



2016 CHAPTER 22

PART 5

Supplementary

Final provisions

Fees

84.—(1) The Department may by regulations make provision about the charging of fees under section 62(12) and paragraph 1(5) of Schedule 2.

(2) Regulations under subsection (1) may in particular—

- (a) set the amount, or maximum amount, of any such fee;
- (b) set out how such fees are to be arrived at;
- (c) specify circumstances in which no fee is payable;
- (d) specify circumstances in which fees are to be refunded.

(3) When fixing fees under this Act, the council may (subject to any regulations made under subsection (1)) take into account all costs incurred by the council in carrying out its functions under this Act.

Guidance

85.—(1) The Department may issue guidance to councils about the exercise of their functions under this Act.

(2) In exercising any function under this Act, a council must have regard to any guidance under this section which applies to it in the exercise of that function.

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(3) Before issuing any guidance under this section the Department must consult—

- (a) councils, and
- (b) such other persons as the Department considers appropriate.

(4) Any guidance under this section must be—

- (a) issued in writing, and
- (b) published in such manner as the Department considers appropriate for the purpose of bringing it to the attention of councils.

(5) The Department may vary or revoke any guidance issued under this section.

Regulations and orders

86.—(1) Regulations under section 1(3), 3(5), 4(1)(c), 13(3) or 14(3) or paragraph 4, 5 or 9 of Schedule 1, or an order under section 90, may include such consequential, transitional and saving provision as the Department considers necessary or expedient in connection with the other provision made by those regulations or that order.

(2) Provision made under subsection (1) may include the modification of Northern Ireland legislation.

(3) The following instruments may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the Assembly—

- (a) any regulations or orders that, by virtue of subsection (2), modify Northern Ireland legislation;
- (b) any regulations under section 1(3);
- (c) any regulations under section 73(11).

(4) Any other regulations made under this Act are subject to negative resolution.

(5) Before making regulations under section 1(3), 12(1)(c), 13(3) or 14(3) or paragraph 2 of Schedule 2, the Department must consult—

- (a) councils;
- (b) such persons as appear to the Department to be representative of—
 - (i) landlords, and
 - (ii) occupiers of houses; and
- (c) such other persons as the Department considers appropriate (which may include landlords or occupiers of houses, or both).

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PROSPECTIVE

General notices

- 87.**—(1) This section applies to a general notice given by a council under—
- (a) section 15(2);
 - (b) section 27(2);
 - (c) section 64(2)(d);
 - (d) paragraph 1(1) or (2)(h) of Schedule 2.
- (2) Any such notice must be—
- (a) given in writing, and
 - (b) published in such manner as the council considers appropriate.
- (3) The council may vary or revoke any such notice.

PROSPECTIVE

Interpretation

- 88.**—(1) In this Act—
- the “associates” of a person (“P”) are—
- (i) any member of P's family (as to which, see subsections (2) and (3)), and
 - (ii) if P is the director of a company, any person (not falling within sub-paragraph (i)) who is connected with P within the meaning of section 252 of the Companies Act 2006;
- references to “buildings” do not include, in particular, mobile homes;
- “building regulations” means any statutory provisions which relate to the construction of new buildings or to the carrying out of works in or to existing buildings and which are for the time being in force;
- “council” means a district council (and see subsection (4));
- “the Department” means the Department for Social Development;
- “disqualification order” means an order under section 38(2)(b) or (c) or (3);
- an “emergency hazard notice” is a hazard notice which complies with section 55(3);
- an appeal against a decision is “finally determined” when—
- (i) the appeal is withdrawn, or
 - (ii) a determination is made (other than a determination quashing the decision) from which no further appeal is allowed;

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“fit for human habitation” has the meaning given by Article 46 of the Housing (Northern Ireland) Order 1981 (except that references in that Article to the Executive are to be read as references to the council);

“HMO” means a house in multiple occupation (see sections 1 to 6);

“HMO licence” means a licence under section 7;

“living accommodation” has the meaning given by section 2;

the “managing agent” of any living accommodation includes any person who, acting on behalf of the owner, does any of the following—

- (i) receives rents or other payments from persons who occupy the accommodation (but this is subject to subsection (7)),
- (ii) arranges for the carrying out of any repairs or refurbishment of it,
- (iii) sends or receives communications relating to it to or from the occupants or the council;

“owner” has the meaning given by subsections (5) and (6);

“Part 4 notice” means any of the following—

- (i) an overcrowding notice under section 44,
- (ii) a suitability notice under section 50, or
- (iii) a hazard notice under section 55;

“revocation order” means an order under section 38(2)(a);

“the statutory authorities” means—

- (i) the Chief Constable,
- (ii) the Department,
- (iii) the Northern Ireland Fire and Rescue Service Board,
- (iv) the Northern Ireland Housing Executive, and
- (v) such other authorities as the Department may by regulations appoint for this purpose;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

(2) For the purposes of this Act, two persons are members of the same family only if—

- (a) they are a couple,
- (b) one of them is a relative of the other, or
- (c) one of them is, or is a relative of, one member of a couple and the other is a relative of the other member of that couple.

(3) In subsection (2)—

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- (a) a “couple” is two persons who are married to each other or are civil partners, or who live together as husband and wife or (where they are of the same sex) in an equivalent relationship,
- (b) “relative” means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece,
- (c) a relationship of the half-blood is to be treated as a relationship of the whole blood, and
- (d) the stepchild of a person is to be treated as that person's child.

(4) The functions conferred by this Act on a council are exercisable in relation to living accommodation situated in its district (so that, in particular, “the council”, in relation to an HMO or HMO licence, means the council for the district in which the HMO is situated).

(5) In this Act, the “owner” of living accommodation is the person, other than a mortgagee not in possession, who (whether on the person's own account or as trustee for another)—

- (a) receives or is entitled to receive the rack rent for the accommodation, or
- (b) if the accommodation is not let at a rack rent, would be entitled to receive that rent if it were so let.

(6) For the purposes of subsection (5)—

- (a) it does not matter whether the person receives the rent directly or through an agent;
- (b) it does not matter whether the person receives (or would be entitled to receive) the rent alone or jointly or in common with any other person;
- (c) “rack rent” means a rent which is not less than two-thirds of the net annual value of the accommodation, or a rent which has been fixed in accordance with the Rent (Northern Ireland) Order 1978.

(7) Where—

- (a) a person (“the agent”) has introduced a prospective tenant or other occupier to the owner of accommodation,
- (b) the prospective tenant or other occupier enters into a tenancy or other occupation agreement under which periodical payments are to be made in respect of the occupation, and
- (c) the agent (acting on behalf of the owner) receives the first of those periodical payments,

then, for the purposes of the definition of “managing agent” in subsection (1), the receipt by the agent of that payment is not to be regarded as the receipt of rent or another payment from that occupier.

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PROSPECTIVE

Consequential amendments and repeals

- 89.**—(1) The consequential amendments set out in Schedule 7 have effect.
(2) The repeals set out in Schedule 8 have effect.

Commencement

90.—(1) Sections 84 to 86, this section and section 91 come into operation on the day on which this Act receives Royal Assent.

(2) The other provisions of this Act come into operation on such day as the Department may by order appoint.

Short title

91. This Act may be cited as the Houses in Multiple Occupation Act (Northern Ireland) 2016.

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