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STATUTORY INSTRUMENTS

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**2006 No. 1459**

**The Private Tenancies (Northern Ireland) Order 2006**

**PART IV**

**CERTIFICATES OF FITNESS AND RENT CONTROL**

**CHAPTER II**

**CERTIFICATES OF FITNESS**

**Interpretation: Chapter II**

**32.** In this Chapter “fit for human habitation” shall be construed by reference to Article 17.

**Landlord's application to have dwelling-house inspected**

**33.—(1)** This Article applies to any dwelling-house—

- (a) which was constructed before 6th November 1956 or provided by conversion of a building that was constructed before that date,
- (b) which is not a prescribed dwelling-house, and
- (c) in respect of which no certificate of fitness is in effect.

(2) Where, on or after the commencement of this Order, any person intends to let under a private tenancy a dwelling-house to which this Article applies, he may apply to the appropriate district council to have the dwelling-house inspected, in order to determine whether it is fit for human habitation.

(3) Where,—

- (a) a private tenancy of a dwelling-house to which this Article applies is granted on or after the commencement of this Order, and
- (b) no application has been made under paragraph (2) in respect of that dwelling-house,

the landlord shall apply to the appropriate district council to have the dwelling-house inspected, in order to determine whether it is fit for human habitation.

(4) An application under paragraph (3) shall be made within 28 days after the date on which the tenancy is granted.

(5) A landlord under a private tenancy of a dwelling-house to which this Article applies, who fails within the period mentioned in paragraph (4) to comply with paragraph (3), shall be guilty of an offence under this Order.

(6) Where a dwelling-house to which this Article applies is let under a private tenancy, the landlord may apply at any time to the appropriate district council to have the dwelling-house inspected, in order to determine whether it is fit for human habitation.

(7) Paragraph (6) has effect whether the tenancy was granted before or after the commencement of this Order.

### **Landlord's application: ancillary provisions**

**34.**—(1) An application under Article 33 shall be in such form and contain such information as may be prescribed.

(2) An application under Article 33 must state the name of the tenant under the tenancy to which the application relates.

(3) Before considering an application under Article 33, the appropriate district council shall serve on the tenant a copy of the application and a notice in the prescribed form—

- (a) informing him that he may, within 28 days from the service of the notice or such other period as may be prescribed, make representations to the council as to whether or not the dwelling-house is fit for human habitation; and
- (b) containing such other information or explanation of the effect of a certificate of fitness or a notice of refusal as may be prescribed.

(4) Paragraphs (2) and (3) do not apply where a dwelling-house is not let at the date of the application.

### **Tenant's application to have dwelling-house inspected**

**35.**—(1) This Article applies to any dwelling-house—

- (a) which was constructed before 6th November 1956 or provided by conversion of a building that was constructed before that date,
- (b) which is not a prescribed dwelling-house, and
- (c) in respect of which a certificate of fitness is in effect.

(2) Where a dwelling-house to which this Article applies is let under a private tenancy, the tenant may apply at any time to the appropriate district council to have the dwelling-house inspected.

(3) An application under this Article shall be in such form and contain such information as may be prescribed.

(4) An application under this Article must state the name of the landlord, or his agent, under the tenancy to which the application relates.

(5) Before considering an application under this [<sup>F1</sup>Article], the appropriate district council shall serve on the landlord, or his agent, a copy of the application and a notice in the prescribed form—

- (a) informing him that he may, within 28 days from the service of the notice or such other period as may be prescribed, make representations to the council as to whether or not the dwelling-house is fit for human habitation; and
- (b) containing such other information or explanation of the effect of a certificate of fitness or a notice of refusal as may be prescribed.

#### **Textual Amendments**

- F1** Word in [art. 35\(5\)](#) substituted (31.7.2010) by [Housing \(Amendment\) Act \(Northern Ireland\) 2010 \(c. 9\)](#), [ss. 15, 19\(1\)](#); [S.R. 2010/251](#), [art. 2](#)

### **Functions of the appropriate district council**

**36.**—(1) On receiving an application under Article 33 or 35, the appropriate district council shall cause the dwelling-house to be inspected with a view to ascertaining whether it is fit for human habitation.

[<sup>F2</sup>(1A) A person authorised by the appropriate district council in relation to this Article may, at any reasonable time and having given at least 24 hours' notice to the occupier, and to the owner if known, enter a dwelling-house for the purpose of an inspection under paragraph (1).

(1B) An authorisation under paragraph (1A)—

- (a) shall be in writing; and
- (b) shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf.]

(2) The appropriate district council shall not be obliged to entertain an application under Article 33 or 35 unless the application is accompanied by a fee of such amount as may be prescribed.

(3) The appropriate district council shall not be obliged to entertain an application under Article 35 unless the application contains information that is sufficient in the opinion of the council to indicate that the dwelling-house may no longer be fit for human habitation.

(4) Where the appropriate district council is satisfied that a dwelling-house is fit for human habitation, the council shall issue and serve on the landlord of the dwelling-house a certificate (a “certificate of fitness”) to that effect.

(5) Where the appropriate district council is not satisfied that a dwelling-house is fit for human habitation, the council shall issue and serve on the landlord of the dwelling-house a notice (a “notice of refusal”)—

- (a) informing him of its refusal [<sup>F3</sup>to issue a certificate of fitness] and the reasons for refusal; and
- (b) stating (where appropriate) the works which, in its opinion, would be necessary to enable the dwelling-house to be made fit for human habitation.

(6) The appropriate district council shall, if a dwelling-house is let at the date of an application, serve on the tenant a copy of any certificate of fitness or notice of refusal issued with respect to it.

(7) The appropriate district council shall send to the rent officer and the Executive—

- (a) a copy of any certificate of fitness or notice of refusal issued by it in respect of a dwelling-house, and
- (b) such information relating to the dwelling-house and the tenancy thereof as may be prescribed.

(8) The powers conferred on a district council by this Article shall not prejudice or affect its powers under Part III of this Order or [<sup>F4</sup>Part 7 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011].

#### Textual Amendments

- F2** Art. 36(1A)(1B) inserted (30.6.2011) by [Housing \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 22\)](#), [ss. 4, 25\(1\)](#); [S.R. 2011/241](#), [art. 2\(1\)](#), [Sch. 1](#)
- F3** Words in art. 36(5)(a) substituted (31.7.2010) by [Housing \(Amendment\) Act \(Northern Ireland\) 2010 \(c. 9\)](#), [ss. 16, 19\(1\)](#); [S.R. 2010/251](#), [art. 2](#)
- F4** Words in art. 36(8) substituted (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\)](#), [s. 78](#), [Sch. 3 para. 16](#); [S.R. 2012/13](#), [art. 2\(2\)](#), [Sch. 2](#)

#### Appeal to county court

**37.—**(1) A landlord on whom a notice of refusal is served may, within 21 days after the date of service of the notice, appeal to the county court.

(2) A tenant on whom a copy of a certificate of fitness is served may, within 21 days after the date of service of the copy of the certificate, appeal to the county court.

(3) On an appeal under this Article, the court—

- (a) shall have regard to the state of the dwelling-house at the time of the hearing as well as at the time of the issue of the certificate of fitness or of the notice of refusal, as the case may be;
- (b) shall make no order as to costs unless it appears to the court, having regard to the conduct of the parties and all other circumstances, that it would be equitable to do so.

(4) If on an appeal under paragraph (1), the court orders the appropriate district council to issue a certificate of fitness—

- (a) that certificate shall be deemed to have been issued on the date of the order, and
- (b) the notice of refusal shall cease to have effect.

(5) If, on an appeal under paragraph (2), the court orders the appropriate district council to issue a notice of refusal—

- (a) that notice shall be deemed to have taken effect on the date on which the certificate of fitness was issued, and
- (b) the certificate of fitness shall be deemed never to have been issued.

(6) Where an appeal by way of case stated is made to the Court of Appeal under Article 61 of the County Courts (Northern Ireland) Order 1980 (NI 3) on any point of law arising from a decision of a county court on an appeal under paragraph (1), paragraph (4) shall apply as if in sub-paragraph (a), for the reference to the date of the order, there were substituted a reference to the date of confirmation of the order by the Court of Appeal.

### **Cessation of certificate of fitness**

**38.**—(1) Subject to paragraph (2), a certificate of fitness ceases to have effect if—

- (a) a relevant notice is served in respect of a house which is or includes the dwelling-house in relation to which the relevant notice was issued, and
- (b) the period within which an appeal may be brought against the relevant notice has expired.

(2) Where an appeal is brought against a relevant notice, the certificate of fitness—

- (a) shall not cease to have effect until after the final determination of the appeal, and
- (b) shall cease to have effect then only if the relevant notice is confirmed.

(3) In this Article, “relevant notice” means a notice under—

- (a) Article 18 (notice of unfitness);
- (b) Article 36(5) (notice of refusal); or
- (c) Article 41 of the Housing (Northern Ireland) Order 1981 (NI 3) (repair notice).

(4) A certificate of fitness does not cease to have effect because of the termination of the tenancy of the dwelling-house in respect of which the certificate of fitness was issued.

**Changes to legislation:**

There are currently no known outstanding effects for the The Private Tenancies (Northern Ireland) Order 2006, CHAPTER II.