STATUTORY INSTRUMENTS

2006 No. 1459 (N.I. 10)

NORTHERN IRELAND

The Private Tenancies (Northern Ireland) Order 2006

Made - - - - 7th June 2006
Coming into operation in accordance with Article 1(2) and (3)

At the Court at Buckingham Palace, the 7th day of June 2006

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:–

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Private Tenancies (Northern Ireland) Order 2006.

(2) This Article and Article 2 shall come into operation on the expiration of 7 days from the day on which this Order is made.

(3) The other provisions of this Order shall come into operation on such day or days as the Department may by order appoint.

Subordinate Legislation Made

P1 Art. 1(3) power fully exercised: different dates appointed for specified provisions by S.R. 2006/428, **arts. 2**, 3

General interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) shall apply to Article 1 and the following provisions of this Order as it applies to an Act of the Assembly.

(2) In this Order–

"the appropriate district council", in relation to a dwelling-house, means the district council in whose district the dwelling-house is situated;

"commencement of this Order" means the date on which the provision of this Order in which that expression occurs comes into operation;

"the Department" means the Department for Social Development;

"dwelling-house" includes part of a house;

"the Executive" means the Northern Ireland Housing Executive;

"final determination", in relation to an appeal, shall be construed in accordance with Article 23(3) and (4);

"the landlord" includes any person from time to time deriving title under the original landlord and also includes, in relation to any dwelling-house, any person other than the tenant who is, or but for Part III of the Rent Order would be, entitled to possession of the dwelling-house;

"let" includes sub-let;

"modify" includes amend or repeal;

"prescribed" means prescribed by regulations made by the Department;

"private tenancy" has the meaning given in Article 3;

"protected tenancy" shall be construed in accordance with Article 3 of the Rent Order;

"rates" means the regional rate and the district rate;

"rent" does not include any sum payable on account of rates;

"the rent officer" means the person appointed under Schedule 1 to act as rent officer;

"the Rent Order" means the Rent (Northern Ireland) Order 1978 (NI 20);

"statutory provision" has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954;

"statutory tenancy" shall be construed in accordance with Article 4(5) of the Rent Order;

"tenancy" includes, except where the context otherwise requires, a statutory tenancy;

"tenant" includes, except where the context otherwise requires, a statutory tenant and also includes a sub-tenant and any person deriving title under the original tenant or sub-tenant.

Meaning of "private tenancy"

3.—(1) In this Order "private tenancy"–

(a) means any tenancy of a dwelling-house except–

(i) a fee farm grant, or

(ii) any of the tenancies described in paragraph (2); and

(b) includes, except where the context otherwise requires, a protected tenancy and a statutory tenancy.

(2) Those tenancies are–

(a) a tenancy for a term certain exceeding 99 years, unless that tenancy is, or may become, terminable before the end of that term by notice given to the tenant;

(b) a tenancy under which the estate of the landlord belongs to–

(i) the Crown (whether in right of Her Majesty's Government in the United Kingdom or in Northern Ireland);

(ii) a government department;

(iii) the Executive;

(iv) a registered housing association;

or is held in trust for Her Majesty for the purposes of a government department; and

(c) a tenancy the purpose of which is to confer on the tenant the right to occupy a dwelling-house for a holiday.

(3) In paragraph (2)(b)–

(a) "government department" includes a department of the government of the United Kingdom; and

(b) "registered", in relation to a housing association, means registered in the register maintained under Part II of the Housing (Northern Ireland) Order 1992 (NI 15).

PART II

OBLIGATIONS OF LANDLORDS AND TENANTS

Particulars relating to the tenancy, etc.

Tenant to be given notice regarding certain matters

4. [F1] . . . . . .

Textual Amendments

F1 Art. 4 repealed (30.6.2011) by Housing (Amendment) Act (Northern Ireland) 2011 (c. 22), ss. 1, 24, 25(1), **Sch.**; S.R. 2011/241, **art. 2(1)**, Sch. 1

Tenant to be provided with a rent book

5.—(1) The landlord of a dwelling-house let under a private tenancy shall, within 28 days after the date on which the tenancy is granted, provide the tenant with a rent book for use in respect of the dwelling-house.

(2) A rent book–

(a) shall be used to maintain a written record of rent and other payments made in respect of a tenancy, and

(b) shall contain such particulars and information relating to the tenancy as may be prescribed.

(3) A tenant shall not be required to make a payment in respect of the provision of a rent book.

(4) If the landlord under a private tenancy fails to comply with paragraph (1), he and, subject to paragraph (6), any person who on his behalf demands or receives rent in respect of the dwelling-house held under that tenancy while the failure continues, shall be guilty of an offence under this Order.

(5) If any default in respect of which a landlord is convicted of an offence under paragraph (4) continues for more than 14 days after that conviction, that landlord shall be deemed to have committed a further offence under that paragraph in respect of that default.

(6) If any person other than the landlord is charged with an offence under paragraph (4), it shall be a defence for him to prove that he neither knew nor had reasonable cause to believe this Article had not been complied with.

[F2 Tenancy deposit schemes

Textual Amendments

F2 Arts. 5A, 5B and preceding cross-heading inserted (3.5.2011) by Housing (Amendment) Act (Northern Ireland) 2011 (c. 22), **ss. 2**, 25(2)

Tenancy deposit schemes

5A.—(1) The Department may by regulations make provision for securing that one or more tenancy deposit schemes are available for the purpose of safeguarding tenancy deposits paid in connection with private tenancies.

(2) A "tenancy deposit scheme" is a scheme which is made for the purpose of safeguarding tenancy deposits paid in connection with private tenancies and facilitating the resolution of disputes arising in connection with such deposits.

(3) Regulations under paragraph (1)—

(a) must provide for the appointment of a body or person ("the scheme administrator") to establish and maintain a scheme of a prescribed description;

(b) must provide that a scheme or an amendment to a scheme does not come into force unless approved by the Department;

(c) may confer or impose on the scheme administrator such powers or duties in connection with a scheme as are prescribed;

(d) may provide for information held by a scheme administrator to be disclosed to prescribed persons for prescribed purposes.

(4) The Department may make payments to a scheme administrator.

(5) In this Article and Article 5B—

"money" means money in the form of cash or otherwise;

"tenancy deposit", in relation to a private tenancy, means any money intended to be held (by the landlord or otherwise) as security for—

(a) the performance of any obligations of the tenant arising under or in connection with the tenancy, or

(b) the discharge of any liability of the tenant so arising.

(6) In this Article and Article 5B references to a landlord in relation to any private tenancy include references to a person acting on behalf of the landlord in relation to the tenancy.

Requirements relating to tenancy deposits

5B.—(1) Any tenancy deposit paid to a person in connection with a private tenancy must, as from the time when it is received, be dealt with in accordance with an approved scheme.

(2) A person must not require the payment of a tenancy deposit in connection with a private tenancy which is not to be subject to the requirement in paragraph (1).

(3) Where a landlord receives a tenancy deposit in connection with a private tenancy, the initial requirements of an approved scheme must be complied with by the landlord in relation to the deposit within the period of 14 days beginning with the date on which it is received.

(4) For the purposes of this Article "the initial requirements" of an approved scheme are such requirements imposed by the scheme as fall to be complied with by a landlord on receiving such a tenancy deposit.

(5) A landlord who has received such a tenancy deposit must give the tenant and any relevant person such information relating to—

(a) the approved scheme applying to the deposit,

(b) compliance by the landlord with the initial requirements of the scheme in relation to the deposit, and

(c) the operation of this Article and Article 5A in relation to the deposit,

as may be prescribed.

(6) The information required by paragraph (5) must be given to the tenant and any relevant person—

(a) in the prescribed form or in a form substantially to the same effect, and

(b) within the period of 28 days beginning with the date on which the deposit is received by the landlord.

(7) A person must not, in connection with a private tenancy, require a deposit which consists of property other than money.

(8) In paragraph (7) "deposit" means a transfer of property intended to be held (by the landlord or otherwise) as security for—

(a) the performance of any obligations of the tenant arising under or in connection with the tenancy, or

(b) the discharge of any liability of the tenant so arising.

(9) The provisions of this Article apply despite any agreement to the contrary.

(10) A person who contravenes paragraph (7) is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(11) A person who contravenes any other provision of this Article is guilty of an offence and liable on summary conviction to a fine not exceeding £20,000.

(12) In this Article—

"approved scheme" means a scheme for the time being in force under Article 5A;

"property" means moveable property;

"relevant person" means any person who, in accordance with arrangements made with the tenant, paid the deposit on behalf of the tenant.**]**

Repair and maintenance

Application of Articles 7 to 11

6. The provisions set out in Articles 7 to 11 apply in relation to–

(a) any private tenancy of a dwelling-house granted on or after the commencement of this Order, and

(b) any protected or statutory tenancy which immediately before the commencement of this Order was a regulated tenancy under the Rent Order;

but only in so far as those provisions are not inconsistent with any express provision in the contract of tenancy.

Landlord's duties to repair

7.—(1) The landlord under a private tenancy–

(a) shall keep in repair the structure and exterior of the dwelling-house comprised in that tenancy;

(b) shall, subject to Article 8, keep in repair the interior of the dwelling-house;

(c) shall keep in repair and in proper working order–

(i) the installations in the dwelling-house for the supply and use of water, gas and electricity and for sanitation (including basins, sinks, baths and sanitary conveniences),

(ii) the installations in the dwelling-house for space heating or heating water,

(iii) any appliances for making use of the supply of water, gas or electricity which the landlord has provided under the terms of the tenancy, and

(iv) any fixtures, fittings or furnishings which the landlord has provided under the terms of the tenancy.

(2) The duty imposed by paragraph (1)(a) includes a duty to keep exterior paintwork in reasonable order.

(3) In this Article "structure and exterior" includes drains, gutters and external pipes.

Care of premises by tenant

8. The tenant under a private tenancy–

(a) shall take proper care of the premises comprised in that tenancy as a good tenant;

(b) shall make good any damage to those premises wilfully or negligently done or caused to the premises by the tenant, by any tenant of his or by any other person lawfully living in or lawfully visiting the premises;

(c) shall keep the interior of the dwelling-house in reasonable decorative order; and

(d) shall not carry out any alterations to those premises without the consent of the landlord, but that consent shall not be unreasonably withheld.

Landlord's obligations under private tenancy of parts of building

9. Where a dwelling-house let under a private tenancy consists of a part of a building and the tenant under the private tenancy is entitled to the use (whether with others or not) for access or other purposes of other parts of the building or its curtilage, the landlord shall–

(a) keep in good order and condition any part of the building or curtilage which the tenant is entitled to use as mentioned above;

(b) ensure that any part of the building or curtilage which the tenant is entitled to use as mentioned above for access is adequately lit and safe to use.

General qualifications on landlord's duties

10. The duties imposed on the landlord by Articles 7 and 9 do not require the landlord–

(a) to carry out works or repairs for which the tenant is liable by virtue of Article 8;

(b) to keep in repair or maintain anything–

(i) which was not constructed or provided by the landlord or any person from whom he derives title, or

(ii) which the tenant is entitled to remove from the dwelling-house;

(c) to rebuild or re-instate the dwelling-house in the case of destruction or damage by fire, or by tempest, flood or other inevitable accident.

Standard of repair and knowledge of disrepair

11.—(1) In determining the standard of repair required by virtue of Articles 7 to 9, regard is to be had to the age, character and prospective life of the premises.

(2) A landlord is not under a duty to carry out works by virtue of Articles 7 and 9 unless he has actual knowledge (whether because of notice given by the tenant or otherwise) of the need for those works.

Inspection, etc. of premises

Entry and inspection of premises

12.—(1) The tenant under a private tenancy shall permit the landlord, and persons authorised by him for the purpose, to enter the premises comprised in the tenancy at reasonable times and upon reasonable notice in order to–

(a) inspect the state of repair of the premises, and

(b) carry out any works which the landlord is under a duty to execute.

(2) Where–

(a) the landlord under a private tenancy wishes to carry out any works which he is under a duty to execute, and

(b) the tenant will not permit him to do so,

the landlord may apply to the county court for an order empowering him, and persons authorised by him for the purpose, to enter the dwelling-house and carry out the works.

(3) An order under paragraph (2) may be made subject to conditions as to–

(a) the time at which the works are to be carried out, and

(b) any provision to be made for the accommodation of the tenant and his household,

as the court may think fit.

(4) Where, in the exercise of powers conferred by this Article, any damage is caused to the premises or any property in or on the premises by the landlord or any person authorised by him, the landlord shall make that damage good.

Duration of private tenancies

Tenancies to be for a term certain

13.—(1) Where, on or after the commencement of this Order–

(a) a private tenancy is granted, and

(b) the contract of tenancy does not provide that the duration of the tenancy is to be for a term certain,

the tenancy shall take effect for a term certain of 6 months, beginning on the day on which the tenant is entitled to take possession of the dwelling-house.

(2) Nothing in this Article applies to a statutory tenancy.

Length of notice to quit

14.—(1) A notice by a landlord or tenant to quit a dwelling-house let under a private tenancy shall not be valid unless it is given in writing not less than **[**[F3]the relevant period**]** before the date on which it is to take effect.

[[F4](1A) For the purposes of paragraph (1) the relevant period is—

(a) 4 weeks, if the tenancy has not been in existence for more than 5 years;

(b) 8 weeks, if the tenancy has been in existence for more than 5 years but not for more than 10 years;

(c) 12 weeks, if the tenancy has been in existence for more than 10 years.**]**

(2) Paragraph (1) applies whether the private tenancy was granted before or after the commencement of this Order.

Textual Amendments

F3 Words in art. 14(1) substituted (30.6.2011) by Housing (Amendment) Act (Northern Ireland) 2011 (c. 22), **ss. 3(2)**, 25(1); S.R. 2011/241, **art. 2(1)**, Sch. 1

F4 Art. 14(1A) inserted (30.6.2011) by Housing (Amendment) Act (Northern Ireland) 2011 (c. 22), **ss. 3(3)**, 25(1); S.R. 2011/241, **art. 2(1)**, Sch. 1

PART III

UNFITNESS AND DISREPAIR

Introductory

Interpretation: Part III

15. In this Part–

"fit for human habitation" shall be construed in accordance with Article 17;

"notice of disrepair" means a notice under Article 19;

"notice of unfitness" means a notice under Article 18;

"the owner", in relation to a dwelling-house or building, means the person who for the time being receives or is entitled to receive the rent of the dwelling-house or building, whether on his own account or as agent or trustee for any other person.

Application of this Part

16. This Part applies in relation to any dwelling-house which is for the time being let under a private tenancy.

Determining fitness for human habitation

17.—(1) Article 46 of the Housing (Northern Ireland) Order 1981 (NI 3) (standard of fitness for human habitation) shall apply in determining for the purposes of this Order whether a dwelling-house is fit for human habitation.

(2) In its application for those purposes, that Article shall have effect as if for any reference to the Executive there were substituted a reference to the appropriate district council.

Notices

Notice of unfitness

18.—(1) Where the appropriate district council is satisfied–

(a) that any dwelling-house to which this Part applies is unfit for human habitation, and

(b) that serving a notice of unfitness is the most satisfactory course of action,

it may, subject to the provisions of this Part, serve a notice of unfitness under this paragraph on the owner of the dwelling-house.

(2) Where the appropriate district council is satisfied–

(a) that any dwelling-house to which this Part applies and which is a flat is unfit for human habitation by reason of the defective condition of a part of the building outside the flat, and

(b) that serving a notice of unfitness is the most satisfactory course of action,

it may, subject to the provisions of this Part, serve a notice of unfitness under this paragraph on the owner of the building.

(3) The appropriate district council, in addition to serving a notice of unfitness in accordance with paragraph (1) or (2)–

(a) shall serve a copy of the notice on–

(i) the tenant of the dwelling-house,

(ii) the Executive, and

(iii) the rent officer; and

(b) may also serve a copy of the notice on any other person having an estate in the dwelling-house.

(4) A notice of unfitness shall–

(a) require the person on whom it is served to execute the works specified in the notice within such reasonable period, not being less than 21 days after service of the notice, as may be so specified; and

(b) state that, in the opinion of the appropriate district council, the works will render the dwelling-house fit for human habitation.

(5) This Article is subject to Article 21.

Notice of disrepair

19.—(1) Where the appropriate district council is satisfied–

(a) that any dwelling-house to which this Part applies is in such a state of disrepair that, although fit for human habitation, substantial repairs are necessary to bring it up to a reasonable standard, having regard to its age, character and locality; or

(b) whether on a representation made by an occupying tenant or otherwise, that such a dwelling-house is in such a state of disrepair that, although fit for human habitation, its condition is such as to interfere materially with the personal comfort of the occupying tenant;

it may, subject to the provisions of this Part, serve a notice of disrepair under this paragraph on the owner of the dwelling-house.

(2) Where the appropriate district council is satisfied–

(a) that any building containing a dwelling-house to which this Part applies and which is a flat is in such a state of disrepair that, although the flat is fit for human habitation, substantial repairs are necessary to a part of the building outside the flat to bring the flat up to a reasonable standard, having regard to its age, character and locality; or

(b) whether on a representation of an occupying tenant or otherwise, that such a building is in such a state of disrepair that, although the flat is fit for human habitation, the condition of the part of the building outside the flat is such as to interfere materially with the personal comfort of the occupying tenant;

it may, subject to the provisions of this Part, serve a notice of disrepair under this paragraph on the owner of the building.

(3) The appropriate district council, in addition to serving a notice of disrepair in accordance with paragraph (1) or (2)–

(a) shall serve a copy of the notice on the tenant of the dwelling-house, and

(b) may also serve a copy of the notice on any other person having an estate in the dwelling-house.

(4) A notice of disrepair shall–

(a) require the person on whom it is served, to execute the works specified in the notice, not being works of internal decorative repair, within such reasonable period, not being less than 21 days after service of the notice, as may be so specified; and

(b) state the appropriate district council's reasons for serving the notice.

Matters to be taken into consideration by appropriate district council

20.—(1) Without prejudice to the generality of Article 62, guidance issued under that Article may include guidance as to matters that the appropriate district council is to take into consideration in deciding whether serving a notice of unfitness or a notice of disrepair (as the case may be) is the most satisfactory course of action in respect of a dwelling-house.

(2) In particular such guidance may include guidance in respect of financial and social considerations to be taken into account by the appropriate district council.

(3) Where the Department proposes to issue guidance which is or includes guidance under paragraph (2), or to revise such guidance, it shall lay a draft of the guidance or revised guidance before the Assembly.

(4) The Department shall not issue such guidance or revised guidance until after the expiration of the statutory period and, if within that period the Assembly resolves that the guidance or revised guidance is not to be issued, the Department shall not issue it (but without prejudice to the laying of a further draft).

Consultation with the Executive

21.—(1) Before serving a notice of unfitness in respect of a dwelling-house, the appropriate district council shall consult the Executive.

(2) The appropriate district council shall not serve a notice of unfitness if the Executive indicates–

(a) that it intends to exercise any of its powers under Part III of the Housing (Northern Ireland) Order 1981 (NI 3) (development functions) with respect to the dwelling-house; or

(b) that the dwelling-house forms part of a building which would be a qualifying building in relation to a group repair scheme and that the Executive expects to prepare such a scheme in respect of the building within the period of 12 months from the date on which it was consulted.

(3) Nothing in this Article requires the Executive to serve a repair notice under paragraph (1) or (2) of Article 41 of the Housing (Northern Ireland) Order 1981.

Appeal against notice of unfitness or notice of disrepair

22.—(1) Any person aggrieved by a notice of unfitness or notice of disrepair may, within 21 days from the date of service of the notice, appeal to the county court.

(2) Without prejudice to the generality of paragraph (1), it shall be a ground of appeal that serving the notice is not the most satisfactory course of action.

(3) On an appeal under this Article the county court may confirm, quash or vary the notice as it considers fit.

(4) Where an appeal under this Article is allowed and the reason or one of the reasons for allowing the appeal is that specified in paragraph (2) the judge shall, if requested to do so by the appellant or the appropriate district council, include in his judgment a finding to that effect.

Operative date of notice of unfitness or notice of disrepair

23.—(1) If no appeal is brought under Article 22 against a notice of unfitness or notice of disrepair, the notice shall become operative on the expiration of 21 days from the date of service of the notice.

(2) Any notice against which an appeal is brought shall, if and so far as it is confirmed by the county court or the Court of Appeal, become operative as from the date of the final determination of the appeal.

(3) For the purposes of this Article, an appeal shall be deemed to be finally determined on the date on which the decision of the Court of Appeal is given, or, in a case where an appeal from the county court is not brought to the Court of Appeal, upon the expiration of the period within which such an appeal might have been brought.

(4) For the purposes of this Article, the abandonment of an appeal shall be deemed to be a final determination thereof, having the like effect as a decision confirming the notice, order or decision against which the appeal was brought.

(5) No steps shall be taken by the appropriate district council to enforce a notice of unfitness or notice of disrepair before the notice becomes operative.

Enforcement

Offence of failing to comply with notice of unfitness or notice of disrepair

24.—(1) Where the person upon whom a notice of unfitness or a notice of disrepair in respect of a dwelling-house has been served fails to comply with the notice within the appropriate period, he shall be guilty of an offence under this Order.

(2) In paragraph (1) "the appropriate period" means–

(a) the period specified in the notice, or

(b) where the notice has been varied on appeal, such other period as the court may specify on final determination of the appeal.

(3) If any default in respect of which a person is convicted of an offence under paragraph (1) continues for more than 14 days after that conviction, that person shall be deemed to have committed a further offence under that paragraph in respect of that default.

(4) The obligation to execute the works specified in the notice continues notwithstanding that the period for completion of the works has expired.

(5) The provisions of this Article are without prejudice to the exercise by the appropriate district council of the powers conferred by Article 25.

Enforcement of notice of unfitness or notice of disrepair

25.—(1) If a notice of unfitness or notice of disrepair is not complied with within the appropriate period, the appropriate district council may itself do the work required to be done by the notice or, where the notice has been varied by the court on appeal, by the notice as so varied.

(2) In paragraph (1), "the appropriate period" has the meaning given in Article 24(2).

(3) Where the appropriate district council proposes to exercise its powers under paragraph (1), it may authorise a person to enter the dwelling-house in accordance with Article 27(2).

(4) Subject to paragraph (5), any expenses incurred by the appropriate district council under this Article, together with interest at the prescribed rate from the date when a demand for the expenses is served until payment, may be recovered by the council summarily as a civil debt from the person upon whom the notice was served.

(5) Where the appropriate district council claims to recover any expenses from a person as being the person upon whom the notice was served and that person proves that he–

(a) is receiving the rent merely as agent or trustee for some other person, and

(b) has not, and since the date of the service on him of the demand has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the council,

his liability shall be limited to the total amount of the money which he has, or has had, in his hands.

(6) Any expenses and interest due to the appropriate district council under this Article shall, until recovered, be deemed to be charged on and payable out of the estate of the person responsible in the land, in relation to which they have been incurred.

(7) For the purposes of paragraph (6)–

(a) where a notice of unfitness was served under Article 18(1) or a notice of disrepair was served under Article 19(1), the estate of the person responsible is the estate of the landlord and of any person deriving title from him; and

(b) where a notice of unfitness was served under Article 18(2) or a notice of disrepair was served under Article 19(2), the estate in the land of the person responsible is the estate of the owner of the building and of any person deriving title from him.

(8) The charge created by paragraph (6) shall be enforceable in all respects as if it were a valid mortgage by deed created in favour of the appropriate district council by the person on whose estate the charge has been created (with, where necessary, any authorisation or consent required by law) and the appropriate district council may exercise the powers conferred by sections 19, 21 and 22 of the Conveyancing Act 1881 on mortgages by deed accordingly.

(9) There shall be included among the matters required to be registered in the Statutory Charges Register any charge created under paragraph (6).

(10) An application for registration of such a charge shall be made by the appropriate district council within 2 months from the date when a demand is served under paragraph (4).

Power to require payment for enforcement action

26.—(1) The appropriate district council may require a person upon whom a notice of unfitness or a notice of disrepair has been served to make such reasonable payment as it considers appropriate in respect of the administrative and other expenses incurred by it in connection with serving the notice.

(2) The expenses are those incurred in–

(a) determining whether to serve the notice,

(b) identifying the works to be specified in the notice, and

(c) serving the notice.

(3) The amount of the payment shall not exceed such amount as the Department may specify by order made subject to negative resolution.

(4) Where a court allows an appeal against a notice of unfitness or notice of disrepair, it may make such order as it thinks fit reducing, quashing or requiring reimbursement of any payment under this Article in respect of the notice.

(5) Nothing in Article 25 shall prejudice the power of a district council to require a payment under this Article.

Power to enter dwelling-houses

27.—(1) A person authorised by the appropriate district council in relation to this paragraph 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 to which this Part applies for the purpose of survey or examination–

(a) where it appears to the council that survey or examination is necessary in order to determine whether any powers under this Part should be exercised in respect of the dwelling-house; or

(b) where a notice of unfitness or a notice of disrepair has been served in respect of the dwelling-house.

(2) A person authorised by the appropriate district council under Article 25(3) may, at any time and having given at least 6 days' notice of his intention to do so to the occupier, and to the owner if known, enter any dwelling-house for the purpose of doing any work required to be done in relation to the dwelling-house by a notice of unfitness or a notice of disrepair or, as the case may be, by such a notice as varied by the county court under Article 22(3).

(3) An authorisation for the purposes of this Article–

(a) shall be in writing stating the particular purpose or purposes for which the entry is authorised; and

(b) shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf.

Obstruction

28. A person, who obstructs–

(a) an officer of an appropriate district council, or

(b) a person authorised in pursuance of this Part,

in the performance of functions under this Part, shall be guilty of an offence under this Order.

Repairs grants

Repairs grants

29.—(1) Article 74 of the Housing (Northern Ireland) Order 1992 (NI 15) (repairs grants towards costs of meeting certain statutory repairing obligations in respect of dwelling-houses), shall be amended as follows.

(2) In paragraph (1), for sub-paragraph (a) there shall be substituted–

"(a) in a notice of disrepair served in respect of a dwelling-house which is let under a protected tenancy or a statutory tenancy; or".

(3) After that paragraph there shall be inserted–

"(1A) In paragraph (1)–

(a) "notice of disrepair" means a notice under Article 19 of the Private Tenancies (Northern Ireland) Order 2006; and

(b) "protected tenancy" and "statutory tenancy" have the meaning given in the Rent (Northern Ireland) Order 1978.".

(4) In paragraph (2), the words from "to whom" to "may be," shall be omitted.

(5) In Schedule 3 to the Housing (Northern Ireland) Order 1992 (provisions with respect to repairs grants), in sub-paragraph (4) of paragraph 2, for the words from "the repairing conditions" to "1978" there shall be substituted " the works specified in the notice of disrepair served under Article 19 of the Private Tenancies (Northern Ireland) Order 2006 in relation to the dwelling-house ".

(6) The amendments made by this Article apply to a repairs grant payable under Article 74 of the Housing (Northern Ireland) Order 1992 towards the cost of works specified in a notice of disrepair served under Article 19 after the commencement of this Order.

PART IV

CERTIFICATES OF FITNESS AND RENT CONTROL

Modifications etc. (not altering text)

C1 Pt. IV (arts. 30-55) modified (1.10.2010) by Registered Rents (Increase) Order (Northern Ireland) 2010 (S.R. 2010/285), **art. 2(1)** (subject to art. 2(2))

CHAPTER I

INTRODUCTORY

Interpretation: Part IV

30.—(1) In this Part–

"certificate of fitness" has the meaning given in Article 36(4);

"notice of disrepair" means a notice under Article 19;

"notice of refusal" has the meaning given in Article 36(5);

"notice of unfitness" means a notice under Article 18;

"prescribed dwelling-house" has the meaning given in Article 31.

(2) Paragraph (3) applies where any question arises whether a dwelling-house was constructed before 6th November 1956 or provided by conversion of a building that was constructed before that date.

(3) It shall be assumed that the dwelling-house or building was constructed before that date unless the contrary is shown.

Meaning of "prescribed dwelling-house"

31.—(1) In this Part "prescribed dwelling-house" means a dwelling-house of a class or description prescribed by regulations made under this Article.

(2) In particular, such regulations–

(a) may prescribe a dwelling-house by reference to–

(i) any grant or payment having been made in respect of it under a statutory provision,

(ii) its age, or

(iii) the locality in which it is situated; and

(b) may provide that a dwelling-house is to be a prescribed dwelling-house for such period as may be prescribed.

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 **[**[F5]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

F5 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.

[[F6](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 **[**[F7]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 **[**[F8]Part 7 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011**]**.

Textual Amendments

F6 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

F7 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**

F8 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.

CHAPTER III

TENANCIES SUBJECT TO RENT CONTROL

Introductory

Interpretation: Chapter III

39. In this Chapter–

"appropriate rent" means an appropriate rent for a rental period;

"the appropriate standard of fitness" shall be construed in accordance with Article 40(3);

"controlled tenancy" has the meaning given in Article 40(4);

"the register of rents" means the register established under Article 46;

"registered rent", in relation to a controlled tenancy of a dwelling-house, means the rent entered in the register of rents as an appropriate rent under that tenancy;

"rent assessment committee" means a committee constituted under Schedule 1;

"the rent limit" means the rent limit under Article 48;

"rental period" means a period in respect of which a payment of rent falls to be made.

Tenancies subject to rent control

40.—(1) A tenancy of a dwelling-house is subject to rent control if the tenancy is for the time being a protected tenancy or a statutory tenancy.

(2) A tenancy of a dwelling-house is subject to rent control if–

(a) the tenancy–

(i) is not a protected tenancy or a statutory tenancy, but

(ii) is a private tenancy granted on or after the commencement of this Order; and

(b) the dwelling-house–

(i) was constructed before 6th November 1956 or was provided by conversion of a building that was constructed before that date, and

(ii) does not meet the appropriate standard of fitness.

(3) A dwelling-house does not meet the appropriate standard of fitness unless–

(a) it is a prescribed dwelling-house, or

(b) a certificate of fitness is in effect in respect of it.

(4) A tenancy which is subject to rent control is referred to in this Chapter as a "controlled tenancy".

Functions of the rent officer and rent assessment committees

The rent officer and rent assessment committees

41. Schedule 1, which relates to the appointment of the rent officer and the constitution of rent assessment committees, shall have effect.

Determination of an appropriate rent

42.—(1) Where the rent officer is satisfied that a dwelling-house is, or is to be, let under a controlled tenancy the rent officer shall make a determination as to what rent is or would be an appropriate rent under that tenancy.

(2) In making a determination under paragraph (1), the rent officer shall consider all the circumstances (other than personal circumstances).

(3) In particular, the rent officer shall have regard to–

(a) the terms of the tenancy agreement (except those as to rent) which apply to that controlled tenancy;

(b) the general condition and state of repair of the dwelling-house, including–

(i) any notice of unfitness or notice of disrepair having effect in respect of the dwelling-house, and

(ii) the certificate of fitness or notice of refusal having effect in respect of the dwelling-house;

(c) the rents of dwelling-houses let by the Executive which are comparable, or as comparable as may be, to the dwelling-house in question;

(d) the level of the local reference rent (as determined in accordance with paragraph 4 of Schedule 1A to the Housing Benefit (General) Regulations (Northern Ireland) 1987 (SR 1987 No. 461)) of similar dwelling-houses let under similar tenancies; and

(e) if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture.

(4) For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the controlled tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.

(5) There shall be disregarded–

(a) any disrepair or other defect attributable to a failure by the tenant, or any predecessor in title of his, to comply with any terms of the tenancy;

(b) any improvement carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant or any predecessor in title of his.

(6) In paragraph (5) "improvement" includes the replacement of any fixture or fitting.

(7) For the purposes of this Article the rent officer may make such enquiries as he considers appropriate.

Procedure after determination

43.—(1) After making a determination under Article 42, the rent officer shall serve a notice on the landlord and tenant under the tenancy informing each of them–

(a) of the rent that has been determined, and

(b) of the right to have the determination considered by a rent assessment committee under Article 44.

(2) If, within the period of 14 days from the date of service of a notice under paragraph (1), the landlord or tenant of the dwelling-house states in writing to the rent officer that he wishes to have the determination considered by a rent assessment committee, the rent officer shall refer the determination to a rent assessment committee.

(3) If, on the expiration of that period, the rent officer has not received a statement as mentioned in paragraph (2), the rent officer shall register the rent determined under Article 42 in the register of rents as an appropriate rent under that tenancy of the dwelling-house.

Consideration by a rent assessment committee

44.—(1) A rent assessment committee shall consider any determination referred to it under Article 43.

(2) Schedule 2, which relates to the procedure to be followed by a rent assessment committee when considering a determination, shall have effect.

(3) Without prejudice to the generality of Article 72, the Department may make regulations with respect to the consideration of a determination by a rent assessment committee. [F9]. . .

(4) Having considered whether a rent determined under Article 42 is an appropriate rent under a tenancy of a dwelling-house, the rent assessment committee may confirm or vary the determination.

(5) The rent assessment committee shall notify the landlord and the tenant of the dwelling house, and the rent officer, of its decision.

(6) On receiving the notification, the rent officer shall register the rent, as confirmed or varied, in the register of rents as an appropriate rent under that tenancy of the dwelling-house.

Textual Amendments

F9 Words in art. 44(3) repealed (30.6.2011) by Housing (Amendment) Act (Northern Ireland) 2011 (c. 22), ss. 5(2), 24, 25(1), **Sch.**; S.R. 2011/241, **art. 2(1)**, Sch. 1

Change of circumstances

45.—(1) Where–

(a) a dwelling-house is let under a controlled tenancy which is a protected tenancy or a statutory tenancy, and

(b) it appears to the landlord or tenant that there has been such a change in the circumstances relating to the dwelling-house or the tenancy as to make the registered rent no longer an appropriate rent,

the landlord or tenant may apply to the rent officer to have a further determination made in respect of the rent under that tenancy.

(2) An application under paragraph (1) shall be in such form and contain such particulars as may be prescribed.

(3) For the purposes of paragraph (1) but without prejudice to its generality, failure to comply, within the period specified by the appropriate district council, with a notice of unfitness or a notice of disrepair served in respect of a dwelling-house shall constitute a change of circumstances relating to the dwelling-house or tenancy.

(4) On receipt of an application under paragraph (1), the rent officer shall make a further determination of an appropriate rent under the tenancy.

(5) Paragraphs (2) to (6) of Article 42 and Articles 43 and 44 shall apply for the purposes of paragraph (4) of this Article in the same manner as those provisions apply for the purposes of paragraph (1) of Article 42.

[F10 Power to amend Articles 42 to 45

45A.—(1) The Department may by regulations modify any provision of Articles 42 to 45 and Schedule 2.

(2) Regulations under this Article may make such consequential modifications of other provisions of this Chapter as appear to the Department to be necessary or appropriate.]

Textual Amendments

F10 Art. 45A inserted (30.6.2011) by Housing (Amendment) Act (Northern Ireland) 2011 (c. 22), **ss. 5(1)**, 25(1); S.R. 2011/241, **art. 2(1)**, Sch. 1

The register of rents

The register of rents

46.—(1) The rent officer shall prepare and keep up to date a register ("the register of rents"), in which there shall be entered, in accordance with Article 43(3) or 44(6), the rents which are appropriate rents of dwelling-houses let under controlled tenancies.

(2) The rent officer shall make the register of rents available for public inspection without charge at such place and at such times as the rent officer considers appropriate.

(3) The register of rents shall contain, in addition to an appropriate rent, the prescribed particulars with regard to the tenancy and the dwelling-house.

(4) The rent officer may, if at any time it appears appropriate to him to do so, amend any entry in the register of rents.

(5) Subject to paragraph (6), where the rent officer amends any entry in the register of rents, the rent officer shall serve a notice of the alteration on the landlord and tenant under the tenancy in question.

(6) Paragraph (5) does not apply to any alteration made in the register of rents in pursuance of Article 55(7).

(7) A copy of an entry in the register of rents purporting to be certified under the hand of the rent officer shall be receivable in evidence in any court and in any proceedings.

(8) A person requiring such a certified copy shall be entitled to obtain it.

Removal of tenancies from the register of rents

47.—(1) Subject to the following provisions of this Article, where–

(a) in relation to a tenancy of a dwelling-house, a rent is registered in the register of rents, and

(b) the rent officer is satisfied that the dwelling-house is no longer let under that tenancy,

the rent officer shall remove any entry relating to that tenancy of the dwelling-house from the register of rents.

(2) For the purposes of paragraph (1) the rent officer may make such enquiries as he considers appropriate.

(3) The rent officer shall give to any person appearing to him to have an interest in the dwelling-house, 14 days' notice of his intention to remove the entry from the register of rents.

(4) Where–

(a) the rent officer removes an entry relating to a tenancy of a dwelling-house from the register of rents, and

(b) no certificate of fitness is in effect in respect of the dwelling-house,

the rent officer may maintain for the purposes of this Order a record of the information contained in the entry in such form as appears appropriate to him.

The rent limit

The rent limit

48.—(1) The rent recoverable for a rental period of a controlled tenancy of a dwelling-house shall not exceed the rent limit.

(2) Where a rent is registered in the register of rents in respect of a controlled tenancy of a dwelling-house, the rent limit is the registered rent.

(3) Paragraph (4) applies where no rent is registered in respect of a controlled tenancy of a dwelling-house which is a protected tenancy or a statutory tenancy.

(4) The rent limit is the rent which was payable in accordance with the Rent Order immediately before the commencement of this Order.

Increase of rent

49.—(1) Where the rent for any rental period of a controlled tenancy of a dwelling-house would be less than the rent limit, the amount of the rent may be increased up to the rent limit by a notice of increase served by the landlord on the tenant.

(2) A notice of increase–

(a) shall be in the prescribed form, and

(b) shall specify the date on which the increase is to take effect.

(3) The date specified in the notice of increase shall not be earlier than 4 weeks after service of the notice.

Rent in excess of rent limit to be irrecoverable by landlord

50.—(1) Notwithstanding anything in any agreement, any amount by which the rent payable in respect of a controlled tenancy of a dwelling-house exceeds the rent limit for that tenancy shall be irrecoverable from the tenant.

(2) Any person who, in any rent book or similar document, makes an entry showing or purporting to show any tenant as being in arrears in respect of any sum on account of rent which is irrecoverable by virtue of this Article, shall be guilty of an offence under this Order, unless he proves that, at the time of the making of the entry, the landlord had a bona fide claim that the sum was recoverable.

(3) If, where any such entry has been made by or on behalf of the landlord, the landlord on being requested by or on behalf of the tenant to do so, refuses or neglects to cause the entry to be deleted within 7 days, the landlord shall be guilty of an offence under this Order, unless he proves that, at the time of the neglect or refusal to cause the entry to be deleted, he had a bona fide claim that the sum was recoverable.

Recoupment of sums paid in excess of rent limit

51.—(1) This Article applies where a tenant under a controlled tenancy has paid rent in excess of the rent limit for any rental period under that tenancy.

(2) The tenant shall be entitled to recover from the landlord who received the rent, or his personal representatives, any sum by which the amount paid exceeded the rent limit.

(3) Without prejudice to any other method of recovery, the tenant shall be entitled to recoup that sum by deducting it from any rent payable by him to the landlord.

(4) But no sum may be recouped by a tenant under paragraph (3) at any time after the expiry of 2 years from the date of payment.

Recoupment where landlord in default

52.—(1) This Article applies where–

(a) a rent is registered in the register of rents in respect of a controlled tenancy of a dwelling-house granted on or after the commencement of this Order, but

(b) the landlord failed within the period mentioned in paragraph (4) of Article 33 to meet any requirement to apply to have the dwelling-house inspected in accordance with paragraph (3) of that Article.

(2) The tenant shall be entitled to recover from the landlord who received the rent, or his personal representatives, any sum by which the rent paid during the period of default exceeded the rent that would have been payable if the rent limit had applied in relation to the tenancy during that period.

(3) In paragraph (2) "the period of default" means the period–

(a) beginning on the date by which the landlord was required to apply to have the dwelling-house inspected under Article 33(3), and

(b) ending on the date on which a rent was registered in the register of rents in respect of the tenancy of the dwelling-house.

(4) Without prejudice to any other method of recovery, the tenant shall be entitled to recoup that sum by deducting it from any rent payable by him to the landlord.

(5) But no sum may be recouped by a tenant under paragraph (4) any time after the expiry of 2 years from the date on which a rent is registered in the register of rents in respect of the tenancy.

Recoupment of rates, etc. from tenants

53.—(1) Paragraph (2) applies where any rates in respect of a dwelling-house let under a controlled tenancy which is a protected tenancy or a statutory tenancy are borne by the landlord or a superior landlord.

(2) The amount of rates for any rental period which begins after the expiry or termination of a protected tenancy shall be recoverable, without service of any notice of increase, from the tenant in addition to the sums so recoverable apart from this paragraph.

(3) The amount of rates shall be ascertained in accordance with Schedule 3.

(4) Paragraph (2) applies notwithstanding anything in the contract of tenancy.

(5) Where, under a protected or statutory tenancy, the sums payable by the tenant to the landlord include any sums varying according to the cost from time to time of–

(a) any services provided by the landlord or a superior landlord, or

(b) any works of maintenance or repair carried out by the landlord or a superior landlord,

the amount to be registered in the register of rents may be an amount variable in accordance with the terms as to the variation.

Amounts attributable to services

54. In order to assist the Executive to give effect to the housing benefit scheme under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), where a rent is registered in the register of rents, there shall be entered in the register the amount (if any) of the registered rent which, in the opinion of the rent officer or rent assessment committee, is fairly attributable to the provision of services, except any amount which is negligible in the opinion of the rent officer or, as the case may be, the rent assessment committee.

Rent review

Review of registered rents

55.—(1) The rent officer shall, if directed to do so by the Department, conduct a review of registered rents, with a view to determining whether those rents should be increased.

(2) A direction under paragraph (1) may require the rent officer to review the registered rent for all controlled tenancies or for controlled tenancies of such class or description as may be specified in the direction.

(3) When conducting a review the rent officer shall–

(a) take into account the general level of rents for dwelling-houses let by the Executive,

(b) the cost of repairs, and

(c) any other matter appearing to him to be relevant.

(4) Where the rent officer determines under paragraph (1) that any registered rents should be increased, he shall make a recommendation to that effect to the Department.

(5) Where the Department accepts a recommendation under paragraph (4), it shall make an order providing for the increase of those rents–

(a) by an amount recommended by the rent officer, or

(b) by such other amount as the Department, after consultation with the rent officer, considers appropriate.

(6) The amount of an increase may be expressed as a percentage.

(7) Where the Department makes an order under paragraph (5), the rent officer shall make such alterations in the register of rents as appear to him to be necessary in consequence of the order.

[[F11](8) An order under paragraph (5) shall be subject to negative resolution.**]**

Textual Amendments

F11 Art. 55(8) added (31.7.2010) by Housing (Amendment) Act (Northern Ireland) 2010 (c. 9), **ss. 17**, 19(1); S.R. 2010/251, **art. 2**

PART V

AMENDMENTS OF THE RENT ORDER

Tenancies which are protected tenancies

56.—(1) Article 3 of the Rent Order (protected tenancies) shall be amended as follows.

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

"(1) A tenancy of a dwelling-house is a protected tenancy for the purposes of this Order if–

(a) the Rent Restriction Acts applied to the dwelling-house immediately before the commencement of this Order (1st October 1978), and

(b) the dwelling-house was, immediately after that commencement, let under that tenancy as a separate dwelling.

(1A) A tenancy of a dwelling-house is a protected tenancy for the purposes of this Order if–

(a) paragraph (2) applies to the dwelling-house, and

(b) the dwelling-house was, immediately before the commencement of Article 56 of the Private Tenancies (Northern Ireland) Order 2006, let under that tenancy as a separate dwelling.".

(3) After paragraph (2A) there shall be inserted–

"(2B) A tenancy of a dwelling-house is a protected tenancy for the purposes of this Order if, immediately before the commencement of Article 56 of the Private Tenancies (Northern Ireland) Order 2006, that tenancy was a protected tenancy by virtue of Article 5 of this Order.".

(4) After paragraph (3) there shall be inserted–

"(3A) For the purposes of this Article, a dwelling-house may be a house or part of a house.".

No further protected tenancies

57.—(1) No private tenancy granted on or after the commencement of this Order shall be a protected tenancy under the Rent Order.

(2) No private tenancy granted on or after the commencement of this Order shall be a protected shorthold tenancy under Article 92 of the Housing (Northern Ireland) Order 1983 (NI 15).

(3) Article 5 of the Rent Order shall cease to have effect.

(4) Any tenancy which immediately before the commencement of this Order was a protected tenancy by virtue of Article 5 of the Order of 1978, shall continue to be a protected tenancy notwithstanding the repeal of that Article.

Premises with a business use

58. In Article 12 of the Rent Order (premises with a business use), for paragraphs (3) and (4) there shall be substituted–

"(3) Where it is possible to enter the part of the house used as a dwelling ("the residential part") without passing through the non-residential part, Articles 3 and 4 shall apply only to the residential part.

(4) Where it is possible to enter the residential part only by passing through the non-residential part, Articles 3 and 4 shall apply to the entire house.".

Assignment and sub-letting

59.—(1) After the commencement of this Order, a protected tenancy or a statutory tenancy of a dwelling-house shall not be capable of being assigned, except in pursuance of an order made under any of the provisions mentioned in paragraph (2).

(2) Those provisions are–

(a) Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978 (NI 15) (property adjustment orders in connection with divorce proceedings);

(b) Article 26 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (NI 4) (orders for transfer of certain tenancies);

(c) Schedule 1 to the Children (Northern Ireland) Order 1995 (NI 2) (orders for financial relief against parents);

(d) Part II of Schedule 2 to the Family Homes and Domestic Violence (Northern Ireland) Order 1998 (NI 6) (orders for transfer of certain tenancies on divorce etc. or separation of co-habitees);

(e) Part II of Schedule 15 and paragraph 9 of Schedule 17 to the Civil Partnership Act 2004 (c. 33) (property adjustment orders and orders for financial relief on or after dissolution, nullity or separation).

(3) Articles 17 and 18 of the Rent Order (provisions relating to change of statutory tenant by agreement) shall cease to have effect.

(4) Any person, who immediately before the commencement of this Order was deemed to be a statutory tenant of a dwelling-house by virtue of paragraph (1) of Article 17 of the Rent Order, shall continue as such thereafter notwithstanding the repeal of that Article, if and so long as he occupies the dwelling-house as his residence.

(5) For Article 19 of the Rent Order (effect on sub-tenancies of determination of superior tenancies), there shall be substituted–

"**Determination of sub-tenancies**

19. Where–

(a) the whole or part of a dwelling-house–

(i) let on a protected tenancy, or

(ii) subject to a statutory tenancy,

is sub-let; and

(b) after the commencement of Article 59 of the Private Tenancies (Northern Ireland) Order 2006 the landlord becomes entitled, as against the tenant, to possession of the dwelling-house;

the landlord shall also be entitled to possession against the sub-tenant.".

Unlawful eviction, etc.

60.—(1) Article 54 of the Rent Order (unlawful eviction and harassment of occupier) shall be amended as follows.

(2) With respect to acts done after the commencement of this Order, paragraph (2) shall have effect with the substitution, for the word " calculated ", of the word "likely".

(3) After that paragraph there shall be inserted–

"(2A) Subject to paragraph (2B), the landlord of a dwelling-house or an agent of the landlord shall be guilty of an offence under this Order if–

(a) he does acts likely to interfere with the peace and comfort of the tenant of the dwelling-house or members of his household, or

(b) he persistently withdraws or withholds services reasonably required for the occupation of the dwelling-house as a residence,

and, (in either case) he knows, or has reasonable cause to believe, that the conduct is likely to cause the tenant to give up occupation of the whole or part of the premises or to refrain from exercising any right or pursuing any remedy in respect of the whole or part of the premises.

(2B) A person shall not be guilty of an offence under paragraph (2A) if he proves that he had reasonable grounds for doing the acts or withdrawing or withholding the services in question.".

Restriction of statutory tenancy by succession

61.—(1) In Schedule 1 to the Rent Order (statutory tenants by succession), paragraphs 5 to 7 and 9 to 11, shall cease to have effect.

(2) Any person, who immediately before the commencement of this Order was a statutory tenant of a dwelling-house by virtue of any provision repealed by paragraph (1), shall continue as such thereafter, notwithstanding the repeal of that provision, if and so long as he occupies the dwelling-house as his residence.

PART VI

MISCELLANEOUS

Directions and guidance

Provision of directions and guidance to district councils

62.—(1) The Department may–

(a) give directions of a general or specific nature, or

(b) issue guidance,

to district councils as to the manner in which they are to discharge their functions under this Order and the Rent Order.

(2) Without prejudice to the generality of paragraph (1), the Department may direct any district council to give to the Department, within such period as the Department may specify, such information with respect to the exercise by the council of its functions under this Order and the Rent Order as the Department may require.

(3) A district council shall act in accordance with any directions given under this Article and shall have regard to any guidance so issued.

(4) Any directions or guidance given or issued under this Article may be varied by subsequent directions or guidance.

Information

Publication of information to assist landlords and tenants

63.—(1) The Department and the Executive may publish–

(a) information as to–

(i) the rights and duties of landlords and tenants under this Order and the Rent Order, and

(ii) the procedure for enforcing those rights or securing the performance of those duties;

(b) such other information for the assistance of landlords and tenants as may appear to the Department and the Executive to be appropriate.

(2) In exercising the function conferred by paragraph (1), the Department and the Executive may act either jointly or individually.

Collection of information about tenancies

64.—(1) The Department and the Executive may collect such information as they consider desirable with respect to the terms of the tenancies of such dwelling-houses as they may determine.

(2) In exercising the function conferred by paragraph (1), the Department and the Executive may act either jointly or individually.

[[F12]Disclosure of information for purposes of Parts 2 to 4

64A.—(1) This Article applies to any relevant information which is held—

(a) by the Department of Finance and Personnel for the purposes of—

(i) its functions under the Rates (Northern Ireland) Order 1977 or the Rates (Capital Values, etc.) (Northern Ireland) Order 2006; or

(ii) the administration of housing benefit; or

(b) by the Northern Ireland Housing Executive for the purposes of the administration of housing benefit.

(2) Relevant information to which this Article applies must, if an authorised officer of the appropriate council so requires, be supplied to that council for the purpose of enabling or assisting that council to exercise its functions under any provision of Part 2, 3 or 4.

(3) Any requirement under paragraph (2) must specify—

(a) the description of relevant information which is to be supplied;

(b) the form in which that information is to be supplied; and

(c) the date by which that information is to be supplied.

(4) This Article—

(a) does not limit the circumstances in which information may be supplied apart from this Article; but

(b) has effect despite any restriction on the purposes for which relevant information may be disclosed or used.

(5) In this Article—

"authorised officer", in relation to a council, means an officer of the council authorised for the purposes of this Article by the council;

"housing benefit" means housing benefit provided by virtue of a scheme under section 122 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

"relevant information" means information as to—

(a) the location, age, size or description of a dwelling-house let under a private tenancy;

(b) the name and address of the landlord or tenant of such a dwelling-house or of any person acting as an agent of the landlord.

Textual Amendments

F12 Arts. 64A, 64B inserted (30.6.2011) by Housing (Amendment) Act (Northern Ireland) 2011 (c. 22), **ss. 6**, 25(1); S.R. 2011/241, **art. 2(1)**, Sch. 1

Unauthorised disclosure of information

64B.—(1) An employee of a council commits an offence if he discloses without lawful authority any information—

(a) which he acquired in the course of his employment;

(b) which is, or is derived from, information supplied to the council under Article 64A; and

(c) which relates to a particular dwelling-house or person.

(2) It is not an offence under this Article to disclose information which has previously been disclosed to the public with lawful authority.

(3) It is a defence for a person charged with an offence under this Article to show that at the time of the alleged offence—

(a) he believed that he was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise; or

(b) he believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.

(4) A person who is guilty of an offence under this Article shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(5) For the purposes of this Article a disclosure of information is to be regarded as made with lawful authority if, and only if, it is made—

(a) in accordance with his official duty by an employee of the council;

(b) in accordance with any statutory provision or order of a court;

(c) for the purposes of any criminal proceedings; or

(d) with the consent of the person to whom the information relates.**]**

Textual Amendments

F12 Arts. 64A, 64B inserted (30.6.2011) by Housing (Amendment) Act (Northern Ireland) 2011 (c. 22), **ss. 6**, 25(1); S.R. 2011/241, **art. 2(1)**, Sch. 1

Information as to ownership of dwelling-houses

65.—(1) The appropriate district council may, for the purpose of enabling it to serve any notice (including any copy of any notice) which it is by this Order authorised or required to serve, require–

(a) the occupier of any dwelling-house appearing to the council to be let under a private tenancy, and

(b) any person appearing to the council to be the owner of such a dwelling-house,

to state in writing the nature of his own estate therein and the name and address of any other person known to him as having an estate therein.

(2) In paragraph (1)(b), "the owner" has the meaning given in Article 15.

(3) Any person who, having been required by the appropriate district council in pursuance of this Article to give to it any information, fails to give that information, or knowingly makes any misstatement in respect thereof, shall be guilty of an offence under this Order.

[F13 Registration of landlords

Textual Amendments

F13 Art. 65A and preceding cross-heading inserted (3.5.2011) by Housing (Amendment) Act (Northern Ireland) 2011 (c. 22), **ss. 7**, 25(2)

Registration of landlords

65A.—(1) The Department may by regulations provide for the registration of landlords of dwelling-houses let under a private tenancy.

(2) Regulations under this Article may in particular make provision for—

(a) the appointment of a body or person ("the registrar") to establish and maintain a register;

(b) the maintenance of the register, including provision as to the information which is to be included in, or excluded from, the register;

(c) imposing a requirement to register on all landlords mentioned in paragraph (1), subject to any prescribed exceptions;

(d) the procedure for registration, including provision about the information to be provided for the purposes of registration;

(e) the conditions to be satisfied for registration or continued registration;

(f) the fees (if any) payable for registration or continued registration;

(g) appeals against decisions of the registrar under the regulations;

(h) information held by the registrar which is not included in the register to be disclosed to prescribed persons for prescribed purposes.

(3) The registrar must make the register available for public inspection without charge at such place and at such times as the registrar considers appropriate.

(4) A person commits an offence if—

(a) he provides false information for the purposes of registration under this Article;

(b) not being a person registered under this Article, he lets a dwelling- house under a private tenancy;

(c) being a person registered under this Article, he fails to provide evidence of registration in prescribed circumstances.

(5) A person guilty of an offence under paragraph (4)(a) or (b) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) A person guilty of an offence under paragraph (4)(c) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(7) If on an application made to it by a district council, the county court is satisfied that—

(a) a person has been convicted of an offence under paragraph (4)(b), and

(b) that person is continuing after that conviction to contravene paragraph (4)(b),

the court may make an order requiring that person to register under this Article within such period not being less than 28 days from the date of the order) as the court may specify.**]**

Notices, etc.

Service of notices on landlord's agents

66.—(1) Any document required or authorised by this Order to be served on a landlord of a dwelling-house shall be deemed to be duly served on him if it is served–

(a) on any agent of the landlord named as such in the rent book; or

(b) on the person who receives the rent of the dwelling-house.

(2) If–

(a) the tenant under a private tenancy of a dwelling-house, or

(b) a district council for the purposes of enabling it to perform any of its functions under this Order,

serves upon any such agent or other person as is referred to in paragraph (1) a notice in writing requiring the agent or other person to disclose to him the full name and place of abode or place of business of the landlord, that agent or other person shall forthwith comply with the notice.

(3) If any such agent or other person as is referred to in paragraph (1) fails or refuses forthwith to comply with a notice served on him under that paragraph, he shall be guilty of an offence under this Order, unless he shows to the satisfaction of the court that he did not know, and could not with reasonable diligence have ascertained, such of the facts required by the notice to be disclosed as were not disclosed by him.

Method of serving certain documents

67.

(1) Any document to be served under any of the following provisions of this Order–

(a) a certificate of fitness or notice of refusal under Article 36, or

(b) a notice under Article 46(5), 47(3) or 66(2), or paragraph 1(1) of Schedule 2,

may be served by being sent by ordinary post.

(2) In section 24(1) of the Interpretation Act (Northern Ireland) 1954 (c. 33) (service of documents), as it applies to the service by post of such a document, the word “registering” shall be omitted.

Offences

Prosecution of offences

68.—(1) A person who is guilty of an offence under Article [F14]. . . 5(4), 24(1), 33(5) or 50(2) or (3) or paragraph 1(2) of Schedule 2 shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) A person who is guilty of an offence under Article 28, 65(3) or 66(3) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Proceedings for any offence under this Order may be instituted by the appropriate district council.

Textual Amendments

F14 Words in art. 68(1) repealed (30.6.2011) by Housing (Amendment) Act (Northern Ireland) 2011 (c. 22), ss. 24, 25(1), **Sch.**; S.R. 2011/241, **art. 2(1)**, Sch. 1

[F15Fixed penalty for certain offences

68A.—(1) This Article applies where on any occasion an authorised officer of a district council has reason to believe that a person ("P") has committed—

(a) an offence under Article 5B(10) or (11); or

(b) an offence under Article 65A(4).

(2) The authorised officer may give P a notice in the prescribed form offering P the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.

(3) A fixed penalty payable under this Article is payable to the district council whose officer gave the notice.

(4) Where P is given a notice under this Article in respect of an offence—

(a) no proceedings may be instituted for that offence before the expiration of the period of 14 days, or such other period as may be specified in the notice, following the date of the notice; and

(b) P may not be convicted of that offence if P pays the fixed penalty before the expiration of that period.

(5) A notice under this Article must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(6) A notice under this Article must also state—

(a) the period during which, by virtue of paragraph (4), proceedings will not be taken for the offence;

(b) the amount of the fixed penalty; and

(c) the person to whom and the address at which the fixed penalty may be paid.

(7) The fixed penalty payable to a district council under this Article in respect of an offence under Article 5B(11) in relation to a tenancy deposit received or required by a landlord is an amount equal to three times the amount of that tenancy deposit.

(8) The fixed penalty payable to a district council under this Article in respect of an offence under Article 5B(10) or 65A(4) is an amount determined by the council, being an amount not exceeding one-fifth of the maximum fine payable on summary conviction of that offence.

(9) In any proceedings a certificate which—

(a) purports to be signed on behalf of the clerk of the council, and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(10) A district council may use amounts paid to it in pursuance of notices under this Article only for the purposes of its functions under this Order or such other of its functions as may be prescribed.

(11) In this Article "authorised officer", in relation to a district council, means an officer of the council who is authorised in writing by the council for the purposes of this Article.**]**

Textual Amendments

F15 Art. 68A inserted (30.6.2011) by Housing (Amendment) Act (Northern Ireland) 2011 (c. 22), **ss. 8**, 25(1); S.R. 2011/241, **art. 2(1)**, Sch. 1

General

Defective premises

69.—(1) The Defective Premises (Landlord's Liability) Act (Northern Ireland) 2001 (c. 10) shall apply, as from the commencement of this Order, to any tenancy which, before that commencement, was a regulated tenancy or a restricted tenancy within the meaning of the Rent Order.

(2) In section 3(1) of that Act (tenancies to which the Act applies), paragraphs (a) and (b) shall be omitted.

(3) In its application to a tenancy mentioned in paragraph (1), section 4 of that Act (interpretation) shall have effect as if for subsection (7) there were substituted–

"(7) In subsection (6)(a) "material time" means the time when Article 69 of the Private Tenancies (Northern Ireland) Order 2006 came into operation.".

Prohibition of agreements excluding Order

70. Except as provided by Article 6, this Order shall have effect notwithstanding any agreement to the contrary.

Application to Crown property

71.—(1) Subject to Article 3(2), this Order shall apply in relation to premises in which there subsists, or at any material time subsisted, a Crown estate as it applies in relation to premises in which no such estate subsists or ever subsisted.

(2) In this Article "Crown estate" means an estate–

(a) which belongs to the Crown in right of Her Majesty's Government in the United Kingdom or in Northern Ireland; or

(b) which is held in trust for Her Majesty for the purposes of a government department.

Supplemental

Regulations

72.—(1) The Department may make regulations–

(a) prescribing forms for notices, certificates and other documents required or authorised under this Order;

(b) requiring such notices, certificates and documents to contain such information as may be specified in the regulations;

(c) prescribing anything which is required by this Order to be prescribed;

(d) generally for carrying into effect this Order.

(2) Subject to paragraph (3), regulations under this Order shall be subject to negative resolution.

[[F16](3) Regulations under Article 5A, 45A or 65A shall not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

(4) The Department must lay before the Assembly—

(a) a draft of regulations under Article 5A, and

(b) a draft of regulations under Article 65A,

not later than 18 months after the date on which the Housing (Amendment) Act (Northern Ireland) 2011 receives Royal Assent.**]**

Textual Amendments

F16 Art. 72(3)(4) substituted (3.5.2011) for art. 72(3) by Housing (Amendment) Act (Northern Ireland) 2011 (c. 22), **ss. 9**, 25(2)

Further provision

73.—(1) The Department may by order make such supplementary, incidental or consequential provision as it thinks appropriate–

(a) for the general purposes, or any particular purpose, of this Order;

(b) in consequence of any provision made by or under this Order, or for giving full effect to it.

(2) The Department may by order make such transitional or transitory provisions and savings as it considers appropriate in connection with–

(a) the coming into operation of any provision of this Order; or

(b) any provision made by an order under paragraph (1).

(3) An order under this Article may modify any statutory provision.

(4) An order under this Article shall be subject to negative resolution.

(5) The powers conferred by this Article are not restricted by any other provision of this Order.

Minor and consequential amendments

74. The statutory provisions mentioned in Schedule 4 shall have effect with the minor and consequential amendments specified there.

Repeals

75. Subject to any savings or transitional provisions made by or under this Order, the statutory provisions mentioned in Schedule 5 are repealed to the extent specified there.

A.K. Galloway
Clerk of the Privy Council

SCHEDULES

SCHEDULE 1

Article 41.

THE RENT OFFICER AND RENT ASSESSMENT COMMITTEES

The rent officer

1.—(1) The Department shall appoint a person to act as rent officer for Northern Ireland.

(2) The Department may appoint such other persons as it considers appropriate to act as deputy rent officers for Northern Ireland.

(3) An appointment under paragraph (1) or (2) shall be made on such terms as the Department may determine.

2. In addition to the functions conferred on the rent officer under this Order, the rent officer shall exercise such other functions as the Department may, with the agreement of the rent officer, determine.

Rent assessment committees

3. The Department shall draw up and revise a panel of persons to act as chairmen and other members of rent assessment committees.

4.—(1) Subject to sub-paragraphs (2) and (3), the number of rent assessment committees, the areas for which those committees shall act and the constitution of those committees shall be determined by the Department.

(2) Subject to sub-paragraph (3), each rent assessment committee shall consist of a chairman and one or two other members.

(3) The Department may direct that, when dealing with a case in such circumstances as may be specified in the direction, the chairman sitting alone may, with the consent of the parties, exercise the functions of a rent assessment committee.

Remuneration and support services

5. There shall be paid to the rent officer and to members of the panel such remuneration and allowances as the Department, with the consent of the Department of Finance and Personnel, may determine.

6. The Department may make available to the rent officer and to rent assessment committees such of its officers as it considers necessary.

SCHEDULE 2

Article 44 and 72(3)

CONSIDERATION OF DETERMINATIONS BY RENT ASSESSMENT COMMITTEES

1.—(1) For the purposes of considering whether a rent determined under Article 42 is an appropriate rent in relation to a tenancy of a dwelling-house, a rent assessment committee–

(a) may by notice in the prescribed form served on the landlord or the tenant require him to give to the committee, within such period of not less than 14 days from the service of the notice as may be specified in the notice, such information as it may reasonably require; and

(b) shall serve on the landlord and on the tenant a notice specifying a period of not less than 14 days from the service of the notice during which either representations in writing or a request to make oral representations may be made by him to the committee.

(2) If any person fails without reasonable cause to comply with any notice served on him under sub-paragraph (1)(a), he shall be guilty of an offence under this Order.

2. Where, within the period specified in paragraph 1(1)(b), or such further period as the committee may allow, the landlord or the tenant requests to make oral representations the committee shall give him an opportunity to be heard either in person or by a person authorised by him in that behalf, whether or not that person is of counsel or a solicitor.

3.—(1) The rent officer shall submit to the rent assessment committee–

(a) a statement of rent determined under Article 42 in relation to the tenancy of the dwelling-house, and

(b) such other information relating to the tenancy and the dwelling-house as may be prescribed.

(2) The committee shall afford to the rent officer an opportunity to make oral or written representations.

4. The committee shall make such inquiry (if any) as it thinks fit and consider any information supplied or representation made to it in pursuance of paragraph 1, 2 or 3.

SCHEDULE 3

Article 53.

CALCULATION OF AMOUNT OF RATES

1. For the purposes of Article 53, the amount of rates for any rental period shall be taken, subject to the following provisions of this Schedule, to be an amount which bears to the total rates payable during the relevant rating period the same proportion as the length of the rental period bears to the length of the relevant rating period.

2. In this Schedule "the relevant rating period", in relation to a rental period, means the rating period during which the rent for that rental period is payable.

3. The amount of the rates for any rental period which precedes the making by the Department of Finance and Personnel of its first demand for, or for an instalment of, the rates for the relevant rating period shall be calculated on the basis that the rates for that rating period will be the same as for the last preceding rating period.

4.—(1) On the making by the Department of Finance and Personnel of its first such demand, and on the making by that Department of any subsequent such demand, the amount of the rates for any rental period shall if necessary be recalculated on the basis that the rates for the relevant rating period will be such as appears from the information given in the demand and any previous demands.

(2) Any such recalculation shall not affect the ascertainment of the rates for any rental period beginning more than 13 weeks before the date of the service of the demand giving rise to the recalculation.

5.—(1) If as a result of the alteration of the **[**[F17]capital value**]** of a dwelling-house the rates payable for the relevant rating period are varied, the amount of the rates for a rental period shall be recalculated so as to give effect to the variation; but any such recalculation shall not affect the ascertainment of the rates for any rental period beginning more than 13 weeks before the date of the service of the demand giving rise to the recalculation.

(2) In this paragraph "**[**[F18]capital value**]**" means the **[**[F18]capital value**]** under the Rates (Northern Ireland) Order 1977 (NI 28).

Textual Amendments

F17 Words in Sch. 3 para. 5(1) substituted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 9(a)**

F18 Words in Sch. 3 para. 5(2) substituted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 9(b)**

6. In computing the rates for any rental period for the purposes of this Schedule, any discount, and any allowance made under any of the statutory provisions relating to allowances given where rates are paid by the owner instead of by the occupier, shall be left out of account, and accordingly those rates shall be computed as if no such discount or allowance had fallen to be, or had been, allowed or made.

SCHEDULE 4

Article 74.

MINOR AND CONSEQUENTIAL AMENDMENTS

The Land Registration Act (Northern Ireland) 1970 (c. 18)

1. In Schedule 11 (matters requiring to be registered in the Statutory Charges Register), after paragraph 46 insert–

"**47.** Any charge created under Article 25(6) of the Private Tenancies (Northern Ireland) Order 2006.".

The Rent Order

2. For the heading of Part II substitute– " PROTECTED AND STATUTORY TENANCIES ".

3. In Article 4(2) (statutory tenants and tenancies), omit the words "at any time".

4. In Article 49 (prohibition of premiums and loans)–

(a) in the heading, for "grant" substitute " renewal ", and

(b) in paragraphs (1) and (2), omit "grant,".

5. In Article 73A(1) (method of serving certain documents), for the words from "any" to "Schedule 6" substitute " Article 73(2) ".

6. In Article 75(1) (application of Order to Crown property), omit "Subject to Article 5(7),".

7.—(1) Part I of Schedule 4 (grounds for possession of dwelling-houses let on or subject to protected or statutory tenancies) shall be amended as follows.

(2) In Case 1, in the second sentence, for "Article 42" substitute " Article 8 of the Private Tenancies (Northern Ireland) Order 2006 ".

(3) In Case 9, for the words from "Part IV" to the end substitute " Chapter III of Part IV of the Private Tenancies (Northern Ireland) Order 2006 ".

The Housing (Northern Ireland) Order 1981 (NI 3)

8. In Article 41(3) (repair notices), after "Executive" insert " shall serve a copy on the rent officer (within the meaning of Article 2 of the Private Tenancies (Northern Ireland) Order 2006) and ".

The Housing (Northern Ireland) Order 1983 (NI 15)

9. In Article 92(1) (protected shorthold tenancies), after "this Order" insert " and before the coming into operation of Article 57 of the Private Tenancies (Northern Ireland) Order 2006 ".

10. In Article 94 (subletting or assignment)–

(a) in paragraph (1), omit the words from "and Article 19" to the end; and

(b) in paragraph (3), for sub-paragraphs (a) and (b), and the word "either" which precedes sub-paragraph (a), substitute " no person is in possession of the dwelling-house as a protected or statutory tenant. ".

11. In Part II of Schedule 9 (other amendments of the 1978 Order), in paragraph 6, for the words from the beginning to "Schedule 6" substitute " In Articles 16(1) and 73(3) ".

The Ombudsman (Northern Ireland) Order 1996 (NI 8)

[F19]**12.** . . . . . .

Textual Amendments

F19 Sch. 4 para. 12 repealed (1.4.2016) by Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4), s. 64, **Sch. 9** (with ss. 23, 50(3))

The Housing (Northern Ireland) Order 2003 (NI 2)

13. In Article 28(1) (interpretation), in the definition of "rack rent", for the words from "has been" to the end substitute " is recoverable by virtue of the Private Tenancies (Northern Ireland) Order 2006 ".

14. In Article 60 (restriction on grants for works already begun), in paragraph (5)(a), after "(repair notices)" insert " or a notice of unfitness under Article 18 of the Private Tenancies (Northern Ireland) Order 2006 ".

SCHEDULE 5

Article 75.

REPEALS

Short Title	*Extent of repeal*
The Rent (Northern Ireland) Order 1978 (NI 20).	In Article 2(2), the definitions of "regulated rent certificate", "regulated tenancy", "restricted rent certificate" and "restricted tenancy". In Article 4(2), the words "at any time. Articles 5, 7 to 11, 17 and 18. Parts IV to VII.

	In Article 49(1) and (2), the word "grant,". Articles 50, 62, 63, 68, 69(1)(b) to (d) and 72. In Article 75(1), the words "Subject to Article 5(7),". In Schedule 1, paragraphs 5 to 7 and 9 to 11. Schedules 5 to 7.
The Housing (Northern Ireland) Order 1981 (NI 3).	In Part II of Schedule 11, the amendment of the Rent (Northern Ireland) Order 1978.
The Housing (Northern Ireland) Order 1983 (NI 15).	In Article 94(1), the words from "and Article 19" to the end. Articles 96(2) to (4), 98, 99 and 101. In Part II of Schedule 9, paragraphs 2 to 5, 7, 9 and 10.
The Housing (Northern Ireland) Order 1986 (NI 13).	Article 42(3), (4)(c) and (d), and (5).
The Housing (Northern Ireland) Order 1992 (NI 15).	In Article 74(2), the words from "to whom" to "may be". Articles 98 to 100. In Schedule 7, paragraphs 1(2) and (3), and 2.
The Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9).	In Schedule 2, paragraph 19.
The Family Homes and Domestic Violence (Northern Ireland) Order 1998 (NI 6).	In Schedule 2, in paragraph 8(3), the words "or, as the case may be, paragraphs 6 to 9".
The Defective Premises (Landlord's Liability) Act (Northern Ireland) 2001 (c. 10).	In section 3(1), paragraphs (a) and (b).
The Housing (Northern Ireland) Order 2003 (NI 2).	Articles 121(1), 122 and 142(3)(a). In Schedule 1, paragraphs 1 to 8. In Schedule 4, paragraph 2.
The Civil Partnership Act 2004 (c. 33).	In Schedule 18, paragraph 2(3).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision with respect to privately rented dwelling-houses in Northern Ireland.

PART II deals with certain obligations of landlords and tenants under private tenancies. Part III empowers district councils to issue notices of unfitness and notices of disrepair in respect of dwelling-houses let under private tenancies.

PART IV provides for certificates of fitness to be issued in respect of certain dwelling-houses and for the determination of a rent limit in respect of tenancies which are subject to control.

PART V amends the Rent (Northern Ireland) Order 1978 and Part VI contains provisions of a miscellaneous or supplemental nature.

Status:
Point in time view as at 06/06/2016.

Changes to legislation:
There are currently no known outstanding effects for the The Private Tenancies (Northern Ireland) Order 2006.