioned in article 6), and accordingly the amount of any excess shall, notwithstanding anything in any agreement, be irrecoverable from the tenant:

Provided that—

- (i) where a rent agreement with a tenant having security of tenure (within the meaning of section 43(1) of the Housing Act) to which section 44(1)(b) of that Act applies (special provisions following conversion) was made before the coming into operation of this order and which by its terms has effect before the end of the standstill period, that agreement shall not be invalidated by reason only of the provisions of article 5 and shall accordingly take effect for the purposes of the said section 44 on the expiration of the standstill period, and any document given or served before the coming into operation of this order in accordance with subsection (5) of the said section 44 shall not be required to be given again or re-served in respect of the same rent agreement by reason only of the provisions of this paragraph and may be acted on accordingly; and
 - (ii) nothing in this paragraph shall prevent the rent recoverable in respect of the standstill period being increased in respect of rates or by virtue of a rent agreement to which section 45 of the Housing Act applies.
- (2) This article applies to the following agreements—
- (a) a rent agreement with a tenant having security of tenure (as defined in section 43(1) of the Housing Act) which complies with the requirements of subsection (3) of that section or section 44 of that Act;
 - (b) an agreement conforming with the requirements of section 43(3) of the Housing Act, as provided in section 42(3) of the Act, and
 - (c) a rent agreement within the meaning of section 48A of the Rent Act.

Limit of rent under regulated tenancies where rent registered

8.—(1) This article applies in the case of a regulated tenancy where the date on which a rent is registered for a dwelling-house under Part IV of the Rent Act falls within the period beginning on 6th November 1972 and ending with the expiration of the standstill period.

(2) The recoverable rent in respect of the standstill period for the dwelling-house (whether or not the tenancy was granted before or after the coming into operation of this order) shall not exceed the recoverable rent on 5th November 1972, and accordingly the amount of any excess shall, notwithstanding anything in any agreement, be irrecoverable from the tenant:

Provided that nothing in this paragraph shall prevent any sum being recoverable in respect of rates.

(3) Any section 22(2) notice served before the coming into operation of this order by the landlord on the tenant which specifies a date falling within the standstill period shall have effect as if the date specified was the date following that on which the standstill period expires.

(4) No section 22 notice shall be served after the coming into operation of this order which specifies as the date from which any increase is to take effect a date falling within the standstill period, and any such section 22 notice shall be of no effect and shall not be subject to amendment under section 26(4) of the Rent Act.

(5) On any comparison of rents under this article, any sum attributable to rates may be taken into account in comparing a rent with a registered rent where otherwise the comparison would not be of like with like.

Tenancies of housing associations and housing trusts

9.—(1) This article applies to a tenancy to which Part VIII of the Housing Act applies (referred to in this order as a “Part VIII tenancy”).

(2) The recoverable rent in respect of the standstill period for a dwelling-house let under a Part VIII tenancy (whether or not a rent has been registered for the dwelling-house under Part IV of the Rent Act, and whether or not the tenancy was granted before or after the coming into operation of this order) shall not exceed the current rent, and accordingly the amount of any excess shall, notwithstanding anything in any agreement, be irrecoverable from the tenant:

Provided that nothing in the foregoing provisions of this paragraph shall—

(a) prevent a notice of increase in rent being served after the coming into operation of this order on any tenant which, according to its terms, would effect an increase in rent taking effect not later than 31st December 1972, or

(b) prevent a new tenancy being granted after the coming into operation of this order and before 1st January 1973 at a rent higher than the current rent.

(3) Where any such notice as is referred to in paragraph (2)(a) of this article is served on a tenant, or where a notice in like terms was served before the coming into operation of this order, that notice shall, for the purposes of Part VIII of the Housing Act, be deemed to have effected that increase before 1st January 1973, notwithstanding that in respect of the standstill period any increase in rent above the amount of the current rent which is attributable to that notice shall not be payable, and accordingly the amount of any excess shall, notwithstanding anything in any agreement, be irrecoverable from the tenant.

(4) Where any such tenancy as is referred to in paragraph (2)(b) of this article is granted, the rent recoverable under that tenancy for the purposes of section 83(3)(a) of the Housing Act shall be the full rent payable under that tenancy (as varied only by any agreement made before 1st January 1973):

Provided that in respect of any part of the standstill period any increase in rent above the amount of the current rent shall, notwithstanding anything in any agreement, be irrecoverable from the tenant.

(5) In this article “current rent” means in relation to any dwelling-house—

(a) where a Part VIII tenancy was subsisting on 5th November 1972, the rent payable on that date (taking into account only variations in the terms of the tenancy made on or before that date), or

(b) where sub-paragraph (a) above does not apply, but a Part VIII tenancy subsisted in respect of that dwelling-house on or after 5th November

1971, the rent payable under that tenancy (or if there was more than one, the last of them) for the last rental period thereof, and this paragraph shall apply for the purposes of article 10 as if for references to a Part VIII tenancy there were substituted a reference to a tenancy to which that article applies.

(6) Nothing in this article shall prevent any sum being recoverable in respect of rates.

Tenancies of high rateable value dwelling-houses

10.—(1) This article applies to a tenancy (including a tenancy granted before the coming into operation of this order) which would but for section 1(1)(a) of the Rent Act be a protected tenancy.

(2) The recoverable rent under the tenancy in respect of the standstill period shall not exceed the current rent (as defined in article 9(5)), and the amount of any excess shall, notwithstanding anything in any agreement, be irrecoverable from the tenant.

(3) On any comparison between rents under this article there shall be excluded from each rent any sums payable by the tenant in respect of rates, services, repairs, maintenance, or insurance.

Duty of landlord to supply statement of previous rent

11. Where the rent under a tenancy to which article 9 or 10 applies is during any part of the standstill period not to exceed the current rent within the meaning of sub-paragraph (b) of article 9(5), the landlord shall, on being so requested in writing by the tenant, supply him with a statement in writing of the rent which was payable for the last rental period of the other tenancy referred to in the said sub-paragraph.

Offences

12.—(1) Any person who requires or accepts any payment or serves any notice in contravention of any of the provisions of this order shall be liable—

(a) on summary conviction to a fine not exceeding £400, and

(b) on conviction on indictment to a fine, and

without prejudice to any other method of recovery, the court by which a person is found guilty of an offence under this paragraph may order the amount paid in excess to be repaid to the person by whom the payment was made.

(2) If, without reasonable excuse, a landlord who has received such a request as is referred to in article 11—

(a) fails to supply the statement referred to in that article within twenty-one days of receiving the request, or

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

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

(3) Where an offence is alleged to have been committed under this order by any organisation, being an unincorporated body—

(a) proceedings for the offence shall be brought in the name of that body (and not in that of any of its members),

(b) for the purpose of any such proceedings any rules of court relating to the service of documents shall have effect as if that body were a corporation, and

(c) any fine imposed on conviction shall be payable out of the funds of that body.

(4) Where an offence under this order is an offence punishable on conviction on indictment, section 33 of the Criminal Justice Act 1925 and Schedule 2 to the Magistrates' Courts Act 1952, shall have effect as if the body mentioned in paragraph (3) above were a corporation.

(5) Where an offence under this order 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, 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 the offence and shall be liable to be proceeded against and punished accordingly.

(6) Proceedings for an offence under this order shall not be instituted in England or Wales except by or with the consent of the Attorney General.

Recovery of excess rent

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

(2) Subject to paragraph (3) of this article, any amount which a tenant is entitled to recover under paragraph (1) of this article 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 paragraph (1) of this article shall be recoverable at any time after the expiry of two years from the date of payment.

Adjustments relating to rental periods

14.—(1) In ascertaining for the purposes of this order whether there is any difference with respect to rents 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.

(2) Where by virtue of any of the provisions of this order any amount of rent is in respect of the standstill period irrecoverable from the tenant, any necessary adjustment shall be made to take account of rental periods which either begin before the standstill period and end on or after that period, or begin during the standstill period and end after that period.

Validity of agreements and tenancies

15. Nothing in this order shall render invalid any agreement or tenancy to which it applies, but any such agreement or tenancy shall have effect during the standstill period subject to the provisions of this order.

Jurisdiction of the county court

16.—(1) Without prejudice to the existing jurisdiction of the county court under section 105 of the Rent Act (county court jurisdiction), the county court shall have jurisdiction to determine any question as to the application of any of the provisions of this order to any tenancy to which it applies, and in particular as to the rent recoverable by virtue of the said provisions, or as to any matter which is or may become material for determining any such question.

(2) Subsection (3) of section 105 of the Rent Act shall apply to any claim or other proceedings arising out of any of the provisions of this order as it applies in respect of the provisions of that Act which are specified in subsection (5) of that section.

(3) The power of the Lord Chancellor under section 106 of the Rent Act (rules as to procedure) to make rules and give directions for the purpose of giving effect to the provisions specified in subsection (3) of that section shall extend to the provisions of this order.

Transitional

17. Without prejudice to paragraph 3 of the Schedule to the Counter-Inflation Act, any right acquired or liability, obligation or penalty incurred by virtue of any of the provisions of this order shall not be affected by section 2 ceasing to be in force, and accordingly any investigation, legal proceeding or remedy in respect of any such right, liability, obligation or penalty may be instituted, continued or enforced as though the said section 2 had continued in force.

Geoffrey Rippon,
Secretary of State for the
Environment.

1st December 1972.

Peter Thomas,
Secretary of State for
Wales.

1st December 1972.

EXPLANATORY NOTE

(This Note is not part of the Order.)

1. This order is made under section 2(4) of, and the Schedule to the Counter-Inflation (Temporary Provisions) Act 1972. It makes provision for preventing rent increases over rent payable before 6th November 1972 in relation to the following classes of case—

- (a) controlled tenancies of dwelling-houses which would under section 35 of the Housing Finance Act 1972 ("the Housing Act") have become converted to rent regulation on 1st January 1973 (as their rateable value on 31st March 1972 was £95 or more in Greater London or £60 or more elsewhere);
- (b) regulated tenancies where either a fair rent is registered during the period beginning on 6th November 1972 and ending with the date on which the standstill ends or no rent is registered;
- (c) tenancies of dwelling-houses of high rateable value which for this reason fall outside the protection of the Rent Act 1968;
- (d) tenancies of housing associations and housing trusts and the Housing Corporation to which Part VIII of the Housing Act applies.

2. In relation to class (a) above, the order postpones the date of conversion from rent control to rent regulation, but saves existing applications and registrations (which will continue to be provisional only until the dwelling-houses cease to be subject to controlled tenancies).

3. In relation to classes (b), (c) and (d) above, the order prohibits rent increases during the standstill period, makes it a criminal offence to contravene any provision of the order and provides for the recovery of overpaid rent by tenants.

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