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DRAFT STATUTORY INSTRUMENTS

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**2003 No.**

**The Housing (Northern Ireland) Order 2003**

**PART III**

**GRANTS, &c. FOR RENEWAL OF PRIVATE SECTOR HOUSING**

**CHAPTER I**

**INTRODUCTORY**

**Interpretation of Part III**

**28.—(1) In this Part—**

“dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it;

“elderly” means aged 60 years or over;

“house in multiple occupation” has the same meaning as in Part IV of the Order of 1992;

“housing action area” has the same meaning as in Article 2(2) of the Order of 1981;

“improvement” includes alteration and enlargement;

“owner”, in relation to a dwelling, has the meaning given by Article 32, and, in relation to a house in multiple occupation, has the same meaning as in Article 2 of the Order of 1981;

“owner’s interest”, in relation to any premises, means—

(a) a freehold estate in possession (whether legal or equitable), or

(b) an interest under a tenancy granted or extended for a term of years of which not less than 10 years remain unexpired at the date of the application,

whether held by the applicant alone or jointly with others;

“partner”, in relation to a person, means that person’s spouse or a person other than a spouse with whom he or she lives as husband or wife;

“rack rent” means a rent which is not less than two-thirds of the net annual value of the dwelling, or a rent which has been fixed in accordance with the [Rent \(Northern Ireland\) Order 1978 \(NI 20\)](#);

“relevant authority” means the authority for the area in which the dwelling or building is situated; and references to an authority and to the area of an authority shall be construed in accordance with paragraphs (2), (3) and (4) of Article 2 of the [Children \(Northern Ireland\) Order 1995 \(NI 2\)](#);

“tenancy” includes a sub-tenancy and an agreement for a tenancy or sub-tenancy;

“tenant” includes a sub-tenant and any person deriving title under the original tenant or sub-tenant.

(2) Subject to paragraph (3) a tenancy is a long tenancy for the purposes of this Part if—

- (a) it is a tenancy granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by a notice given by or to the tenant or by re-entry, forfeiture or otherwise; or
  - (b) it is a tenancy granted under an equity-sharing lease within the meaning of Article 31(6) of the Order of 1981.
- (3) A tenancy is not a long tenancy for those purposes if it is an interest created by way of security and liable to termination by the exercise of a right of redemption or otherwise.
- (4) In this Part references to a person being connected with the owner of a dwelling shall be construed in accordance with Article 31.

### *Interpretation*

#### **Meaning of “reasonable repair”**

**29.** In determining for the purposes of this Part what is “reasonable repair”, in relation to a dwelling, house or building, the Executive—

- (a) shall have regard to the age and character of the dwelling, house or building and the locality in which it is situated, and
- (b) shall disregard the state of internal decorative repair.

#### **Fitness for human habitation**

**30.**—(1) Article 46 of the Order of 1981 (fitness for human habitation) applies for the purposes of this Part as it applies for the purposes of that Order.

(2) In deciding whether it is satisfied that the carrying out of the relevant works is the most satisfactory course of action in a case where the house or dwelling concerned is unfit for human habitation, the Executive shall have regard to any guidance given under Article 46A of the Order of 1981 and Article 115.

For that purpose the Executive shall treat any guidance given in respect of the serving of a repair notice under Article 41(1) of the Order of 1981 as guidance given in respect of the completion of the relevant works.

#### **Meaning of “connected persons”**

**31.** For the purposes of this Part a person is connected with the owner for the time being of a dwelling if—

- (a) in a case where personal representatives or trustees are the owner, he is a person who under the will or intestacy or, as the case may be, under the terms of the trust concerned is beneficially entitled to an interest in the dwelling or to the proceeds of sale of the dwelling;
- (b) in any other case, he is a member of the family of the owner.

#### **Meaning of “owner” of dwelling**

**32.** In this Part “owner”, in relation to a dwelling—

- (a) means a person, other than a mortgagee not in possession, who, whether in his own right or as a trustee for any other person and whether alone or jointly or in common with any other person, is entitled to receive the rack rent of the dwelling, or where the dwelling is not so let, would be entitled to receive it if it were so let; and

- (b) is not himself liable as lessee of the dwelling, or of property which includes the dwelling, to pay such a rent to a superior landlord.

**Disabled persons**

**33.** For the purposes of this Part “disabled person” has the same meaning as in the Disability Discrimination Act 1995 (c. 50).