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## STATUTORY INSTRUMENTS

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# 2006 No. 1459

## The Private Tenancies (Northern Ireland) Order 2006

### PART VI **N.I.**

#### MISCELLANEOUS

##### *Directions and guidance*

#### **Provision of directions and guidance to district councils **N.I.****

- 62.—(1) The Department may—
- (a) give directions of a general or specific nature, or
  - (b) issue guidance,

to district councils as to the manner in which they are to discharge their functions under this Order and the Rent Order.

(2) Without prejudice to the generality of paragraph (1), the Department may direct any district council to give to the Department, within such period as the Department may specify, such information with respect to the exercise by the council of its functions under this Order and the Rent Order as the Department may require.

(3) A district council shall act in accordance with any directions given under this Article and shall have regard to any guidance so issued.

(4) Any directions or guidance given or issued under this Article may be varied by subsequent directions or guidance.

##### *Information*

#### **Publication of information to assist landlords and tenants **N.I.****

- 63.—(1) The Department and the Executive may publish—
- (a) information as to—
    - (i) the rights and duties of landlords and tenants under this Order and the Rent Order, and
    - (ii) the procedure for enforcing those rights or securing the performance of those duties;
  - (b) such other information for the assistance of landlords and tenants as may appear to the Department and the Executive to be appropriate.

(2) In exercising the function conferred by paragraph (1), the Department and the Executive may act either jointly or individually.

**Collection of information about tenancies** **N.I.**

64.—(1) The Department and the Executive may collect such information as they consider desirable with respect to the terms of the tenancies of such dwelling-houses as they may determine.

(2) In exercising the function conferred by paragraph (1), the Department and the Executive may act either jointly or individually.

VALID FROM 30/06/2011

**[<sup>F1</sup>Disclosure of information for purposes of Parts 2 to 4** **N.I.**

64A.—(1) This Article applies to any relevant information which is held—

- (a) by the Department of Finance and Personnel for the purposes of—
  - (i) its functions under the Rates (Northern Ireland) Order 1977 or the Rates (Capital Values, etc.) (Northern Ireland) Order 2006; or
  - (ii) the administration of housing benefit; or
- (b) by the Northern Ireland Housing Executive for the purposes of the administration of housing benefit.

(2) Relevant information to which this Article applies must, if an authorised officer of the appropriate council so requires, be supplied to that council for the purpose of enabling or assisting that council to exercise its functions under any provision of Part 2, 3 or 4.

(3) Any requirement under paragraph (2) must specify—

- (a) the description of relevant information which is to be supplied;
- (b) the form in which that information is to be supplied; and
- (c) the date by which that information is to be supplied.

(4) This Article—

- (a) does not limit the circumstances in which information may be supplied apart from this Article; but
- (b) has effect despite any restriction on the purposes for which relevant information may be disclosed or used.

(5) In this Article—

“authorised officer”, in relation to a council, means an officer of the council authorised for the purposes of this Article by the council;

“housing benefit” means housing benefit provided by virtue of a scheme under section 122 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“relevant information” means information as to—

- (a) the location, age, size or description of a dwelling-house let under a private tenancy;
- (b) the name and address of the landlord or tenant of such a dwelling-house or of any person acting as an agent of the landlord.

**Textual Amendments**

- F1** Arts. 64A, 64B inserted (30.6.2011) by [Housing \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 22\)](#), ss. 6, 25(1); S.R. 2011/241, [art. 2\(1\)](#), Sch. 1

VALID FROM 30/06/2011

### Unauthorised disclosure of information **N.I.**

**64B.**—(1) An employee of a council commits an offence if he discloses without lawful authority any information—

- (a) which he acquired in the course of his employment;
- (b) which is, or is derived from, information supplied to the council under Article 64A; and
- (c) which relates to a particular dwelling-house or person.

(2) It is not an offence under this Article to disclose information which has previously been disclosed to the public with lawful authority.

(3) It is a defence for a person charged with an offence under this Article to show that at the time of the alleged offence—

- (a) he believed that he was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise; or
- (b) he believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.

(4) A person who is guilty of an offence under this Article shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(5) For the purposes of this Article a disclosure of information is to be regarded as made with lawful authority if, and only if, it is made—

- (a) in accordance with his official duty by an employee of the council;
- (b) in accordance with any statutory provision or order of a court;
- (c) for the purposes of any criminal proceedings; or
- (d) with the consent of the person to whom the information relates.]

### Textual Amendments

**F1** Arts. 64A, 64B inserted (30.6.2011) by [Housing \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 22\)](#), ss. 6, 25(1); S.R. 2011/241, [art. 2\(1\)](#), Sch. 1

### Information as to ownership of dwelling-houses **N.I.**

**65.**—(1) The appropriate district council may, for the purpose of enabling it to serve any notice (including any copy of any notice) which it is by this Order authorised or required to serve, require—

- (a) the occupier of any dwelling-house appearing to the council to be let under a private tenancy, and
- (b) any person appearing to the council to be the owner of such a dwelling-house,

to state in writing the nature of his own estate therein and the name and address of any other person known to him as having an estate therein.

(2) In paragraph (1)(b), “the owner” has the meaning given in Article 15.

(3) Any person who, having been required by the appropriate district council in pursuance of this Article to give to it any information, fails to give that information, or knowingly makes any misstatement in respect thereof, shall be guilty of an offence under this Order.

VALID FROM 03/05/2011

## *[F<sup>2</sup>Registration of landlords*

### Textual Amendments

**F2** [Art. 65A](#) and preceding cross-heading inserted (3.5.2011) by [Housing \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 22\), ss. 7, 25\(2\)](#)

### Registration of landlords **N.I.**

**65A.**—(1) The Department may by regulations provide for the registration of landlords of dwelling-houses let under a private tenancy.

(2) Regulations under this Article may in particular make provision for—

- (a) the appointment of a body or person (“the registrar”) to establish and maintain a register;
- (b) the maintenance of the register, including provision as to the information which is to be included in, or excluded from, the register;
- (c) imposing a requirement to register on all landlords mentioned in paragraph (1), subject to any prescribed exceptions;
- (d) the procedure for registration, including provision about the information to be provided for the purposes of registration;
- (e) the conditions to be satisfied for registration or continued registration;
- (f) the fees (if any) payable for registration or continued registration;
- (g) appeals against decisions of the registrar under the regulations;
- (h) information held by the registrar which is not included in the register to be disclosed to prescribed persons for prescribed purposes.

(3) The registrar must make the register available for public inspection without charge at such place and at such times as the registrar considers appropriate.

(4) A person commits an offence if—

- (a) he provides false information for the purposes of registration under this Article;
- (b) not being a person registered under this Article, he lets a dwelling-house under a private tenancy;
- (c) being a person registered under this Article, he fails to provide evidence of registration in prescribed circumstances.

(5) A person guilty of an offence under paragraph (4)(a) or (b) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) A person guilty of an offence under paragraph (4)(c) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(7) If on an application made to it by a district council, the county court is satisfied that—

(a) a person has been convicted of an offence under paragraph (4)(b), and  
(b) that person is continuing after that conviction to contravene paragraph (4)(b),  
the court may make an order requiring that person to register under this Article within such period not being less than 28 days from the date of the order) as the court may specify.]

*Notices, etc.*

### **Service of notices on landlord's agents** **N.I.**

**66.**—(1) Any document required or authorised by this Order to be served on a landlord of a dwelling-house shall be deemed to be duly served on him if it is served—

- (a) on any agent of the landlord named as such in the rent book; or
- (b) on the person who receives the rent of the dwelling-house.

(2) If—

- (a) the tenant under a private tenancy of a dwelling-house, or
- (b) a district council for the purposes of enabling it to perform any of its functions under this Order,

serves upon any such agent or other person as is referred to in paragraph (1) a notice in writing requiring the agent or other person to disclose to him the full name and place of abode or place of business of the landlord, that agent or other person shall forthwith comply with the notice.

(3) If any such agent or other person as is referred to in paragraph (1) fails or refuses forthwith to comply with a notice served on him under that paragraph, he shall be guilty of an offence under this Order, unless he shows to the satisfaction of the court that he did not know, and could not with reasonable diligence have ascertained, such of the facts required by the notice to be disclosed as were not disclosed by him.

### **Method of serving certain documents** **N.I.**

**67.**

(1) Any document to be served under any of the following provisions of this Order—

- (a) a certificate of fitness or notice of refusal under Article 36, or
- (b) a notice under Article 46(5), 47(3) or 66(2), or paragraph 1(1) of Schedule 2,

may be served by being sent by ordinary post.

(2) In section 24(1) of the Interpretation Act (Northern Ireland) 1954 (c. 33) (service of documents), as it applies to the service by post of such a document, the word “registering” shall be omitted.

*Offences*

### **Prosecution of offences** **N.I.**

**68.**—(1) A person who is guilty of an offence under Article 4(5), 5(4), 24(1), 33(5) or 50(2) or (3) or paragraph 1(2) of Schedule 2 shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) A person who is guilty of an offence under Article 28, 65(3) or 66(3) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Proceedings for any offence under this Order may be instituted by the appropriate district council.

VALID FROM 30/06/2011

**[<sup>F3</sup>Fixed penalty for certain offences N.I.]**

**68A.**—(1) This Article applies where on any occasion an authorised officer of a district council has reason to believe that a person (“P”) has committed—

- (a) an offence under Article 5B(10) or (11); or
- (b) an offence under Article 65A(4).

(2) The authorised officer may give P a notice in the prescribed form offering P the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.

(3) A fixed penalty payable under this Article is payable to the district council whose officer gave the notice.

(4) Where P is given a notice under this Article in respect of an offence—

- (a) no proceedings may be instituted for that offence before the expiration of the period of 14 days, or such other period as may be specified in the notice, following the date of the notice; and
- (b) P may not be convicted of that offence if P pays the fixed penalty before the expiration of that period.

(5) A notice under this Article must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(6) A notice under this Article must also state—

- (a) the period during which, by virtue of paragraph (4), proceedings will not be taken for the offence;
- (b) the amount of the fixed penalty; and
- (c) the person to whom and the address at which the fixed penalty may be paid.

(7) The fixed penalty payable to a district council under this Article in respect of an offence under Article 5B(11) in relation to a tenancy deposit received or required by a landlord is an amount equal to three times the amount of that tenancy deposit.

(8) The fixed penalty payable to a district council under this Article in respect of an offence under Article 5B(10) or 65A(4) is an amount determined by the council, being an amount not exceeding one-fifth of the maximum fine payable on summary conviction of that offence.

(9) In any proceedings a certificate which—

- (a) purports to be signed on behalf of the clerk of the council, and
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(10) A district council may use amounts paid to it in pursuance of notices under this Article only for the purposes of its functions under this Order or such other of its functions as may be prescribed.

(11) In this Article “authorised officer”, in relation to a district council, means an officer of the council who is authorised in writing by the council for the purposes of this Article.]

### Textual Amendments

- F3** Art. 68A inserted (30.6.2011) by [Housing \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 22\), ss. 8, 25\(1\)](#); S.R. 2011/241, [art. 2\(1\)](#), Sch. 1

### General

#### Defective premises **N.I.**

**69.**—(1) The Defective Premises (Landlord's Liability) Act (Northern Ireland) 2001 (c. 10) shall apply, as from the commencement of this Order, to any tenancy which, before that commencement, was a regulated tenancy or a restricted tenancy within the meaning of the Rent Order.

(2) In section 3(1) of that Act (tenancies to which the Act applies), paragraphs (a) and (b) shall be omitted.

(3) In its application to a tenancy mentioned in paragraph (1), section 4 of that Act (interpretation) shall have effect as if for subsection (7) there were substituted—

“(7) In subsection (6)(a) “material time” means the time when Article 69 of the Private Tenancies (Northern Ireland) Order 2006 came into operation.”.

#### Prohibition of agreements excluding Order **N.I.**

**70.** Except as provided by Article 6, this Order shall have effect notwithstanding any agreement to the contrary.

#### Application to Crown property **N.I.**

**71.**—(1) Subject to Article 3(2), this Order shall apply in relation to premises in which there subsists, or at any material time subsisted, a Crown estate as it applies in relation to premises in which no such estate subsists or ever subsisted.

(2) In this Article “Crown estate” means an estate—

- (a) which belongs to the Crown in right of Her Majesty's Government in the United Kingdom or in Northern Ireland; or
- (b) which is held in trust for Her Majesty for the purposes of a government department.

### Supplemental

#### Regulations **N.I.**

**72.**—(1) The Department may make regulations—

- (a) prescribing forms for notices, certificates and other documents required or authorised under this Order;
  - (b) requiring such notices, certificates and documents to contain such information as may be specified in the regulations;
  - (c) prescribing anything which is required by this Order to be prescribed;
  - (d) generally for carrying into effect this Order.
- (2) Subject to paragraph (3), regulations under this Order shall be subject to negative resolution.

(3) Regulations made under Article 44(3), which contain provisions to modify Schedule 2, shall be subject to affirmative resolution.

**Further provision** **N.I.**

**73.**—(1) The Department may by order make such supplementary, incidental or consequential provision as it thinks appropriate—

- (a) for the general purposes, or any particular purpose, of this Order;
- (b) in consequence of any provision made by or under this Order, or for giving full effect to it.

(2) The Department may by order make such transitional or transitory provisions and savings as it considers appropriate in connection with—

- (a) the coming into operation of any provision of this Order; or
- (b) any provision made by an order under paragraph (1).

(3) An order under this Article may modify any statutory provision.

(4) An order under this Article shall be subject to negative resolution.

(5) The powers conferred by this Article are not restricted by any other provision of this Order.

**Minor and consequential amendments** **N.I.**

**74.** The statutory provisions mentioned in Schedule 4 shall have effect with the minor and consequential amendments specified there.

**Repeals** **N.I.**

**75.** Subject to any savings or transitional provisions made by or under this Order, the statutory provisions mentioned in Schedule 5 are repealed to the extent specified there.

**Status:**

Point in time view as at 01/04/2007. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the The Private Tenancies (Northern Ireland) Order 2006, PART VI.