

2003 No. 259

**LANDLORD AND TENANT, ENGLAND AND WALES
REGULATORY REFORM**

**The Regulatory Reform (Assured Periodic Tenancies)
(Rent Increases) Order 2003**

Made - - - - - 10th February 2003

Coming into force in accordance with article 1

Whereas:

- (a) the First Secretary of State, as respects England, and the Secretary of State for Wales, as respects Wales, (“the Secretaries of State”) consulted(a)—
 - (i) such organisations as appeared to them to be representative of interests substantially affected by their proposals for this Order,
 - (ii) such organisations as appeared to them to be representative of statutory bodies to whose functions those proposals relate,
 - (iii) the National Assembly for Wales, and
 - (iv) such other persons as they considered appropriate;
- (b) following the consultation mentioned in recital (a) the Secretaries of State considered it appropriate to proceed with the making of this Order;
- (c) a document containing the proposals of the Secretaries of State was laid before Parliament as required by section 6 of the Regulatory Reform Act 2001(b) and the period for Parliamentary consideration under section 8 of that Act expired;
- (d) the Secretaries of State had regard to the representations made during that period and, in particular, to the Third Report of Session 2002–03 of the Regulatory Reform Committee of the House of Commons and the Sixth Report of Session 2002–03 of the Delegated Powers and Regulatory Reform Committee of the House of Lords;
- (e) a draft of this Order was laid before Parliament with a statement giving details of those representations;
- (f) the draft was approved by resolution of each House of Parliament;

(a) A consultation paper “Proposal to change the rules on the timing of rent increases for assured periodic tenancies in England and Wales” was published by the Office of the Deputy Prime Minister and the Wales Office in June 2002. Copies may be obtained from the Office of the Deputy Prime Minister Free Literature, PO Box 236, Wetherby, West Yorkshire LS23 7NB (tel: 0870 1226 236).

(b) 2001 c. 6.

- (g) the Secretaries of State are of the opinion that this Order does not remove any necessary protection or prevent any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise; and
- (h) this Order creates burdens affecting persons in the carrying on of certain activities, and the Secretaries of State are of the opinion that—
 - (i) the provisions of this Order, taken as a whole, strike a fair balance between the public interest and the interests of the persons affected by the burdens being created; and
 - (ii) the extent to which this Order removes or reduces one or more burdens, or has other beneficial effects for persons affected by the burdens imposed by the existing law, makes it desirable for this Order to be made:

Now, therefore, the First Secretary of State, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred by section 1 of the Regulatory Reform Act 2001, hereby make the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003 and has effect in respect of notices served under section 13(2) of the Housing Act 1988(a) after the day on which this Order is made.

(2) This Order extends only to England and Wales.

Amendment of section 13 of the Housing Act 1988

2. Section 13 of the Housing Act 1988 (increases of rent under assured periodic tenancies) shall be amended—

- (a) in subsection (2)—
 - (i) in paragraph (b), by the substitution, for the words from “tenancy, the” to the end, of—
 - “tenancy—
 - (i) in the case of an assured agricultural occupancy, the first anniversary of the date on which the first period of the tenancy began;
 - (ii) in any other case, on the date that falls 52 weeks after the date on which the first period of the tenancy began; and”;
 - (ii) in paragraph (c), by the substitution, for the words from “below, the” to the end, of—
 - “below—
 - (i) in the case of an assured agricultural occupancy, the first anniversary of the date on which the increased rent took effect;
 - (ii) in any other case, the appropriate date”;
- (b) by the insertion, after subsection (3), of the following subsections—
 - “(3A) The appropriate date referred to in subsection (2)(c)(ii) above is—
 - (a) in a case to which subsection (3B) below applies, the date that falls 53 weeks after the date on which the increased rent took effect;
 - (b) in any other case, the date that falls 52 weeks after the date on which the increased rent took effect.
 - (3B) This subsection applies where—
 - (a) the rent under the tenancy has been increased by virtue of a notice under this section or a determination under section 14 below on at least one occasion after the coming into force of the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003; and

(a) 1988 c. 50.

- (b) the fifty-third week after the date on which the last such increase took effect begins more than six days before the anniversary of the date on which the first such increase took effect.”(a).

Signed by authority of the First Secretary of State

10th February 2003

Barbara Roche
Minister of State,
Office of the Deputy Prime Minister

Signed by authority of the Secretary of State for Wales

10th February 2003

Don Touhig
Parliamentary Under Secretary of State,
Wales Office

(a) As to assured agricultural occupancies, *see* section 24 of the Housing Act 1988.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends section 13 of the Housing Act 1988 (“the 1988 Act”), which provides a procedure for landlords to increase the rent payable under tenancies of certain descriptions by serving notice on the tenant.

A notice under section 13 of the 1988 Act has to be in the prescribed form, and the start of the period during which the tenant has to pay the increased rent (which is specified in the notice) has to be ascertained by reference to the requirements of subsection (2) of that section. In particular, the date from which the increased rent is payable must not be earlier than the first anniversary of the commencement of the tenancy or, where the rent has already been increased under the notice procedure, the date on which it was last increased. (The amount of the increased rent may be that determined by a rent assessment committee under section 14 of the 1988 Act, rather than the amount specified in the notice.)

The general effect of the amendment is to enable the landlord of an assured periodic tenancy of less than one month to set a fixed day (such as the first Monday in April) on which a rent increase is to take effect. (A periodic tenancy is one that runs on from one period to the next until either the landlord or the tenant takes steps to bring the tenancy to an end. A periodic tenancy is “assured” if it began on or after 15th January 1989 (the date when the 1988 Act came into force) and has no fixed end date.)

Specifically, on the first occasion on which rent is increased after this Order comes into force, the increase may take effect not less than 52 weeks after the start of the tenancy or, if the rent had been increased before the date on which this Order comes into force, not less than 52 weeks after the date of the last increase. On the second and subsequent occasions, the increase may take effect not less than 52 weeks after the last increase, unless that would result in the increase taking effect on a date falling a week or more before the anniversary of the first increase after the date on which the Order comes into force. In such a case the increase may not take effect until 53 weeks after the date of the last increase.

The amendment does not affect rent increases under assured tenancies which are assured agricultural occupancies within the meaning of section 24 of the 1988 Act, or under assured agricultural occupancies to which, by virtue of subsection (3) of that section, section 13 applies. In these cases, the increase may take effect not earlier than the first anniversary of the start of the tenancy or, as the case may be, the first anniversary of the date on which the rent was last increased under the section 13 notice procedure.

The amendment does not affect section 13(4) of the 1988 Act which enables a landlord and tenant to agree a variation of the rent or that the rent should not be varied. Nor does it affect any provision relating to rent increases in the tenancy agreement, where that provision is binding on landlord and tenant.

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