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STATUTORY INSTRUMENTS

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**2006 No. 1459**

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

**PART III**

**UNFITNESS AND DISREPAIR**

*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.