STATUTORY INSTRUMENTS

1964 No. 1371 (S. 90)

HOUSING, SCOTLAND

The Housing (Management of Houses and Buildings in Multiple Occupation) (Scotland) Regulations 1964

Made - - - -	*27th August* 1964
Laid before Parliament	*4th September* 1964
Coming into Operation	*10th September* 1964

In exercise of the powers conferred on me by section 13 of the Housing Act 1961(a) as applied to Scotland by section 71 of the Housing Act 1964(b) subject to the adaptations set out in Parts I and II of Schedule 3 to the said Act of 1964 and of all other powers enabling me in that behalf, I hereby make the following regulations:—

PART I—PRELIMINARY

Application, citation and commencement

1.—(1) These regulations apply to—

(*a*) any house which, or a part of which, is let in lodgings or which is occupied by members of more than one family; and

(*b*) any such building as is mentioned in Regulation 2(2)(*a*) of these regulations,

being a house or building as the case may be, in respect of which an order under section 12 of the Act of 1961 is for the time being in force.

(2) These regulations may be cited as the Housing (Management of Houses and Buildings in Multiple Occupation) (Scotland) Regulations 1964, and shall come into operation on 10th September 1964.

Interpretation

2.—(1) In these regulations the following expressions have the meanings hereinafter assigned to them, namely—

" the Act of 1961 " means, subject to paragraph (4) of this regulation, the Housing Act 1961;

" the Act of 1964 " means the Housing Act 1964;

" flat " means a separate set of premises, whether or not on the same floor, constructed for use for the purposes of a dwelling and forming part of a building from some other part of which it is divided horizontally;

" management order " means an order under section 12 of the Act of 1961 applying the regulations to a house and " the relevant management order ", in a reference to a house or part of a house, means the management order in force with respect to that house;

(a) 9 & 10 Eliz. 2. c. 65. (b) 1964 c. 56.

" manager ", in relation to a house, means the person who is an owner or a lessee of the house and who, directly or through an agent or trustee, receives or is entitled to receive rent or other payments from persons who are tenants of parts of the house, or who are lodgers; and, where those rents or other payments are received through another person as his agent or trustee, includes that other person;

" the Rent Acts " means the Rent and Mortgage Interest Restriction Acts 1920 to 1939(a);

" rents " means rents or other payments from tenants of parts of a house, or from lodgers therein, and " the rents ", in relation to a person who is an owner or lessee of a house or an agent or trustee through whom rents are received, means such rents or other payments as are received by, or through that person;

" staircase " includes a landing;

" standard amenities " has the like meaning as in section 43(1) of the Act of 1964;

" tenement " means a building which as constructed contained, and which contains, two or more flats.

(2) In these regulations—

(*a*) references to a house include references to—

(i) a building which is not a house but comprises separate dwellings, two or more of which do not have a sanitary convenience and personal washing facilities accessible only to those living in the dwelling,

(ii) a building which is not a house but comprises separate dwellings, two or more of which are wholly or partly let in lodgings or occupied by members of more than one family, and

(iii) a building comprising a tenement, all or any of the dwellings in which were, on 13th November, 1963, without one or more of the standard amenities,

(being in any case a building all the dwellings in which are owned by the same person);

(*b*) references to a lessee of a house include references to—

(i) a tenant or subtenant of the house,

(ii) any person holding the interest of lessee under a sub-lease of the house, and

(iii) any person who retains possession of the house by virtue of the Rent Acts and not as being entitled to any tenancy;

(*c*) references to a person having an estate or interest in a house include references to a person who retains possession of the house by virtue of the Rent Acts as aforesaid; and

(*d*) references to an agent or trustee shall include a reference to a tutor, curator or factor.

(3) Any requirement of these regulations (however expressed) with respect to repair shall be construed as requiring a standard of repair that is reasonable in all the circumstances, and in determining the appropriate standard of repair for a room in, or for any part of, a house regard shall be had to the age, character and prospective life of the house.

(a) *See* 2 & 3 Geo. 6. c. 71.

(4) Any reference in these regulations to a provision of the Act of 1961 shall be construed as a reference to that provision as applied to Scotland by section 71 of the Act of 1964 subject to the adaptations set out in Parts I and II of Schedule 3 to that Act and as so applied set out in Part III of the said Schedule 3.

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

PART II—DUTIES OF MANAGEMENT

General

3.—(1) When a management order is made as respects any house it shall be the duty of a person who is manager of the house by virtue of being an owner or lessee thereof who receives the rents—

(*a*) if he does not live in the house, to make such arrangements (including arrangements for adequate supervision of the house) as may be necessary to enable him, directly or through an agent authorised in that behalf, to discharge effectively his obligations under the following regulations;

(*b*) in any case, to inform any person who is his agent or trustee, and through whom he receives the rents, that the order has been made and that these regulations accordingly apply to the house and impose obligations on that person.

(2) Where a person who is manager of a house by virtue of being an agent or trustee through whom rents are received is aware that some action is required to discharge an obligation of the manager under the following regulations, he shall, unless he discharges that obligation himself, take such steps as may be necessary to bring the need for action promptly to the attention of the owner or lessee of the house who receives the rents through him; and where he receives from the local authority a material complaint with respect to management of the house of which he is manager as aforesaid, such a person shall, if required by the authority so to do,—

(*a*) transmit that complaint to the said owner or lessee, and

(*b*) provide the local authority with the name and address of the person to whom the complaint is accordingly transmitted;

but this paragraph shall not be taken as exempting a person who is a manager of a house by virtue of being an agent or trustee through whom rents are received from the obligations imposed on managers by the following regulations or from liability for failure without reasonable excuse to comply with them.

(3) Nothing in the following regulations shall be taken to require or authorise anything to be done in connection with water supply, drainage, or the supply of gas or electricity otherwise than in accordance with any enactment relating thereto, or to oblige the manager of a house to take, in a matter connected therewith, any action which is the responsibility of a local authority or statutory undertaker, other than such action as may be necessary to bring the matter promptly to the attention of the local authority or statutory undertaker concerned.

(4) In this regulation—

(*a*) " enactment " includes an enactment in any local act and an order, rule, regulation, byelaw or scheme made under or by virtue of any Act, including any order or scheme confirmed by Parliament;

(a) 52 & 53 Vict. c. 63

(*b*) "statutory undertaker" means any person authorised by an enactment to construct, work or carry on any undertaking for the supply of gas, electricity or water or other public undertaking.

Water supply and drainage

4.—(1) The manager shall ensure that all means of water supply and drainage in the house (including the curtilage, if any) are in and are maintained in a proper state of repair, a clean condition and good order, and shall, in particular, ensure—

(*a*) that any tank, cistern or similar receptacle, provided for the storage of water for drinking or other domestic purposes is effectively covered, and that all such receptacles and the water stored in them are kept in a clean and proper condition;

(*b*) that any water fitting which is so placed, whether inside or outside the house, as to render it liable to damage by frost shall (unless it is an overflow pipe) be reasonably protected against such damage.

For this purpose "water fitting" includes any pipe (other than a main), tap, cock, valve, ferrule, meter, cistern, bath, water closet, soil pan or other similar apparatus used in connection with the supply or use of water.

(2) The manager shall not unreasonably cause a supply of water to any tenant or lodger in the house to be interrupted.

Supply of gas and electricity and installation for lighting and heating

5.—(1) The manager shall ensure that the installations in the house—

(*a*) for the supply of gas and electricity,

(*b*) for lighting, and

(*c*) for space heating or heating water,

serving any part of the house used in common by persons living in the house, are in and are maintained in repair and proper working order, and that installations for lighting in places to which this regulation applies are readily available for use by tenants and lodgers to such extent and at such times as those persons may reasonably require.

(2) The last foregoing paragraph shall extend to installations for lighting on staircases and at entrances to the house which are used by tenants or lodgers, whether in common or otherwise, except any staircase which is comprised in a part of the house let to a tenant or lodger as his living accommodation and which either does not open directly on to a part of the house used in common or is separated from such part by a door.

(3) The manager shall not unreasonably cause a supply of gas or electricity to any tenant or lodger in the house to be interrupted.

Rooms and installations used in common by persons living in the house

6.—(1) The manager shall ensure that the following rooms and installations in the house (including the curtilage, if any) are in and are maintained in a proper state of repair (including, where appropriate, reasonable decorative repair), a clean condition and good order:—

(*a*) all rooms used in common by persons living in the house, not being parts of the house to which the next following regulation relates;

(*b*) such of the following installations as are used in common by persons living in the house, namely, sanitary conveniences, baths, sinks, washbasins, and installations for cooking or for storing food;

(*c*) in the case of any room used in common by persons living in the house, being a kitchen, bathroom, water closet, lavatory or washhouse, such installations therein (if any) as are not subject to any of the foregoing provisions of these regulations.

(2) Nothing in this regulation shall oblige the manager to repair, keep in repair or maintain anything which a tenant or lodger is entitled to remove from the house.

Other parts of the house used in common by persons living in the house

7.—(1) The manager shall ensure that such of the following parts of the house as are used in common by persons living in the house are in and are maintained in a proper state of repair (including reasonable decorative repair), a clean condition and good order and are kept reasonably free from obstruction:—

(*a*) staircases, passageways and corridors;

(*b*) halls and lobbies;

(*c*) entrances to the house, including entrance doors, porches and entrance steps;

(*d*) balconies.

(2) The last foregoing paragraph shall extend to any staircase, passageway, or corridor which gives access to the living accommodation of a tenant or lodger in the house and which, though not itself used in common, opens directly on to a part of the house so used from which it is not separated by a door.

(3) The manager's duties under this regulation shall, without prejudice to the generality thereof, include duties to ensure (in places to which this regulation applies) that all handrails, railings, balustrades, and banisters are kept in good order and repair, that any missing handrails, railings, balustrades, and banisters are replaced, and that such additional handrails, railings, balustrades, and banisters as are necessary for the safety of tenants or lodgers living in the house are provided.

Accommodation let to tenants or lodgers

8.—(1) The following provisions of this regulation shall have effect with respect to the repair and maintenance of premises (being a room or set of rooms in a part of any house to which the regulations apply) which are let to a tenant or lodger as his living accommodation, and to the repair and maintenance of the installations therein, but shall be without prejudice to other provisions of these regulations insofar as they may extend to such premises or installations.

(2) It shall be the duty of the manager, when he lets any premises as aforesaid, to ensure at the commencement of the letting—

(*a*) that the premises are, internally, in a reasonable state of structural repair, and in a clean condition; and

(*b*) that the installations therein for the supply, and for making use of the supply, of water, gas and electricity, and for sanitation (including installations therein for space heating or heating water) are in a reasonable state of repair and proper working order.

(3) With respect to premises which on the date of the making of the relevant management order are let to a tenant or lodger as his living accommodation, it shall be the duty of the manager, subject to the provisions

of paragraph (5) of this regulation, to take within a reasonable time thereafter such steps (if any) as may be necessary—

(*a*) to put the premises, internally, in a reasonable state of structural repair; and

(*b*) to put in a reasonable state of repair and proper working order the installations in the premises—

(i) for the supply of water, gas and electricity, and for sanitation (including basins, sinks, baths and sanitary conveniences but not, except as aforesaid, fixtures, fittings and appliances for making use of the supply of water, gas or electricity), and

(ii) for space heating or heating water.

(4) While premises to which this regulation applies are occupied by a tenant or lodger as his living accommodation it shall be the duty of the manager, subject to the provisions of the next following paragraph, to ensure that the installations falling within sub-paragraph (*b*) of the last foregoing paragraph are kept in repair and proper working order:

Provided that the manager shall not be required by this paragraph to carry out any repair the need for which arises in consequence of use of the premises otherwise than in a tenant-like manner by the person to whom they are let.

(5) Nothing in this regulation shall oblige the manager to repair, keep in repair or maintain anything which a tenant or lodger is entitled to remove from the premises.

Roof, Windows and Ventilation

9.—(1) The manager shall ensure that all windows and other means of ventilation in any part of the house occupied or used (whether in common or otherwise) by tenants or lodgers, are in and are maintained in good order and repair:

Provided that, save insofar as may be necessary for the proper discharge of any other of his duties under these regulations, the manager shall not be required to carry out, in a part of the house which is for the time being let to a tenant or lodger as his living accommodation, any repair to a window or other means of ventilation the need for which arises after the date of the relevant management order in consequence of use of that part otherwise than in a tenant-like manner by the person to whom it is let.

(2) The manager shall ensure that the roof of the building comprising the house or, so far as under his control, the roof of the building of which the house forms part, is in and is maintained in good order and repair.

Means of escape from fire

10.—(1) The manager shall ensure that all means of escape from fire in the house (including any escape apparatus) are in and are maintained in proper repair and good order and are kept free from obstruction, and that there are displayed in the house with respect to such means of escape as aforesaid (other than any exit in ordinary use) such notice as the local authority, after consultation with the fire authority for the area in which the house is situated, may, if they think fit, reasonably require.

(2) In this regulation, the expression "fire authority" means in relation to any area, the authority for the time being constituted the fire authority for that area under the Fire Service Act 1947, except that in relation to an

area the fire brigade for which is administered by such a joint committee as is mentioned in section 36(4)(*b*) of that Act, it means that joint committee.

Miscellaneous parts of the premises

11.—(1) The manager shall ensure that every outbuilding, yard, area and forecourt, which belongs to the house and is used in common by persons living in the house, is in and is maintained in a proper state of repair, a clean condition and good order, and that any garden so used belonging to the house is kept in a tidy condition.

(2) The manager shall ensure that boundary walls, fences and railings (including basement areas railings), insofar as they belong to the house, are kept and maintained in reasonable repair so as not to constitute a danger to persons living on the premises.

(3) If any part of the house is subject to a closing order, or not in use, the manager shall ensure that such part, including any passage and staircase directly giving access to it, is kept reasonably clean and free from refuse and litter.

(4) In this regulation "closing order" means an order made by a local authority under section 9(1) of the Housing (Scotland) Act 1950.

Disposal of refuse and litter

12. The manager shall ensure that refuse and litter are not allowed to accumulate in, or in the curtillage of, the house save where properly stored pending disposal, and to that end he shall, in particular,—

(*a*) provide, and maintain the provision of, suitable refuse and litter bins or other suitable receptacles on a scale adequate to the requirements of tenants and lodgers in the house except insofar as such provision is made by the local authority, and

(*b*) make such supplementary arrangements for the disposal of refuse and litter from the house as may be necessary having regard to any existing service provided by the local authority.

General safety of occupants

13. The manager shall ensure that such precautions are taken as are reasonably required, having regard to structural conditions in the house and to the number of persons living there, to protect tenants and lodgers and members of their households from injury as the result of those conditions; and in particular he shall (without prejudice to any of his foregoing obligations) ensure as respects any roof or balcony which is not in all respects safe, either that reasonable measures are taken to prevent access thereto or that it is made safe, and that such safeguards as may be necessary are provided against the danger of accidents resulting from the presence on staircases and landings of windows, the sills of which are at or near floor level.

PART III—ANCILLARY PROVISIONS

Manager's duty to display certain documents for information

14.—(1) The manager of a house to which these regulations apply shall cause to be displayed in a suitable position in the house so as to be readily accessible to the occupants—

(*a*) a notice containing the name and address of the person (or of each person) who is a manager of the house, describing him as manager and, where appropriate as agent or trustee for the receipt of rents;

(*b*) a copy of the relevant management order and a copy of these regulations ; and

(*c*) if the local authority so require, such notice as the authority may provide for indicating briefly the main provisions of these regulations relating to management of the house and the provisions of the Act of 1961 as respects failure to comply with them ;

and he shall take all reasonable steps to ensure that the documents which are displayed in accordance with this regulation remain so displayed (with any requisite amendments) while the relevant management order is in force.

(2) The manager shall make such amendments to the foregoing documents as may from time to time be required, and, in the case of amendments of these regulations and to the notice referred to in subparagraph (*c*) of the last foregoing paragraph, as are brought to his attention by the local authority.

Manager's duty to inform local authority about occupancy of the house

15. The manager of a house to which these regulations apply shall, when required by the local authority so to do, provide the authority with such of the following particulars as they may require (and in such time and manner as they may reasonably specify) with respect to occupancy of the house, or, where part only of the house is occupied by tenants or lodgers, with respect to occupancy of that part:—

(*a*) the number of individuals and households accommodated ;

(*b*) the number of individuals in each household ;

(*c*) the ages and sex of those individuals ;

(*d*) the purpose for which each room in the house, or in the relevant part of the house is being used.

Duties of occupants

16. With a view to ensuring that the manager can effectively carry out the duties with which he is charged by these regulations, it shall be a general obligation of tenants and lodgers and members of their households, accommodated in the house, to take reasonable care not to hinder or frustrate the due performance of those duties, and in particular, every such person, insofar as he is able, shall—

(*a*) allow the manager, at all reasonable times, to enter any room or other place comprised in that person's tenancy or lodging, for purposes connected with the carrying out by the manager of his duties ;

(*b*) provide the manager, at his request, with all such information as he may reasonably require for the purpose of his duties ;

(*c*) comply with any reasonable arrangements made by the manager for the storage and disposal of refuse and litter ; and

(*d*) take reasonable care to avoid causing damage to anything which the manager is obliged by these regulations to keep in repair.

Register of managers

17.—(1) The local authority shall maintain a register of the names and addresses of persons who are for the time being managers of houses to which these regulations apply, and shall include therein such particulars as they reasonably believe to be correct relating to the capacity in which such persons are managers, that is to say whether as owners or lessees receiving rents, or as agents or trustees through whom rents are received.

(2) As soon as may be after making or amending an entry in the register in reliance on information obtained otherwise than from the person to whom such entry relates the local authority shall take reasonable steps to bring the entry or amendment to the notice of the said person.

(3) The local authority shall, at the request of a person who appears to them to have an interest or prospective interest in a house, to be resident therein, or to be otherwise sufficiently concerned therewith, disclose to him the contents of any entry in the register relating to that house.

Provision of information by persons with an estate or interest in a house

18.—(1) When a management order is made in respect of a house, an owner or lessee of the house who receives or is entitled to receive the rents shall, on being served with a copy of the order and warned in writing (whether by means of a note appended to the copy of the order or otherwise) of the requirements of this paragraph, provide the local authority with the following information—

(*a*) his name and address,

(*b*) particulars of his estate or interest in the house,

(*c*) particulars sufficient to show what parts of the house are let to tenants, or lodgers, from whom he is in receipt of rents, and

(*d*) the name and address of any agent or trustee through whom he receives such rents.

(2) Without prejudice to any other requirement of this regulation, a person who has an estate or interest in a house or any part of a house to which these regulations apply shall, at the request of the local authority, provide the authority, with such of the following items of information as they may require, namely :—

(*a*) any of those mentioned in the last foregoing paragraph ;

(*b*) the name and address of any other person known to him to be manager of the house, with particulars showing how he knows that such person is manager ;

(*c*) if he is a person who receives the rents through another person as his agent or trustee, whether, and in what respects, such other person is authorised to act in matters connected with the management of the house apart from the receipt of rents.

(3) An owner or lessee of a house to which these regulations apply shall, if at any time he appoints a person to receive the rents as his agent or trustee, forthwith give the local authority notice of the fact together with the name and address of the person appointed.

(4) A person who acquires or ceases to hold an estate or interest in a house to which these regulations apply shall, if he thereby becomes or ceases to be manager of the house, forthwith give the local authority notice of the fact together with particulars of the estate or interest which he has acquired or ceased to hold, and, where he has sold or transferred the estate or interest to some other person, the name and address of that person.

(5) The information called for by or under this regulation shall, except insofar as the local authority may in any particular case otherwise allow, be provided to the authority in writing ; and any information requested by the local authority under paragraph (2) of this regulation shall be given to them within such time, if any, as they may reasonably specify.

Procedural arrangements with managers

19. To assist the efficient management of houses in accordance with these regulations a local authority may, by agreement with a person who is manager of any house in respect of which they have made a management order, make arrangements as to the manner in which business relating to management of the house shall normally be conducted between the authority and that person, and, where there is more than one person who is manager of the house, such arrangements may provide for any business as aforesaid to be conducted with one such person in the first instance; but arrangements made in pursuance of this regulation shall be without prejudice to any of the local authority's powers in relation to houses to which these regulations apply.

Michael Noble,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

27th August 1964.

NOTE

Penalties

Section 13(4) of the Act of 1961 provides that if any person knowingly contravenes or without reasonable excuse fails to comply with any regulation under that section as applied under the Act in relation to any house he shall be liable on summary conviction—

(*a*) where he has not previously been convicted of an offence under that section, to a fine not exceeding £20, and

(*b*) where he has previously been convicted of an offence under that section, to imprisonment for a term not exceeding three months, or to a fine not exceeding £100, or to both.

EXPLANATORY NOTE

(This Note is not part of the regulations, but is intended to indicate their general purport.)

These regulations, which are made by the Secretary of State for Scotland under section 13 of the Housing Act 1961, as amended and extended to Scotland by section 71 of the Housing Act 1964, provide a Code of Management which a local authority may apply, by order under section 12 of the Act of 1961, to any house wholly or partly let in lodgings or occupied by members of more than one family, which is in an unsatisfactoy condition in consequence of defective management. In the case of a building or tenement which comprises separate dwellings, all of which are owned by the same person, the regulations may be applied in certain circumstances to the building as a whole instead of to individual dwellings therein.

The regulations are in three parts. In Part I, regulation 2 provides for the interpretation of expressions employed.

Part II contains the principal duties of management, with introductory provisions in Regulation 3. Managers of premises to which the regulations apply are required to ensure the good order, repair and cleanliness, as appropriate, of the following—

means of water supply and drainage (Regulation 4); lighting and heating installations (Regulation 5); rooms, and installations of certain kinds, used in common by persons living in the house (Regulation 6); other parts of the premises (mainly used in common by persons living in the house), such as halls, staircases, passageways, etc. (Regulation 7); roof, windows and other means of ventilation (Regulation 9); means of escape from fire (Regulation 10); common outbuildings, yards, gardens etc. (Regulation 11).

Managers are also required to ensure that refuse is satisfactorily dealt with (Regulation 12) and that reasonable precautions are taken to protect residents from injury as a result of structural conditions in the premises (Regulation 13). In addition, managers have certain obligations under Regulation 8 in respect to parts of premises (and installations therein) let to tenants or lodgers as their living accommodation. These are, primarily, to ensure that such accommodation is in a fit condition when they let it (Regulation 8(2)), but defects in accommodation which is already let when the regulations are applied must be remedied (Regulation 8(3)), and there is a continuing obligation to keep certain installations in repair except where the tenant or lodger is at fault (Regulation 8(4)).

The provisions of Part III are ancillary. The manager of a house to which the regulations apply is required to display therein certain documents (including a copy of the regulations) for the information of the occupants (Regulation 14) and to provide the local authority, on request, with particulars of the occupants and use of rooms (Regulation 15). Regulation 16 imposes obligations on the occupants of premises for the purpose of ensuring that the manager can effectively carry out his duties. Regulation 17 requires the local authority to keep a register of managers, containing their names and addresses and other relevant particulars, and provides for the disclosure of entries to persons concerned. Regulation 18 enables local authorities to obtain, from persons who have an estate or interest in premises to which the regulations are applied, relevant information about the managers of such premises. Regulation 19 provides for arrangements which local authorities may consider it expedient to make with managers, where practicable, to assist compliance with the regulations, particularly in cases where more than one person is by definition manager of a house.