
STATUTORY INSTRUMENTS

1994 No. 632 (S. 30)

HOUSING, SCOTLAND

The Secure Tenants (Compensation for Improvements) (Scotland) Regulations 1994

<i>Made</i>	- - - -	<i>7th March 1994</i>
<i>Laid before Parliament</i>		<i>11th March 1994</i>
<i>Coming into force</i>	- -	<i>1st April 1994</i>

The Secretary of State in exercise of the powers conferred on him by sections 58A and 338 of the Housing (Scotland) Act 1987⁽¹⁾ and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Secure Tenants (Compensation for Improvements) (Scotland) Regulations 1994 and shall come into force on 1st April 1994.

Interpretation

2. In these Regulations—

“the Act” means the Housing (Scotland) Act 1987; and

“notional life”, in relation to an improvement effected by the installation or replacement of an item specified in column 1 of the Schedule to these Regulations is the period of years specified opposite that item in column 2 of that Schedule.

Qualifying improvement work

3. Improvement work is qualifying improvement work for the purposes of section 58A of the Act if it consists of the installation or replacement of an item specified in column 1 of the Schedule to these Regulations.

⁽¹⁾ 1987 c. 26; section 58A was inserted by section 147 of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28); section 338 contains the definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made.

Circumstances where compensation not payable in respect of qualifying improvement work

4. Compensation shall not be payable under section 58A of the Act—
- (a) where the compensation which would otherwise be payable is less than £50;
 - (b) where the tenancy ends because—
 - (i) an order for recovery of possession was made on any of the grounds specified in Part I of Schedule 3 to the Act;
 - (ii) the house was disposed of under section 14 of the Act;
 - (iii) the right to buy under Part III of the Act has been exercised; or
 - (iv) the qualifying person has been granted a new tenancy, whether alone or jointly, of the same, or substantially the same, house by the same landlord.

Amount of compensation

5.—(1) Subject to paragraphs (2) and (3), the amount of compensation payable for qualifying improvement work shall be—

$$C \times \left(1 - \frac{Y}{N}\right)$$

where—

- C = the cost of the improvement work from which shall be deducted the amount of any grant made—
- (i) by any of the new town development corporations under the New Towns (Scotland) Act 1968(2);
 - (ii) under Part XIII of the Act; and
 - (iii) under the Home Energy Efficiency Grants Regulations 1992(3)
 - (iv) in respect of the improvement work;
- N = the notional life of the improvement effected by the work; and
- Y = the number of years starting on the date on which the improvement was completed and ending on the date on which the tenancy ends and for the purposes of this paragraph part of a year shall be counted as a year.

(2) Where—

- (a) the cost of the improvement work was excessive;
- (b) the improvement effected by the work has deteriorated at a rate greater than that provided for in the notional life for that improvement;
- (c) the improvement effected by the work is of a higher quality than it would have been had the landlord effected it; or
- (d) the improvement effected by the work has deteriorated at a rate lower than that provided for in the notional life for that improvement,

the landlord may in the case of sub paragraphs (a), (b) and (c) above deduct from and in the case of sub paragraph (d) above add to, the amount of compensation calculated in accordance with paragraph (1) such sum as is reasonable in order to take into account that sub-paragraph (a), (b), (c) or (d) applies notwithstanding in the case of sub-paragraph (d) that otherwise the amount of compensation calculated in accordance with paragraph (1) would be nil.

(2) 1968 c. 16.

(3) S.I.1992/483, amended by S.I. 1993/2799.

(3) Compensation shall not be payable to the extent that the amount of compensation would exceed £3,000 per improvement.

Claims for compensation

6.—(1) Claims for compensation shall contain sufficient information to enable the landlord to calculate the amount of compensation payable and shall be made in writing within the period starting 28 days before and ending 21 days after, the tenancy comes to an end.

(2) The landlord shall respond to the claimant within 28 days of the date of the claim.

Set off

7. The landlord may set off against any compensation payable under these Regulations any sum owed to it by the qualifying person.

Disputes

8.—(1) Where a qualifying person is aggrieved by any decision of a landlord concerning any question arising under the Regulations he may within 28 days of his being notified of that decision require it to be reviewed or reconsidered as the case may be.

(2) Where a review or reconsideration is required under paragraph (1) the decision—

- (a) shall be reviewed by a valuer or surveyor, who took no part in making the decision, appointed for the purpose by the landlord; or
- (b) shall be reviewed by any of the landlord's members who took no part in making the decision; or
- (c) shall be reconsidered by all the landlord's members;

and the qualifying person may make written representations to and, accompanied by any representative of his choice, oral representations before, the person or persons undertaking the review or reconsideration.

St. Andrew's House,
Edinburgh
7th March 1994

James Douglas-Hamilton
Parliamentary Under Secretary of State, Scottish
Office

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Regulations 2 and 3

QUALIFYING IMPROVEMENT WORK AND NOTIONAL LIFE

Column 1 (Item)	Column 2 (Notional life in years)
1. Bath or shower	12
2. Cavity wall insulation	20
3. Double glazing or other external window replacement or secondary glazing	20
4. Draught proofing of external doors or windows	8
5. Insulation of pipes, water tank or cylinder	10
6. Kitchen sink	10
7. Loft insulation	20
8. Rewiring and the provision of power and lighting or other electrical fixtures including smoke detectors	15
9. Security measures other than burglar alarm systems	10
10. Space or water heating	12
11. Storage cupboards in bathroom or kitchen	10
12. Thermostatic radiator valves	7
13. Wash hand basin	12
14. Watercloset	12
15. Work surfaces for food preparation	10

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make supplementary provision necessary to give effect to section 58A of the Housing (Scotland) Act 1987 which entitles a qualifying person, who must be a secure tenant of a local authority, a development corporation or Scottish Homes, to compensation at the end of the tenancy for prescribed improvement work done to the dwelling house of which he was a secure tenant subject to prescribed exceptions and limitations.

Regulation 3 and the Schedule prescribe the qualifying improvement work and regulation 2 and the Schedule define that work's notional life.

Regulation 4 sets out the circumstances in which compensation is not payable.

Regulation 5 describes by reference to a formula how compensation is calculated. From the cost of the improvement is deducted a sum which is deemed to reflect the deterioration of the improvement at the end of the tenancy calculated by reference to the notional life of the improvement and the length of time, in years, since the improvement was completed. For the purpose of calculating the length of time in years, part of a year is deemed to be a full year. Regulation 5 also imposes a limit on the amount of compensation and sets out the circumstances in which the amount of compensation can be adjusted.

Regulation 6 prescribes the procedure for claiming compensation and regulation 7 allows the landlord to set off against the compensation payable to the qualifying person any sums owed to it by the qualifying person.

Regulation 8 provides how disputes are to be resolved.