
STATUTORY INSTRUMENTS

1983 No. 1118

The Housing (Northern Ireland) Order 1983

PART V

PRIVATE SECTOR TENANTS

Protected shorthold tenancies

Preliminary

91. Articles 92 to 95 modify the operation of the 1978 Order in relation to protected shorthold tenancies as defined in Article 92, and shall be construed as one with the 1978 Order.

Protected shorthold tenancies

92.—(1) A protected shorthold tenancy is a protected tenancy granted after the coming into operation of this Order [^{F1} and before the coming into operation of Article 57 of the Private Tenancies (Northern Ireland) Order 2006] which is granted for a term certain of not less than one year nor more than five years and satisfies the following conditions, that is to say,—

- (a) it cannot be brought to an end by the landlord before the expiry of the term, except in pursuance of a provision for re-entry for forfeiture for non-payment of rent or breach of any other obligation of the tenancy; and
- (b) before the grant the landlord has given the tenant a valid notice stating that the tenancy is to be a protected shorthold tenancy; and
- (c) either—
 - (i) a rent for the dwelling-house is registered by [^{F2} the Executive] under Article 26 of the 1978 Order at the time the tenancy is granted, or
 - (ii) an application for the registration of a rent for the dwelling-house is made under Article 26 of the 1978 Order not later than 28 days after the beginning of the term and is not withdrawn.

(2) A tenancy of a dwelling-house is not a protected shorthold tenancy if it is granted to a person who, immediately before it was granted, was a protected or statutory tenant of that dwelling-house.

(3) A notice is not valid for the purposes of paragraph (1)(b) unless it complies with the requirements of regulations made by the Department.

(4) The Department may by order direct that paragraph (1) shall have effect, either generally or in relation to any area specified in the order, as if sub-paragraph (c) were omitted.

(5) If a protected tenancy is granted after the coming into operation of this Order—

- (a) for such a term certain as is mentioned in paragraph (1), to be followed, at the option of the tenant, by a further term; or
- (b) for such a term certain and thereafter from year to year or some other period;

and satisfies the conditions stated in that paragraph, the tenancy is a protected shorthold tenancy until the end of the term certain.

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| <p>F1 Words in art. 92(1) inserted (1.4.2007) by Private Tenancies (Northern Ireland) Order 2006 (S.I. 2006/1459 (N.I. 10)), arts. 1(3), 74, Sch. 4 para. 9; S.R. 2006/428, art. 3</p> <p>F2 2003 NI 2</p> |
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Right of tenant to terminate protected shorthold tenancy

93.—(1) A protected shorthold tenancy may be brought to an end (by virtue of this Article and notwithstanding anything in the terms of the tenancy) before the expiry of the term certain by notice in writing of the appropriate length given by the tenant to the landlord; and the appropriate length of the notice is—

- (a) one month if the term certain is two years or less; and
- (b) three months if it is more than two years.

(2) Any agreement relating to a protected shorthold tenancy (whether or not contained in the instrument creating the tenancy) shall be void in so far as it purports to impose any penalty or disability on the tenant in the event of his giving a notice under this Article.

Subletting or assignment

94.—(1) Where the whole or part of a dwelling-house let under a protected shorthold tenancy has been sublet at any time during the continuous period specified in paragraph (3), and, during that period, the landlord becomes entitled, as against the tenant, to possess of the dwelling-house, he shall also be entitled to possession against the sub-tenant^{F3} . . .

(2) A protected shorthold tenancy of a dwelling-house and any protected tenancy of the same dwelling-house granted during the continuous period specified in paragraph (3) shall not be capable of being assigned, except in pursuance of an order under Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978^{F4} or Part 2 of Schedule 15, or paragraph 9(2) or (3) of Schedule 17, to the Civil Partnership Act 2004].

(3) The continuous period mentioned in paragraph (1) and (2) is the period beginning with the grant of the protected shorthold tenancy and continuing until^{F5} no person is in possession of the dwelling-house as a protected or statutory tenant.]

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| <p>F3 Words in art. 94(1) repealed (1.4.2007) by Private Tenancies (Northern Ireland) Order 2006 (S.I. 2006/1459 (N.I. 10)), arts. 1(3), 74, 75, Sch. 4 para. 10(a), Sch. 5; S.R. 2006/428, art. 3</p> <p>F4 2004 c.33</p> <p>F5 Words in art. 94(3) substituted (1.4.2007) by Private Tenancies (Northern Ireland) Order 2006 (S.I. 2006/1459 (N.I. 10)), arts. 1(3), 74, Sch. 4 para. 10(b); S.R. 2006/428, art. 3</p> |
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Orders for possession

95.—(1) The following Case shall be added to the Case in Part II of Schedule 4 to the 1978 Order (mandatory orders for possession):

“Case 17

Where the dwelling-house was let under a protected shorthold tenancy (or is treated under Article 95 of the Housing (Northern Ireland) Order 1983 as having been so let) and—

- (a) there either has been no grant of a further tenancy of the dwelling-house since the end of the protected shorthold tenancy or, if there was such a grant, it was to a person who immediately before the grant was in possession of the dwelling-house as a protected or statutory tenant; and
- (b) the proceedings for possession were commenced after appropriate notice by the landlord to the tenant and not later than three months after the expiry of the notice.

A notice is appropriate for this Case if—

- (i) it is in writing and states that proceedings for possession under this Case may be brought after its expiry; and
- (ii) it expires not earlier than three months after it is served and, if at the time of service the tenancy is a periodic tenancy, not earlier than the date by which that periodic tenancy could be brought to an end by a notice to quit served by the landlord on the same day;
- (iii) it is served—
 - (a) in the period of three months immediately preceding the date on which the protected shorthold tenancy comes to an end; or
 - (b) if that date has passed, in the period of three months immediately preceding any anniversary of that date; and
- (iv) in a case where a previous notice has been served by the landlord on the tenant in respect of the dwelling-house, and that notice was an appropriate notice, it is served not earlier than three months after the expiry of the previous notice.”

(2) If, in proceedings for possession under Case 17, the court is of opinion that, notwithstanding that the condition of paragraph (1)(b) or (c) of Article 92 is not satisfied, it is just and equitable to make an order for possession, it may treat the tenancy under which the dwelling-house was let as a protected shorthold tenancy.

Changes to legislation:

There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1983, Cross Heading: Protected shorthold tenancies.