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STATUTORY INSTRUMENTS

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**2003 No. 412**

**The Housing (Northern Ireland) Order 2003**

**PART II**

**CONDUCT OF TENANTS**

**CHAPTER II**

**INTRODUCTORY TENANCIES**

*General provisions*

**Introductory tenancies**

6.—(1) The Executive or a registered housing association may elect to operate an introductory tenancy regime.

(2) When such an election is in operation, every periodic tenancy of a dwelling-house entered into or adopted by the Executive or the association shall, if it would otherwise be a secure tenancy, be an introductory tenancy, unless immediately before the tenancy was entered into or adopted the tenant or, in the case of joint tenants, one or more of them was a secure tenant of the same or another dwelling-house.

(3) Paragraph (2) does not apply to a tenancy entered into or adopted in pursuance of a contract made before the election was made.

(4) For the purposes of this Chapter a periodic tenancy is adopted by a person if that person becomes the landlord under the tenancy, whether on a disposal or surrender of the interest of the former landlord.

(5) An election under this Article may be revoked at any time, without prejudice to the making of a further election.

**Duration of introductory tenancy**

7.—(1) A tenancy remains an introductory tenancy until the end of the trial period, unless one of the events mentioned in paragraph (5) occurs before the end of that period.

(2) The “trial period” is the period of one year beginning with—

(a) in the case of a tenancy which was entered into by the Executive or a registered housing association—

(i) the date on which the tenancy was entered into, or

(ii) if later, the date on which a tenant was first entitled to possession under the tenancy;  
or

(b) in the case of a tenancy which was adopted by the Executive or a registered housing association, the date of adoption;

subject as follows.

(3) Where the tenant under an introductory tenancy was formerly a tenant under another introductory tenancy, or held a qualifying shorthold tenancy from a registered housing association, any period or periods during which he was such a tenant shall count towards the trial period, provided—

- (a) if there was one such period, it ended immediately before the date specified in paragraph (2), and
- (b) if there was more than one such period, the most recent period ended immediately before that date and each period succeeded the other without interruption.

(4) Where there are joint tenants under an introductory tenancy, the reference in paragraph (3) to the tenant shall be construed as referring to the joint tenant in whose case the application of that paragraph produces the earliest starting date for the trial period.

(5) A tenancy ceases to be an introductory tenancy if, before the end of the trial period—

- (a) the circumstances are such that the tenancy would not otherwise be a secure tenancy,
- (b) a person or body other than the Executive or a registered housing association becomes the landlord under the tenancy,
- (c) the election in force when the tenancy was entered into or adopted is revoked, or
- (d) the tenancy ceases to be an introductory tenancy by virtue of Article 15(3) (succession).

(6) A tenancy does not come to an end merely because it ceases to be an introductory tenancy, but a tenancy which has once ceased to be an introductory tenancy cannot subsequently become an introductory tenancy.

(7) This Article has effect subject to Article 12 (effect of beginning proceedings for possession).

## **Licences**

**8.—**(1) The provisions of this Chapter apply in relation to a licence to occupy a dwelling-house (whether or not granted for a consideration) as they apply in relation to a tenancy.

(2) Paragraph (1) does not apply to a licence granted as a temporary expedient to a person who entered the dwelling-house or any other land as a trespasser (whether or not, before the grant of that licence, another licence to occupy that or another dwelling-house had been granted to him).

## *Proceedings for possession*

### **Proceedings for possession**

**9.—**(1) The landlord may only bring an introductory tenancy to an end by obtaining an order of the court for the possession of the dwelling-house.

(2) The court shall make such an order unless the provisions of Article 10 apply.

(3) Where the court makes such an order, the tenancy comes to an end on the date on which the tenant is to give up possession in pursuance of the order.

### **Notice of proceedings for possession**

**10.—**(1) The court shall not entertain proceedings for the possession of a dwelling-house let under an introductory tenancy unless the landlord has served on the tenant a notice of proceedings complying with this Article.

(2) The notice shall state that the court will be asked to make an order for the possession of the dwelling-house.

(3) The notice shall set out the reasons for the landlord's decision to apply for such an order.

(4) The notice shall specify a date after which proceedings for the possession of the dwelling-house may be begun.

The date so specified must not be earlier than the date on which the tenancy could, apart from this Chapter, be brought to an end by notice to quit given by the landlord on the same date as the notice of proceedings.

(5) The court shall not entertain any proceedings for possession of the dwelling-house unless they are begun after the date specified in the notice of proceedings.

(6) The notice shall inform the tenant of his right to request a review of the landlord's decision to seek an order for possession and of the time within which such a request must be made.

(7) The notice shall also inform the tenant where he should take the notice, if he needs help or advice about it.

### **Review of decision to seek possession**

**11.—**(1) A request for review of the landlord's decision to seek an order for possession of a dwelling-house let under an introductory tenancy must be made before the end of the period of 14 days beginning with the day on which the notice of proceedings is served.

(2) On a request being duly made to it, the landlord shall review its decision.

(3) The Department may make provision by regulations as to the procedure to be followed in connection with a review under this Article.

Nothing in the following provisions affects the generality of this power.

(4) Provision may be made by regulations—

(a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision, and

(b) as to the circumstances in which the person concerned is entitled to an oral hearing, and whether and by whom he may be represented at such a hearing.

(5) The landlord shall notify the person concerned of the decision on the review.

If the decision is to confirm the original decision, the landlord shall also notify him of the reasons for the decision.

(6) The review shall be carried out and the tenant notified before the date specified in the notice of proceedings as the date after which proceedings for the possession of the dwelling-house may be begun.

### **Effect of beginning proceedings for possession**

**12.—**(1) This Article applies where the landlord has begun proceedings for the possession of a dwelling-house let under an introductory tenancy and—

(a) the trial period ends, or

(b) any of the events specified in Article 7(5) occurs (events on which a tenancy ceases to be an introductory tenancy).

(2) Subject to the following provisions, the tenancy remains an introductory tenancy until—

(a) the tenancy comes to an end in pursuance of Article 9(3) (that is, on the date on which the tenant is to give up possession in pursuance of an order of the court), or

(b) the proceedings are otherwise finally determined.

(3) If any of the events specified in Article 7(5)(b) to (d) occurs, the tenancy shall thereupon cease to be an introductory tenancy but—

- (a) the landlord (or, as the case may be, the new landlord) may continue the proceedings, and
- (b) if it (or he) does so, Article 9(2) and (3) (termination by the landlord) apply as if the tenancy had remained an introductory tenancy.

(4) Where in accordance with paragraph (3) a tenancy ceases to be an introductory tenancy and becomes a secure tenancy, the tenant is not entitled to purchase the dwelling-house under a house sales scheme unless and until the proceedings are finally determined on terms such that he is not required to give up possession of the dwelling-house.

In this paragraph “a house sales scheme” means any scheme for the time being approved by the Department under Article 3 or 3A of the Order of 1983 (see Article 131).

(5) For the purposes of this Article proceedings shall be treated as finally determined if they are withdrawn or any appeal is abandoned or the time for appealing expires without an appeal being brought.

### *Succession on death of tenant*

#### **Persons qualified to succeed tenant**

**13.** A person is qualified to succeed the tenant under an introductory tenancy if he occupies the dwelling-house as his only or principal home at the time of the tenant’s death and either—

- (a) he is the tenant’s spouse, or
- (b) he is another member of the tenant’s family and has resided with the tenant throughout the period of 12 months ending with the tenant’s death;

unless, in either case, the tenant was himself a successor, as defined in Article 14.

#### **Cases where the tenant is a successor**

**14.—**(1) The tenant is himself a successor if—

- (a) the tenancy vested in him by virtue of Article 15 (succession to introductory tenancy),
- (b) he was a joint tenant and has become the sole tenant,
- (c) he became the tenant on the tenancy being assigned to him (but subject to paragraphs (2) and (3)), or
- (d) he became the tenant on the tenancy being vested in him on the death of the previous tenant.

(2) A tenant to whom the tenancy was assigned in pursuance of an order under—

- (a) Article 26 of the [Matrimonial Causes \(Northern Ireland\) Order 1978 \(NI 15\)](#) (property adjustment orders in connection with matrimonial proceedings),
- (b) Article 21 of the [Matrimonial and Family Proceedings \(Northern Ireland\) Order 1989 \(NI 4\)](#) (property adjustment orders after overseas divorce, &c.), or
- (c) Part II of Schedule 2 to the [Family Homes and Domestic Violence \(Northern Ireland\) Order 1998 \(NI 6\)](#) (orders transferring certain tenancies on divorce, etc. or on separation of cohabitantes),

is a successor only if the other party to the marriage was a successor.

(3) Where within 6 months of the coming to an end of an introductory tenancy (“the former tenancy”) the tenant becomes a tenant under another introductory tenancy, and—

- (a) the tenant was a successor in relation to the former tenancy, and
- (b) under the other tenancy either the dwelling-house or the landlord, or both, are the same as under the former tenancy,

the tenant is also a successor in relation to the other tenancy unless the agreement creating that tenancy otherwise provides.

### **Succession to introductory tenancy**

**15.**—(1) This Article applies where a tenant under an introductory tenancy dies.

(2) Where there is a person qualified to succeed the tenant, the tenancy vests by virtue of this Article in that person, or if there is more than one such person in the one to be preferred in accordance with the following rules—

- (a) the tenant's spouse is to be preferred to another member of the tenant's family;
- (b) of 2 or more other members of the tenant's family such of them is to be preferred as may be agreed between them or as may, where there is no such agreement, be selected by the landlord.

(3) Where there is no person qualified to succeed the tenant, the tenancy ceases to be an introductory tenancy—

- (a) when it is vested or otherwise disposed of in the course of the administration of the tenant's estate, unless the vesting or other disposal is in pursuance of an order made under—
  - (i) Article 26 of the [Matrimonial Causes \(Northern Ireland\) Order 1978 \(NI 15\)](#) (property adjustment orders in connection with matrimonial proceedings),
  - (ii) Article 21 of the [Matrimonial and Family Proceedings \(Northern Ireland\) Order 1989 \(NI 4\)](#) (property adjustment orders after overseas divorce, &c.),
  - (iii) paragraph 2 of Schedule 1 to the [Children \(Northern Ireland\) Order 1995 \(NI 2\)](#) (orders for financial relief against parents); or
  - (iv) Part II of Schedule 2 to the [Family Homes and Domestic Violence \(Northern Ireland\) Order 1998 \(NI 6\)](#) (orders transferring certain tenancies on divorce, etc., and on separation of cohabitees),
- (b) when it is known that when the tenancy is so vested or disposed of it will not be in pursuance of such an order.

### *Assignment*

### **Assignment in general prohibited**

**16.**—(1) An introductory tenancy is not capable of being assigned except in the cases mentioned in paragraph (2).

(2) The exceptions are—

- (a) an assignment in pursuance of an order made under—
  - (i) Article 26 of the [Matrimonial Causes \(Northern Ireland\) Order 1978 \(NI 15\)](#) (property adjustment orders in connection with matrimonial proceedings),
  - (ii) Article 21 of the [Matrimonial and Family Proceedings \(Northern Ireland\) Order 1989 \(NI 4\)](#) (property adjustment orders after overseas divorce, &c.),
  - (iii) paragraph 2 of Schedule 1 to the [Children \(Northern Ireland\) Order 1995 \(NI 2\)](#) (orders for financial relief against parents), or
  - (iv) Part II of Schedule 2 to the [Family Homes and Domestic Violence \(Northern Ireland\) Order 1998 \(NI 6\)](#) (orders transferring certain tenancies on divorce, etc., and on separation of cohabitees),

(b) an assignment to a person who would be qualified to succeed the tenant if the tenant died immediately before the assignment.

(3) Paragraph (1) also applies to a tenancy which is not an introductory tenancy but would be if the tenant, or where the tenancy is a joint tenancy, at least one of the tenants, were occupying or continuing to occupy the dwelling-house as his only or principal home.

### *Repairs*

#### **Right of introductory tenants of the Executive to have repairs carried out**

17. The Department may direct that any scheme for the time being approved by it under Article 38A of the Order of 1983 (see Article 133) shall apply to introductory tenants of the Executive in the same manner as it applies to secure tenants of the Executive.

### *Provision of information and consultation*

#### **Provision of information about tenancies**

18.—(1) Where the Executive or any registered housing association lets dwelling-houses under introductory tenancies, it shall publish information about its introductory tenancies, in such form as it considers best suited to explain in simple terms, and, so far as it considers it appropriate, the effect of—

- (a) the express terms of its introductory tenancies,
- (b) the provisions of this Chapter, and
- (c) the landlord's repairing obligations;

and shall ensure that so far as is reasonably practicable the information so published is kept up to date.

(2) The landlord under an introductory tenancy shall supply the tenant with—

- (a) a copy of the information for introductory tenants published by it under paragraph (1), and
- (b) a written statement of the terms of the tenancy, so far as they are neither expressed in the lease or written tenancy agreement (if any) nor implied by law;

and the statement required by sub-paragraph (b) shall be supplied on the grant of the tenancy or as soon as practicable afterwards.

#### **Consultation on matters of housing management**

19.—(1) Where the Executive or a registered housing association lets dwelling-houses under introductory tenancies, it shall maintain such arrangements as it considers appropriate to enable those of its introductory tenants who are likely to be substantially affected by a relevant matter of housing management—

- (a) to be informed of the proposals of the Executive or the association in respect of the matter, and
- (b) to make their views known to the Executive or the association within a specified period.

(2) The Executive or the association shall, before making a decision on a relevant matter, consider any representations made to it in accordance with those arrangements.

(3) A matter is one of housing management if, in the opinion of the Executive or the association concerned, it relates to—

- (a) the management, improvement, maintenance or demolition of dwelling-houses let by the Executive or the association under introductory or secure tenancies, or

(b) the provision of services or amenities in connection with such dwelling-houses; but not so far as it relates to the rent payable under an introductory or secure tenancy or to charges for services or facilities provided by the Executive or the association.

(4) A matter is relevant if, in the opinion of the Executive or the association concerned, it represents—

- (a) a new programme of maintenance, improvement or demolition, or
- (b) a change in the practice or policy of the Executive or the association,

and is likely substantially to affect either its introductory tenants as a whole or a group of them who form a distinct social group or occupy dwelling-houses which constitute a distinct class (whether by reference to the kind of dwelling-house, or the housing estate or other larger area in which they are situated).

(5) The Executive or the association shall publish details of the arrangements which it makes under this Article, and a copy of the documents published under this paragraph shall—

- (a) be made available at the Executive's district offices or at the association's principal office for inspection at all reasonable hours, without charge, by members of the public, and
- (b) be given, on payment of a reasonable fee, to any member of the public who asks for one.

### *Supplementary*

#### **Jurisdiction of county court**

**20.**—(1) A county court has jurisdiction to determine questions arising under this Chapter and to entertain proceedings brought under this Chapter and claims, for whatever amount, in connection with an introductory tenancy.

(2) That jurisdiction includes jurisdiction to entertain proceedings as to whether a statement supplied in pursuance of Article 18(2)(b) (written statement of certain terms of tenancy) is accurate notwithstanding that no other relief is sought than a declaration.

(3) If a person takes proceedings in the High Court which, by virtue of this Article, he could have taken in the county court, he is not entitled to recover any costs.

(4) County court rules may make provision for the purpose of giving effect to this Article.

(5) In particular, the rules may provide—

- (a) for the exercise by a district judge of a county court of any jurisdiction exercisable under this Article, and
- (b) for the conduct of proceedings in private.

#### **Power to make further provision**

**21.** Without prejudice to the generality of Article 147(2), the Department may by order make such provision in relation to a statutory provision as the Department considers appropriate as regards its application (with or without modifications) or non-application in relation to introductory tenants or introductory tenancies.