
DRAFT STATUTORY INSTRUMENTS

2003 No.

The Housing (Northern Ireland) Order 2003

PART III

GRANTS, &c. FOR RENEWAL OF PRIVATE SECTOR HOUSING

CHAPTER V

DEFERRED ACTION NOTICES. &c.

Deferred action notices

Deferred action notices

111.—(1) If the Executive is satisfied that a house (including a house in multiple occupation) is unfit for human habitation, but is satisfied that serving a deferred action notice is the most satisfactory course of action, it shall serve such a notice.

(2) A deferred action notice is a notice—

- (a) stating that the premises are unfit for human habitation,
- (b) specifying the works which, in the opinion of the Executive, are required to make the premises fit for human habitation, and
- (c) stating the other courses of action which are available to the Executive if the premises remain unfit for human habitation.

(3) The notice becomes operative, if no appeal is brought, on the expiry of 21 days from the date of the service of the notice and is final and conclusive as to matters which could have been raised on an appeal.

(4) The fact that a deferred action notice has been served does not prevent the Executive from taking any other course of action in relation to the premises at any time.

Service of deferred action notices

112.—(1) The Executive shall serve a deferred action notice relating to a house on the owner of the house.

(2) Where the Executive is satisfied that a house which is a flat, or a flat in multiple occupation, is unfit for human habitation by virtue of Article 46(2) of the Order of 1981, it shall also serve the notice on the owner of the building or part of the building in question.

(3) In the case of a house in multiple occupation, the Executive may serve the notice on the person managing the house instead of upon the owner.

(4) Where the Executive serves a notice under paragraph (1), (2) or (3) it shall also serve a copy of the notice on any other person having an estate in the premises concerned.

Appeals against deferred action notices

113.—(1) A person aggrieved by a deferred action notice may within 21 days after the service of the notice appeal to the county court.

(2) Without prejudice to the generality of paragraph (1), it is a ground of appeal that—

(a) making a demolition order under Article 35 of the Order of 1981 or a closing order under Article 38 of that Order, or

(b) serving a repair notice under Article 41 of that Order,

is a more satisfactory course of action.

(3) Where the grounds on which an appeal is brought are or include that specified in paragraph (2), the court, on hearing the appeal, shall have regard to any guidance given to the Executive under Article 46A of the Order of 1981 or Article 115.

(4) On an appeal the court may make such order either confirming, quashing or varying the notice as it thinks fit.

(5) Where the appeal is allowed and the reason or one of the reasons for allowing the appeal is that—

(a) making a demolition order under Article 35 of the Order of 1981 or a closing order under Article 38 of that Order, or

(b) serving a repair notice under Article 41 of that Order,

is a more satisfactory course of action, the judge shall, if requested to do so by the appellant or the Executive, include in his judgment a finding to that effect.

(6) If an appeal is brought, the deferred action notice does not become operative until—

(a) a decision on the appeal confirming the notice (with or without variation) is given and the period within which an appeal to the Court of Appeal may be brought expires without any such appeal having been brought, or

(b) if a further appeal to the Court of Appeal is brought, a decision on that appeal is given confirming the notice (with or without variation);

and for this purpose the withdrawal of an appeal has the same effect as a decision confirming the notice or decision appealed against.

Review of deferred action notices

114.—(1) The Executive may at any time review any deferred action notice served by it, and it shall do so not later than 2 years after the notice becomes operative and at intervals of not more than 2 years thereafter.

The Department may by order amend this paragraph so as to specify such other period or periods as it considers appropriate.

(2) The Executive shall for the purposes of any such review inspect the premises concerned.

For this purpose Articles 13 (power to enter land) and 160 (penalty for obstruction) of the Order of 1981 apply as they apply for the purposes of that Order.

(3) If the Executive is satisfied that the deferred action notice remains the most satisfactory course of action, it shall renew the notice and serve notice of its decision.

(4) The provisions of Article 112 (service of deferred action notice) and Article 113(1) to (5) (appeals against deferred action notices) apply in relation to the Executive's decision to renew a deferred action notice as in relation to the original notice.

(5) If an appeal is brought against the decision to renew a deferred action notice, the notice remains operative until any decision on the appeal, or any further appeal, quashing or varying the notice.

(6) If the Executive takes action in relation to the premises under any of the provisions listed in Article 46A(1) of the Order of 1981, the deferred action notice shall cease to be operative on the relevant notice, order or declaration becoming operative.

Guidance by the Department

115.—(1) In deciding for the purposes of Article 111 (deferred action notices) or Article 114 (review of deferred action notices) what is the most satisfactory course of action in relation to any premises, the Executive shall have regard to such guidance as may be given by the Department.

(2) The provisions of Article 46A(2) and (3) of the Order of 1981 (supplementary provisions as to guidance) apply in relation to such guidance.