
STATUTORY INSTRUMENTS

2006 No. 1459

The Private Tenancies (Northern Ireland) Order 2006

PART III

UNFITNESS AND DISREPAIR

Enforcement

Offence of failing to comply with notice of unfitness or notice of disrepair

24.—(1) Where the person upon whom a notice of unfitness or a notice of disrepair in respect of a dwelling-house has been served fails to comply with the notice within the appropriate period, he shall be guilty of an offence under this Order.

(2) In paragraph (1) “the appropriate period” means—

- (a) the period specified in the notice, or
- (b) where the notice has been varied on appeal, such other period as the court may specify on final determination of the appeal.

(3) If any default in respect of which a person is convicted of an offence under paragraph (1) continues for more than 14 days after that conviction, that person shall be deemed to have committed a further offence under that paragraph in respect of that default.

(4) The obligation to execute the works specified in the notice continues notwithstanding that the period for completion of the works has expired.

(5) The provisions of this Article are without prejudice to the exercise by the appropriate district council of the powers conferred by Article 25.

Enforcement of notice of unfitness or notice of disrepair

25.—(1) If a notice of unfitness or notice of disrepair is not complied with within the appropriate period, the appropriate district council may itself do the work required to be done by the notice or, where the notice has been varied by the court on appeal, by the notice as so varied.

(2) In paragraph (1), “the appropriate period” has the meaning given in Article 24(2).

(3) Where the appropriate district council proposes to exercise its powers under paragraph (1), it may authorise a person to enter the dwelling-house in accordance with Article 27(2).

(4) Subject to paragraph (5), any expenses incurred by the appropriate district council under this Article, together with interest at the prescribed rate from the date when a demand for the expenses is served until payment, may be recovered by the council summarily as a civil debt from the person upon whom the notice was served.

(5) Where the appropriate district council claims to recover any expenses from a person as being the person upon whom the notice was served and that person proves that he—

- (a) is receiving the rent merely as agent or trustee for some other person, and

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(b) has not, and since the date of the service on him of the demand has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the council, his liability shall be limited to the total amount of the money which he has, or has had, in his hands.

(6) Any expenses and interest due to the appropriate district council under this Article shall, until recovered, be deemed to be charged on and payable out of the estate of the person responsible in the land, in relation to which they have been incurred.

(7) For the purposes of paragraph (6)–

- (a) where a notice of unfitness was served under Article 18(1) or a notice of disrepair was served under Article 19(1), the estate of the person responsible is the estate of the landlord and of any person deriving title from him; and
- (b) where a notice of unfitness was served under Article 18(2) or a notice of disrepair was served under Article 19(2), the estate in the land of the person responsible is the estate of the owner of the building and of any person deriving title from him.

(8) The charge created by paragraph (6) shall be enforceable in all respects as if it were a valid mortgage by deed created in favour of the appropriate district council by the person on whose estate the charge has been created (with, where necessary, any authorisation or consent required by law) and the appropriate district council may exercise the powers conferred by sections 19, 21 and 22 of the Conveyancing Act 1881 on mortgages by deed accordingly.

(9) There shall be included among the matters required to be registered in the Statutory Charges Register any charge created under paragraph (6).

(10) An application for registration of such a charge shall be made by the appropriate district council within 2 months from the date when a demand is served under paragraph (4).

Power to require payment for enforcement action

26.—(1) The appropriate district council may require a person upon whom a notice of unfitness or a notice of disrepair has been served to make such reasonable payment as it considers appropriate in respect of the administrative and other expenses incurred by it in connection with serving the notice.

(2) The expenses are those incurred in–

- (a) determining whether to serve the notice,
- (b) identifying the works to be specified in the notice, and
- (c) serving the notice.

(3) The amount of the payment shall not exceed such amount as the Department may specify by order made subject to negative resolution.

(4) Where a court allows an appeal against a notice of unfitness or notice of disrepair, it may make such order as it thinks fit reducing, quashing or requiring reimbursement of any payment under this Article in respect of the notice.

(5) Nothing in Article 25 shall prejudice the power of a district council to require a payment under this Article.

Power to enter dwelling-houses

27.—(1) A person authorised by the appropriate district council in relation to this paragraph may, at any reasonable time and having given at least 24 hours' notice to the occupier, and to the owner if known, enter a dwelling-house to which this Part applies for the purpose of survey or examination–

- (a) where it appears to the council that survey or examination is necessary in order to determine whether any powers under this Part should be exercised in respect of the dwelling-house; or

(b) where a notice of unfitness or a notice of disrepair has been served in respect of the dwelling-house.

(2) A person authorised by the appropriate district council under Article 25(3) may, at any time and having given at least 6 days' notice of his intention to do so to the occupier, and to the owner if known, enter any dwelling-house for the purpose of doing any work required to be done in relation to the dwelling-house by a notice of unfitness or a notice of disrepair or, as the case may be, by such a notice as varied by the county court under Article 22(3).

(3) An authorisation for the purposes of this Article—

- (a) shall be in writing stating the particular purpose or purposes for which the entry is authorised; and
- (b) shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf.

Obstruction

28. A person, who obstructs—

- (a) an officer of an appropriate district council, or
- (b) a person authorised in pursuance of this Part,

in the performance of functions under this Part, shall be guilty of an offence under this Order.

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