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STATUTORY INSTRUMENTS

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**2006 No. 1459**

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

**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.