
STATUTORY INSTRUMENTS

2006 No. 1459

The Private Tenancies (Northern Ireland) Order 2006

PART IV

CERTIFICATES OF FITNESS AND RENT CONTROL

CHAPTER III

TENANCIES SUBJECT TO RENT CONTROL

Functions of the rent officer and rent assessment committees

The rent officer and rent assessment committees

41. Schedule 1, which relates to the appointment of the rent officer and the constitution of rent assessment committees, shall have effect.

Determination of an appropriate rent

42.—(1) Where the rent officer is satisfied that a dwelling-house is, or is to be, let under a controlled tenancy the rent officer shall make a determination as to what rent is or would be an appropriate rent under that tenancy.

(2) In making a determination under paragraph (1), the rent officer shall consider all the circumstances (other than personal circumstances).

(3) In particular, the rent officer shall have regard to—

- (a) the terms of the tenancy agreement (except those as to rent) which apply to that controlled tenancy;
- (b) the general condition and state of repair of the dwelling-house, including—
 - (i) any notice of unfitness or notice of disrepair having effect in respect of the dwelling-house, and
 - (ii) the certificate of fitness or notice of refusal having effect in respect of the dwelling-house;
- (c) the rents of dwelling-houses let by the Executive which are comparable, or as comparable as may be, to the dwelling-house in question;
- (d) the level of the local reference rent (as determined in accordance with paragraph 4 of Schedule 1A to the [Housing Benefit \(General\) Regulations \(Northern Ireland\) 1987 \(SR 1987 No. 461\)](#)) of similar dwelling-houses let under similar tenancies; and
- (e) if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture.

(4) For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to

rent) of the controlled tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.

(5) There shall be disregarded—

- (a) any disrepair or other defect attributable to a failure by the tenant, or any predecessor in title of his, to comply with any terms of the tenancy;
- (b) any improvement carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant or any predecessor in title of his.

(6) In paragraph (5) “improvement” includes the replacement of any fixture or fitting.

(7) For the purposes of this Article the rent officer may make such enquiries as he considers appropriate.

Procedure after determination

43.—(1) After making a determination under Article 42, the rent officer shall serve a notice on the landlord and tenant under the tenancy informing each of them—

- (a) of the rent that has been determined, and
- (b) of the right to have the determination considered by a rent assessment committee under Article 44.

(2) If, within the period of 14 days from the date of service of a notice under paragraph (1), the landlord or tenant of the dwelling-house states in writing to the rent officer that he wishes to have the determination considered by a rent assessment committee, the rent officer shall refer the determination to a rent assessment committee.

(3) If, on the expiration of that period, the rent officer has not received a statement as mentioned in paragraph (2), the rent officer shall register the rent determined under Article 42 in the register of rents as an appropriate rent under that tenancy of the dwelling-house.

Consideration by a rent assessment committee

44.—(1) A rent assessment committee shall consider any determination referred to it under Article 43.

(2) Schedule 2, which relates to the procedure to be followed by a rent assessment committee when considering a determination, shall have effect.

(3) Without prejudice to the generality of Article 72, the Department may make regulations with respect to the consideration of a determination by a rent assessment committee, including regulations which contain provisions to modify Schedule 2.

(4) Having considered whether a rent determined under Article 42 is an appropriate rent under a tenancy of a dwelling-house, the rent assessment committee may confirm or vary the determination.

(5) The rent assessment committee shall notify the landlord and the tenant of the dwelling house, and the rent officer, of its decision.

(6) On receiving the notification, the rent officer shall register the rent, as confirmed or varied, in the register of rents as an appropriate rent under that tenancy of the dwelling-house.

Change of circumstances

45.—(1) Where—

- (a) a dwelling-house is let under a controlled tenancy which is a protected tenancy or a statutory tenancy, and

- (b) it appears to the landlord or tenant that there has been such a change in the circumstances relating to the dwelling-house or the tenancy as to make the registered rent no longer an appropriate rent,

the landlord or tenant may apply to the rent officer to have a further determination made in respect of the rent under that tenancy.

(2) An application under paragraph (1) shall be in such form and contain such particulars as may be prescribed.

(3) For the purposes of paragraph (1) but without prejudice to its generality, failure to comply, within the period specified by the appropriate district council, with a notice of unfitness or a notice of disrepair served in respect of a dwelling-house shall constitute a change of circumstances relating to the dwelling-house or tenancy.

(4) On receipt of an application under paragraph (1), the rent officer shall make a further determination of an appropriate rent under the tenancy.

(5) Paragraphs (2) to (6) of Article 42 and Articles 43 and 44 shall apply for the purposes of paragraph (4) of this Article in the same manner as those provisions apply for the purposes of paragraph (1) of Article 42.