
STATUTORY INSTRUMENTS

2003 No. 412

The Housing (Northern Ireland) Order 2003

PART IV

MISCELLANEOUS AMENDMENTS

CHAPTER II

AMENDMENTS OF THE ORDER OF 1981

Interpretation of Order of 1981

123.—(1) In Article 2 of the Order of 1981 (interpretation), paragraphs (4) and (5) shall be omitted.

(2) After that Article there shall be inserted—

“Meaning of member of a person's family

2A.—(1) For the purposes of this Order a person is a member of another's family if—

- (a) he is the spouse of that person, or he and that person live together as husband and wife, or
- (b) he is that person's parent, grandparent, child, grandchild, brother, or sister.

(2) For the purpose of paragraph (1)(b)—

- (a) a relationship by marriage shall be treated as a relationship by blood,
- (b) a relationship of the half-blood shall be treated as a relationship of the whole blood, and
- (c) the stepchild of a person shall be treated as his child.”.

Allocation of housing accommodation

124.—(1) Article 22 of the Order of 1981 (house allocation scheme) shall be amended as follows.

(2) For paragraph (1) there shall be substituted—

“(1) The Executive shall submit to the Department a scheme for the allocation of housing accommodation held by the Executive to prospective tenants or occupiers.” .

(3) In paragraph (3), at the end there shall be added the words “ and with the provisions of Article 22A when allocating housing accommodation held by it ”.

(4) After paragraph (6) there shall be inserted—

“(7) For the purposes of this Article and Article 22A the Executive allocates housing accommodation when it selects a person to be a secure or introductory tenant of housing accommodation held by it.

(8) The reference in paragraph (7) to selecting a person to be a secure tenant includes deciding to exercise any power to notify an existing tenant or licensee that his tenancy or licence is to be a secure tenancy.” .

(5) After Article 22 of the Order of 1981 there shall be inserted —

“Allocation only to eligible persons

22A.—(1) The Executive shall not allocate housing accommodation—

- (a) to a person from abroad, if he is a person subject to immigration control who is ineligible for an allocation of housing accommodation by virtue of section 118 of the Immigration and Asylum Act 1999 (c. 33);
- (b) to any other person from abroad, if he is a person who is ineligible for such an allocation by virtue of regulations made under paragraph (3);
- (c) to a person who the Executive has decided is to be treated as ineligible for such an allocation by virtue of paragraph (6); or
- (d) to two or more persons jointly if any of them is a person mentioned in subparagraph (a), (b) or (c).

(2) Subject to paragraph (1), any person may be allocated housing accommodation by the Executive (whether on his application or otherwise).

(3) The Secretary of State may, for the purposes of paragraph (1)(b), by regulations specify classes of persons from abroad who are ineligible for an allocation of housing accommodation by the Executive.

(4) Regulations made under paragraph (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument, and section 5 of the Statutory Instruments Act 1946 (c. 36) shall apply accordingly.

(5) Nothing in paragraph (1)(a) or (b) affects the eligibility of a person who is already a secure or introductory tenant of the Executive.

(6) The Executive may decide that an applicant is to be treated as ineligible for an allocation of housing accommodation by it if it is satisfied that—

- (a) he, or a member of his household, has been guilty of unacceptable behaviour serious enough to make him unsuitable to be a tenant of the Executive; and
- (b) in the circumstances at the time his application is considered, he is unsuitable to be a tenant of the Executive by reason of that behaviour.

(7) The only behaviour which may be regarded by the Executive as unacceptable for the purposes of paragraph (6)(a) is—

- (a) behaviour of the person concerned which would (if he were a secure tenant of the Executive) entitle the Executive to a possession order under Article 29 of the Housing (Northern Ireland) Order 1983 (NI 15) on Ground 2 or Ground 3 in Schedule 3 to that Order; or
- (b) behaviour of a member of his household which would (if he were a person residing with a secure tenant of the Executive) entitle the Executive to such a possession order.

(8) If the Executive decides that an applicant for housing accommodation—

- (a) is ineligible for an allocation by virtue of paragraph (1)(a) or (b); or
- (b) is to be treated as ineligible for such an allocation by virtue of paragraph (6),

the Executive shall notify the applicant of its decision and the grounds for it.

(9) That notice shall be given in writing and, if not received by the applicant, shall be treated as having been given if it is made available at the Executive's district office for a reasonable period for collection by him or on his behalf.

(10) A person who is being treated by the Executive as ineligible by virtue of paragraph (6) may (if he considers that he should no longer be treated as ineligible) make a fresh application to the Executive for an allocation of housing accommodation by it.”.

Caravan sites for members of the Irish Traveller community

125.—(1) After Article 28 of the Order of 1981 (Executive's supplementary powers with respect to the provision of housing accommodation) there shall be inserted—

“Provision of caravan sites for members of the Irish Traveller community

28A.—(1) The Executive—

- (a) shall provide such caravan sites as appear to it to be appropriate for the accommodation of caravans of members of the Irish Traveller community, and
- (b) may manage those sites or lease them to some other person.

(2) For the purposes of paragraph (1), the Executive may, under Article 87, acquire land—

- (a) on which to construct caravan sites,
- (b) which is in use as a caravan site, or
- (c) which has been laid out as a caravan site.

(3) The Executive may make such provision as appears to it desirable in connection with caravan sites provided under this Article and, in particular, may provide for the use of those occupying such sites, any services or facilities for their health or convenience that appear to it to be appropriate.

(4) In exercising their powers under this Article, the Executive shall have regard to any model conditions specified by the Department of the Environment under section 5(7) of the Caravans Act (Northern Ireland) 1963 (c. 17).

(5) The Executive shall make in respect of the use of caravan sites provided by it, and of any services or facilities made available under this Article, such reasonable charges as it may determine.

(6) The Executive shall not have power under this Article to provide caravans.

(7) In this Article—

- (a) “caravan” and “caravan site” have the same meaning as in the Caravans Act (Northern Ireland) 1963; and
- (b) any reference to the Irish Traveller community shall be construed in accordance with Article 5(2)(a) of the Race Relations (Northern Ireland) Order 1997 (NI 6).”.

(2) Schedule 2, which makes provision for the transfer to the Executive of caravan sites provided by district councils for the accommodation of travelling people, shall have effect.

Acquisition of land by the Executive for amenity purposes

126. After Article 31A of the Order of 1981 (acquisition and development of land for resettlement of certain undertakings) there shall be inserted —

“Acquisition of land by the Executive for amenity purposes

31B.—(1) The Executive's power to acquire land under Article 87 shall be exercisable for the purposes of effecting or assisting the improvement of the amenities of any area consisting mainly of housing accommodation.

(2) The Executive may, for the purposes mentioned in paragraph (1), carry out works on any land acquired by the Executive for those purposes.”.

Termination of home insulation schemes

127. Chapter II of Part IV of the Order of 1981 (home insulation grants), which has been superseded by Article 17 of the Social Security (Northern Ireland) Order 1990 (NI 15), shall cease to have effect.

Disposal of houses let by the Executive to secure tenants

128.—(1) Article 88C of the Order of 1981 (disposal of houses let by the Executive to secure tenants) shall be amended as follows.

(2) In paragraph (3), sub-paragraph (b) and the word “and” immediately preceding it shall be omitted.

(3) In paragraph (5) for the words “paragraph (3)(b)” there shall be substituted “ paragraphs (5A) and (5B) ”.

(4) After paragraph (5) there shall be inserted—

“(5A) The Department shall not give its consent if it appears to the Department that a majority of the tenants of the houses to which the application relates do not wish the disposal to proceed; but this does not affect the Department's general discretion to refuse consent on grounds relating to whether a disposal has the support of the tenants or on any other ground.

(5B) In making its decision the Department may have regard to any information available to it; and the Executive shall give the Department such information as to the representations made to it by tenants and others, and other relevant matters, as the Department may require.” .

(5) Paragraph (6) shall be omitted.

(6) The amendments made by this Article apply to disposals made after the coming into operation of this Article.

Increase of penalty for obstruction of an authorised officer

129. In Article 160(1) of the Order of 1981 (penalty for obstruction), for the reference to level 3 on the standard scale there shall be substituted a reference to level 4 on the standard scale.

Membership of the Executive

130.—(1) Schedule 1 to the Order of 1981 (the Northern Ireland Housing Executive), shall be amended in accordance with paragraphs (2) to (4).

(2) In sub-paragraph (1) of paragraph 1 for the words “persons nominated by the Council from its members” there shall be substituted “ members of the Council ”.

(3) After that sub-paragraph there shall be inserted—

“(1A) The Council shall, in accordance with such procedure as the Department may direct, nominate such number of persons who are members of the Council as the Department may determine for consideration for appointment as members of the Executive.” .

(4) For paragraph 2 there shall be substituted—

“**2.** In making appointments under paragraph (1), the Minister in charge of the Department shall as far as practicable secure that the members of the Executive as a group, are representative of the community in Northern Ireland.”.

(5) In Schedule 2 to the Order of 1981, in paragraph 2 (proceedings of the Council), at the beginning there shall be inserted “ Subject to paragraph 1(1A) of Schedule 1, ”.

Changes to legislation:

There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 2003, CHAPTER II.