
DRAFT STATUTORY INSTRUMENTS

2003 No.

The Housing (Northern Ireland) Order 2003

PART II

CONDUCT OF TENANTS

CHAPTER III

REPOSSESSION, &c. OF DWELLING-HOUSES LET UNDER SECURE TENANCIES

Extension of ground of nuisance or annoyance to neighbours, &c.

22. For Ground 2 in Schedule 3 to the Order of 1983 (nuisance or annoyance to neighbours, &c.) there shall be substituted—

“Ground 2

The tenant or a person residing in or visiting the dwelling-house—

- (a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or
- (b) has been convicted of—
 - (i) using the dwelling-house or allowing it to be used for immoral or illegal purposes, or
 - (ii) an arrestable offence committed in, or in the locality of, the dwelling-house.”.

New ground of domestic violence

23. After Ground 2 in Schedule 3 to the Order of 1983 (as substituted by Article 22) there shall be inserted—

“Ground 2A

The dwelling-house was occupied (whether alone or with others) by a married couple or a couple living together as husband and wife and—

- (a) one or both of the partners is a tenant of the dwelling-house,
- (b) one partner has left because of violence or threats of violence by the other towards—
 - (i) that partner, or
 - (ii) a member of the family of that partner who was residing with that partner immediately before the partner left, and
- (c) the court is satisfied that the partner who has left is unlikely to return while the other continues to occupy the dwelling-house.”.

Extension of ground that grant of tenancy induced by false statement

24. In Ground 5 in Schedule 3 to the Order of 1983 (grant of tenancy induced by false statement) for “by the tenant” there shall be substituted

“by—

- (a) the tenant, or
- (b) a person acting at the tenant’s instigation”.

Proceedings for possession or termination

25.—(1) For Article 28 of the Order of 1983 (notice of proceedings for possession) there shall be substituted—

“Proceedings for possession: notice requirements

28.—(1) The court shall not entertain proceedings for the possession of a dwelling-house let under a secure tenancy unless—

- (a) the landlord has served a notice on the tenant complying with the provisions of this Article, or
- (b) the court considers it just and equitable to dispense with the requirement of such a notice.

(2) A notice under this Article shall—

- (a) be in a form prescribed by regulations made by the Department,
- (b) specify the ground on which the court will be asked to make an order for the possession of the dwelling-house, and
- (c) give particulars of that ground.

(3) Where the ground or one of the grounds specified in the notice is Ground 2 in Schedule 3 (nuisance or other anti-social behaviour), the notice—

- (a) shall also—
 - (i) state that proceedings for the possession of the dwelling-house may be begun immediately, and
 - (ii) specify the date sought by the landlord as the date on which the tenant is to give up possession of the dwelling-house, and
- (b) ceases to be in force twelve months after the date so specified.

(4) Where Ground 2 in Schedule 3 is not specified in the notice, the notice—

- (a) shall also specify the date after which proceedings for the possession of the dwelling-house may be begun, and
- (b) ceases to be in force twelve months after the date so specified.

(5) The date specified in accordance with paragraph (3) or (4) must not be earlier than the date on which the tenancy could, apart from this Part, be brought to an end by notice to quit given by the landlord on the same date as the notice under this Article.

Additional requirements in relation to certain proceedings for possession

28A.—(1) Where a notice under Article 28 has been served on a tenant containing the information mentioned in paragraph (3)(a) of that Article, the court shall not entertain proceedings for the possession of the dwelling-house unless they are begun at a time when the notice is still in force.

(2) Where—

- (a) a notice under Article 28 has been served on a tenant, and
- (b) a date after which proceedings may be begun has been specified in the notice in accordance with paragraph (4)(a) of that Article,

the court shall not entertain proceedings for the possession of the dwelling-house unless they are begun after the date so specified and at a time when the notice is still in force.

(3) Where—

- (a) the ground or one of the grounds specified in a notice under Article 28 is Ground 2A in Schedule 3 (domestic violence), and
- (b) the partner who has left the dwelling-house as mentioned in that ground is not a tenant of the dwelling-house,

the court shall not entertain proceedings for the possession of the dwelling-house unless it is satisfied that the landlord has served a copy of the notice on the partner who has left or has taken all reasonable steps to serve a copy of the notice on that partner.

This paragraph has effect subject to paragraph (5).

(4) Where—

- (a) Ground 2A in Schedule 3 is added to a notice under Article 28 with the leave of the court after proceedings for possession are begun, and
- (b) the partner who has left the dwelling-house as mentioned in that ground is not a party to the proceedings,

the court shall not continue to entertain the proceedings unless it is satisfied that the landlord has served a notice under paragraph (6) on the partner who has left or has taken all reasonable steps to serve such a notice on that partner.

This paragraph has effect subject to paragraph (5).

(5) Where paragraph (3) or (4) applies and Ground 2 in Schedule 3 (nuisance or other anti-social behaviour) is also specified in the notice under Article 28, the court may dispense with the requirements as to service in relation to the partner who has left the dwelling-house if it considers it just and equitable to do so.

(6) A notice under this paragraph shall—

- (a) state that proceedings for the possession of the dwelling-house have begun,
- (b) specify the ground or grounds on which possession is being sought, and
- (c) give particulars of the ground or grounds.”.

(2) In paragraph (1) of Article 29 of the Order of 1983 (grounds and orders for possession), the words from “and shall” to the end shall be omitted.

(3) After paragraph (3A) of that Article there shall be inserted—

“(3B) Where a notice under Article 28 has been served on the tenant, the court shall not make such an order on any of the grounds set out in Part I of Schedule 3 unless the ground is specified in the notice; but the grounds so specified may be altered or added to with the leave of the court.

(3C) Where a date is specified in a notice under Article 28 in accordance with paragraph (3) of that Article, the court shall not make an order which requires the tenant to give up possession of the dwelling-house in question before the date so specified.”.

(4) In Schedule 3 to the Order of 1983, in Ground 11, after “notice of the proceedings for possession was served under Article 28” there shall be inserted “(or, where no such notice was served, the proceedings for possession were begun)”.