
STATUTORY INSTRUMENTS

1983 No. 1118

The Housing (Northern Ireland) Order 1983

PART II

SECURE TENANTS

[^{F1}CHAPTER I

SALE OF DWELLING-HOUSES BY THE EXECUTIVE

F1 Chapter 1 (arts. 3, 4) substituted for Chapter 1 (arts. 3-23) by 1992/1725 (NI 15), art. 96(1)(2).

[^{F2}House sales scheme

3.—(1) The Executive shall prepare and submit to the Department a scheme to offer for sale or lease to its secure tenants, the dwelling-houses occupied by those tenants.

(2) A scheme submitted under paragraph (1) may contain such provision as the Executive considers appropriate and, without prejudice to the generality of the foregoing, shall include provision with respect to—

- (a) the classes of dwelling-houses to which the scheme applies;
- (b) the manner in which the purchase price of a dwelling-house is to be determined;
- (c) the circumstances in which a purchaser is entitled to a discount of part of the purchase price and the basis upon which that discount is to be calculated;
- (d) the circumstances in which discount may be repayable;
- (e) the condition and covenants to be included in the conveyance or lease of the dwelling-house;
- (f) the terms on which land used for the purposes of a dwelling-house is to be treated as included in the dwelling-house.

(3) A scheme submitted under paragraph (1) shall, if the Department so directs, include provision for the Executive to offer, in such circumstances as the Department may direct, to grant equity-sharing leases in relation to dwelling-houses to which the scheme applies.

(4) The Department may approve a scheme submitted under paragraph (1) with or without modifications.

(5) The Executive shall comply with a scheme approved by the Department under paragraph (4).

(6) The Executive may at any time, and if the Department so directs shall, submit to the Department proposals amending a scheme approved under paragraph (4) or a scheme replacing any such scheme; and paragraphs (3) to (5) shall have effect in relation to those proposals or a scheme replacing an existing scheme as they have effect in relation to a scheme.]

F2 Chapter 1 (arts. 3, 4) substituted for Chapter 1 (arts. 3-23) by 1992/1725 (NI 15), art. 96(1)(2).

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Changes to legislation: There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1983, PART II. (See end of Document for details)

[^{F3}House sales by registered housing associations

3A.—(1) The Department shall make a scheme for registered housing associations to offer for sale or lease to their secure tenants, the dwelling-houses occupied by those tenants.

(2) A scheme made under paragraph (1) may contain such provision as the Department considers appropriate and, without prejudice to the generality of the foregoing, shall include provision with respect to the matters mentioned in sub-paragraphs (a) to (f) of Article 3(2).

(3) A scheme made under paragraph (1) may include provision for registered housing associations to offer, in such circumstances as the scheme may provide, to grant equity-sharing leases in relation to dwelling-houses to which the scheme applies.

(4) Registered housing associations shall comply with a scheme made under paragraph (1).

(5) The Department may at any time amend a scheme made under paragraph (1) or a scheme replacing any such scheme; and paragraphs (2) to (4) shall have effect in relation to an amended scheme or a scheme replacing an existing scheme as they have effect in relation to a scheme.]

F3 2003 NI 2

[^{F4}House sales scheme: supplemental provision

4.—(1) In this Chapter—

“equity-sharing lease” has the meaning given in Article 31(6)(a) of the principal Order;

“purchase price” includes the consideration for the grant of a lease;

“sale” includes sale in consideration of a fee farm rent, rent charge or similar periodic payment; and

“secure tenant” has the meaning given in Article 24(1).

(2) Chapter I of Part I of, and Schedules 1 and 1A to, the Order of 1983, as that Chapter and those Schedules had effect immediately before the day of the coming into operation of Article 96 of the Housing (Northern Ireland) Order 1992 shall, notwithstanding anything in this Article or Part I of Schedule 9 continue to apply where, before that day, a secure tenant has served on the Executive a written notice under Article 7 of the Order of 1983 claiming to exercise the right to buy.

(3) In Article 106(2) of the Order of 1983 (regulations and orders subject to negative resolution) for the words “Article 21, 28(2)(a) or 92(3)” there shall be substituted “ Article 28(2)(a) or 92(3) ”.]

F4 Chapter 1 (arts. 3, 4) substituted for Chapter 1 (arts. 3-23) by 1992/1725 (NI 15), art. 96(1)(2).

CHAPTER II

SECURITY OF TENURE AND RIGHTS OF SECURE TENANTS

Interpretation of Chapter II

24.—(1) In this Chapter—

“improvement” has the meaning given by Article 34(3);

[^{F5}“introductory tenancy” has the same meaning as in Chapter II of Part II of the Housing (Northern Ireland) Order 2003;]

“landlord” has the meaning given by Article 25(2);

- “registered housing association” does not include any such association whose rules—
- (a) restrict membership to persons who are tenants or prospective tenants of the association, and
 - (b) preclude the granting or assignment of tenancies to persons other than^{F6} members];
- “rental period” means a period in respect of which a payment of rent falls to be made;
- “secure tenant” means the tenant under a secure tenancy, and
- “secure tenancy” has the meaning given in Article 25;
- “successor” has the meaning given by paragraphs (4) and (5) of Article 26;
- “term”, in relation to a secure tenancy, includes a condition of the tenancy.

(2) For the purposes of this Chapter—

- (a) a dwelling-house may be a house or part of a house;
- (b) land let together with a dwelling-house shall be treated as part of the dwelling-house unless the land is agricultural land exceeding two acres;

and in this paragraph “agricultural land” has the meaning set out in paragraph 1(a) of Schedule 1 to the Rates (Northern Ireland) Order 1977.

(3) A person is a member of another's family within the meaning of this Chapter if he is his spouse^{F7}, civil partner], parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece; treating—

- (a) any relationship by marriage^{F7} or civil partnership] as a relationship by blood, any relationship of the half blood as a relationship of the whole blood and the stepchild of any person as his child; and
- (b) an illegitimate person as the legitimate child of his mother and reputed father;

or if they live together as husband and wife^{F7} or as if they were civil partners].

F5	2003 NI 2
F6	1986 NI 13
F7	2004 c.33

Secure tenancies

Secure tenancies

25.—(1) A tenancy under which a dwelling-house is let as a separate dwelling is a secure tenancy at any time when the conditions described below as the landlord condition and the tenant condition are satisfied, but subject to the exceptions in Schedule 2.

(2) The landlord condition is that the estate of the landlord belongs to—

- (a) the Executive; or
- (b) a registered housing association;

and in this Chapter references to the landlord mean any body which fulfils the landlord condition.

(3) The tenant condition is that the tenant is an individual and occupies the dwelling-house as his only or principal home; or where the tenancy is a joint tenancy, that each of the joint tenants is an individual and at least one of them occupies the dwelling-house as his only or principal home.

Status: Point in time view as at 01/01/2006.

Changes to legislation: There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1983, PART II. (See end of Document for details)

Succession on death of tenant

26.—(1) Where on the death of the tenant under a secure tenancy there is a person qualified to succeed him, the tenancy vests by virtue of this Article in that person or, if there is more than one such person, in the one who is to be preferred in accordance with paragraph (3), unless the tenant was a successor.

(2) A person is qualified to succeed the tenant under a secure tenancy if he occupied the dwelling-house as his only or principal home at the time of the tenant's death and either—

- (a) he is the tenant's spouse^[F8] or civil partner]; or
- (b) he is another member of the tenant's family and has resided with the tenant throughout the period of twelve months ending with the tenant's death.

(3) Where there is more than one person qualified to succeed the tenant—

- (a) the tenant's spouse^[F8] or civil partner] is to be preferred to another member of the tenant's family; and
- (b) of two or more other members of the tenant's family such of them is to be preferred as may be agreed between them or as may, where there is no such agreement, be selected by the landlord.

(4) ^[F9]Subject to^[F8] paragraphs (4A) and (4B)] the tenant under a secure tenancy is a successor if—

- (a) the tenancy vested in him by virtue of paragraph (1); or
- (b) he was a joint tenant and has become the sole tenant; or
- (c) he became the tenant on the tenancy being assigned to him or on its being vested in him on the death of the previous tenant;^[F10] or
- (d) the tenancy was previously an introductory tenancy and he was a successor to the introductory tenancy.]

^{F9} . . .

^[F9](4A) A tenant to whom the tenancy was assigned in pursuance of an order under Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978 is a successor only if the other party to the marriage was himself a successor; and a tenant to whom the tenancy was assigned by virtue of Article 32A is a successor only if he was a successor in relation to the tenancy which he himself assigned by virtue of that Article.]

^[F8](4B) A tenant to whom the tenancy was assigned in pursuance of an order under any of the following provisions of the Civil Partnership Act 2004—

- (a) Part 2 of Schedule 15; or
- (b) paragraph 9(2) or (3) of Schedule 17,

is a successor only if the other civil partner was a successor.]

(5) Where within six months of the coming to an end of a secure tenancy (in this paragraph referred to as the former tenancy) the tenant becomes a tenant under another secure tenancy; and—

- (a) the tenant was a successor in relation to the former tenancy; and
- (b) under the other tenancy either the dwelling-house or the landlord is or both are the same as under the former tenancy;

the tenant is a successor also in relation to the other tenancy, unless the agreement creating the other tenancy otherwise provides.

F8 2004 c.33

F9 1986 NI 13

F10 2003 NI 2

Security of tenure

27.—(1) Subject to Articles 41 and 42, a secure tenancy cannot be brought to an end by the landlord except by obtaining an order of the court for the possession of the dwelling-house.

(2) Where the landlord obtains an order of the court for the possession of the dwelling-house the tenancy ends on the date on which the tenant is to give up possession in pursuance of the order.

(3) Where a tenant of a dwelling-house let under a secure tenancy wishes to terminate the tenancy he must—

- (a) notify the landlord of his intention to do so; and
- (b) specify a date, not being a date less than four weeks from the date of notification, on which the tenancy is to terminate.

[^{F11}Proceedings for possession: notice requirements

28.—(1) The court shall not entertain proceedings for the possession of a dwelling-house let under a secure tenancy unless—

- (a) the landlord has served a notice on the tenant complying with the provisions of this Article, or
- (b) the court considers it just and equitable to dispense with the requirement of such a notice.

(2) A notice under this Article shall—

- (a) be in a form prescribed by regulations made by the Department,
- (b) specify the ground on which the court will be asked to make an order for the possession of the dwelling-house, and
- (c) give particulars of that ground.

(3) Where the ground or one of the grounds specified in the notice is Ground 2 in Schedule 3 (nuisance or other anti-social behaviour), the notice—

- (a) shall also—
 - (i) state that proceedings for the possession of the dwelling-house may be begun immediately, and
 - (ii) specify the date sought by the landlord as the date on which the tenant is to give up possession of the dwelling-house, and
- (b) ceases to be in force twelve months after the date so specified.

(4) Where Ground 2 in Schedule 3 is not specified in the notice, the notice—

- (a) shall also specify the date after which proceedings for the possession of the dwelling-house may be begun, and
- (b) ceases to be in force twelve months after the date so specified.

(5) The date specified in accordance with paragraph (3) or (4) must not be earlier than the date on which the tenancy could, apart from this Part, be brought to an end by notice to quit given by the landlord on the same date as the notice under this Article.]

F11 2003 NI 2

Status: Point in time view as at 01/01/2006.

Changes to legislation: There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1983, PART II. (See end of Document for details)

[^{F12}Additional requirements in relation to certain proceedings for possession

28A.—(1) Where a notice under Article 28 has been served on a tenant containing the information mentioned in paragraph (3)(a) of that Article, the court shall not entertain proceedings for the possession of the dwelling-house unless they are begun at a time when the notice is still in force.

(2) Where—

- (a) a notice under Article 28 has been served on a tenant, and
- (b) a date after which proceedings may be begun has been specified in the notice in accordance with paragraph (4)(a) of that Article,

the court shall not entertain proceedings for the possession of the dwelling-house unless they are begun after the date so specified and at a time when the notice is still in force.

(3) Where—

- (a) the ground or one of the grounds specified in a notice under Article 28 is Ground 2A in Schedule 3 (domestic violence), and
- (b) the partner who has left the dwelling-house as mentioned in that ground is not a tenant of the dwelling-house,

the court shall not entertain proceedings for the possession of the dwelling-house unless it is satisfied that the landlord has served a copy of the notice on the partner who has left or has taken all reasonable steps to serve a copy of the notice on that partner.

This paragraph has effect subject to paragraph (5).

(4) Where—

- (a) Ground 2A in Schedule 3 is added to a notice under Article 28 with the leave of the court after proceedings for possession are begun, and
- (b) the partner who has left the dwelling-house as mentioned in that ground is not a party to the proceedings,

the court shall not continue to entertain the proceedings unless it is satisfied that the landlord has served a notice under paragraph (6) on the partner who has left or has taken all reasonable steps to serve such a notice on that partner.

This paragraph has effect subject to paragraph (5).

(5) Where paragraph (3) or (4) applies and Ground 2 in Schedule 3 (nuisance or other anti-social behaviour) is also specified in the notice under Article 28, the court may dispense with the requirements as to service in relation to the partner who has left the dwelling-house if it considers it just and equitable to do so.

(6) A notice under this paragraph shall—

- (a) state that proceedings for the possession of the dwelling-house have begun,
- (b) specify the ground or grounds on which possession is being sought, and
- (c) give particulars of the ground or grounds.]

F12 2003 NI 2

Grounds and orders for possession

29.—(1) The court shall not make an order for the possession of a dwelling-house let under a secure tenancy except on one or more of the grounds set out in Part I of Schedule 3^{F13}. . . .

(2) The court shall not make the order—

- (a) on any of grounds 1 to 6, unless the condition in paragraph (3)(a) is satisfied;

- (b) on ground 7, unless the condition in paragraph (3)(b) is satisfied; and
 - (c) on any of grounds 8 to 11, unless both those conditions are satisfied.
- (3) The conditions are—
- (a) that the court considers it reasonable to make the order; and
 - (b) that the court is satisfied that suitable accommodation will be available for the tenant when the order takes effect.

[^{F14}(3A) The matters to be taken into account by the court in determining whether it is reasonable to make an order on ground 11 shall include—

- (a) the age of the tenant;
- (b) the period during which the tenant has occupied the dwelling#house as his only or principal home; and
- (c) any financial or other support given by the tenant to the previous tenant.]

[^{F13}(3B) Where a notice under Article 28 has been served on the tenant, the court shall not make such an order on any of the grounds set out in Part I of Schedule 3 unless the ground is specified in the notice; but the grounds so specified may be altered or added to with the leave of the court.

(3C) Where a date is specified in a notice under Article 28 in accordance with paragraph (3) of that Article, the court shall not make an order which requires the tenant to give up possession of the dwelling-house in question before the date so specified.]

(4) Part II of Schedule 3 has effect for determining whether suitable accommodation will be available for a tenant.

F13 2003 NI 2
F14 1986 NI 13

Terms of a secure tenancy

Subletting and lodgers

30.—(1) It is by virtue of this Article a term of every secure tenancy that the tenant may allow any persons to reside as lodgers in the dwelling-house.

(2) It is by virtue of this Article a term of every secure tenancy that the tenancy will not, without the written consent of the landlord, sublet or part with the possession of part of the dwelling-house.

(3) The consent required by virtue of this Article is not to be unreasonably withheld and, if unreasonably withheld, shall be treated as given.

(4) An application for the landlord's consent required by virtue of paragraph (2) shall be in writing.

Provisions as to consents required by Article 30

31.—(1) If any question arises whether the withholding of a consent was unreasonable it is for the landlord to show that it was not; and in determining that question the following matters, if shown by the landlord, are among those to be taken into account, namely—

- (a) that the consent would lead to overcrowding of the dwelling-house; and
- (b) that the landlord proposes to carry out works on the dwelling-house or on the building of which it forms part and that the proposed works will affect the accommodation likely to be used by the sub-tenant who would reside in the dwelling-house as a result of the consent.

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(2) A consent may be validly given notwithstanding that it follows, rather than precedes, the action requiring it.

(3) A consent cannot be given subject to a condition, and if purporting to be given subject to a condition shall be treated as given unconditionally.

(4) Where the tenant has applied for a consent then—

(a) if the landlord refuses to give the consent it shall give to the tenant a written statement of the reasons why the consent was refused; and

(b) if the landlord neither gives nor refuses to give the consent within a reasonable time the consent shall be taken to have been withheld.

(5) In this Article a “consent” means a consent which is required by virtue of Article 30.

Assignments

32.—(1) A secure tenancy, or a tenancy to which paragraph (2) applies, shall not be capable of being assigned unless—

(a) the assignment is made in pursuance of an order made under Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978; or

[^{F15}(aa) the assignment is made in pursuance of an order made under Part 2 of Schedule 15, or paragraph 9(2) or (3) of Schedule 17, to the Civil Partnership Act 2004; or]

(b) the assignment is to a person in whom the tenancy would or might have been vested by virtue of Article 26 had the tenant died immediately before the assignment[^{F16} or]

[^{F16}(c) the assignment is made in pursuance of Article 32A.]

(2) This paragraph applies to any tenancy which would be a secure tenancy if the condition described in Article 25(3) as the tenant condition were satisfied.

F15 2004 c.33

F16 1986 NI 13

[^{F17}Assignments by way of exchange

32A.—(1) It is by virtue of this Article a term of every secure tenancy that the tenant may, with the written consent of the landlord, assign the tenancy to a person to whom this paragraph applies; and this paragraph applies to any person who is the tenant under a secure tenancy and has the written consent of the landlord to assign the tenancy either to the first mentioned tenant or to another person to whom this paragraph applies.

(2) The consent required by virtue of this Article is not to be withheld except on one or more of the grounds set out in Schedule 3A and, if withheld otherwise than on one of those grounds, shall be treated as given.

(3) The landlord shall not be entitled to rely on any of the grounds set out in Schedule 3A unless, within 42 days of the tenant's application for the consent, the landlord has served on the tenant a notice specifying that ground and giving particulars of it.

(4) Where any rent lawfully due from the tenant has not been paid or any obligation of the tenancy has been broken or not performed, the consent required by virtue of this Article may be given subject to a condition requiring the tenant to pay the outstanding rent, remedy the breach or perform the obligation.

(5) Except as provided by paragraph (4), a consent required by this Article cannot be given subject to a condition, and any condition imposed otherwise than as so provided shall be disregarded.]

F17 1986 NI 13

Other disposals

33.—(1) If the tenant under a secure tenancy parts with the possession of the dwelling-house or sublets the whole of it (or sublets part and then the remainder) the tenancy ceases to be a secure tenancy.

(2) Where, on the death of the tenant, a secure tenancy is vested or otherwise disposed of in the course of the administration of his estate, the tenancy ceases to be a secure tenancy unless—

(a) the vesting or other disposal is in pursuance of an order made under Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978; or

[^{F18}(aa) the vesting or other disposal is in pursuance of an order made under Part 2 of Schedule 15, or paragraph 9(2) or (3) of Schedule 17, to the Civil Partnership Act 2004; or]

(b) the vesting or other disposal is to a person in whom the tenancy would or might have vested by virtue of Article 26.

(3) Where—

(a) a tenancy ceases to be a secure tenancy by virtue of this Article; or

(b) in the case of a tenancy which would be a secure tenancy if the condition described in Article 25(3) as the tenant condition were satisfied, the tenant parts with the possession of the dwelling-house or sublets the whole of it (or sublets first part of it and then the remainder),

the tenancy cannot become a secure tenancy.

F18 2004 c.33

Tenant's improvements

34.—(1) It is by virtue of this Article a term of every secure tenancy that the tenant will not make any improvement without the written consent of the landlord.

(2) An application for the consent required by virtue of paragraph (1) shall be in writing and such consent—

(a) is not to be unreasonably withheld; and

(b) if unreasonably withheld, shall be treated as given.

(3) In this Chapter “improvement” means any alteration in, or addition to, a dwelling-house and includes—

(a) any addition to, or alteration in, landlord's fixtures and fittings and any addition or alteration connected with the provision of any services to a dwelling-house; and

(b) the carrying out of external decoration.

(4) If any question arises whether the withholding of a consent required by virtue of paragraph (1) was unreasonable it is for the landlord to show that it was not; and in determining that question the court shall, in particular, have regard to the extent to which the improvement would be likely—

(a) to make the dwelling-house, or any other premises, less safe for occupiers;

(b) to cause the landlord to incur expenditure which it would be unlikely to incur if the improvement were not made; or

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- (c) to reduce the price which the dwelling-house would fetch if sold on the open market or the rent which the landlord would be able to charge on letting the dwelling-house.
- (5) A consent required by virtue of paragraph (1) may be validly given notwithstanding that it follows, rather than precedes, the action requiring it and may be given subject to a condition.
- (6) Where the tenant has applied for a consent which is required by paragraph (1) then—
 - (a) if the landlord refuses to give the consent it shall give to the tenant a written statement of the reasons why the consent was refused; and
 - (b) if the landlord neither gives nor refuses to give the consent within a reasonable time, the consent shall be taken to have been withheld, and if the landlord gives the consent but subject to an unreasonable condition, the consent shall be taken to have been unreasonably withheld.
- (7) If any question arises whether a condition attached to a consent was reasonable, it is for the landlord to show that it was.
- (8) Any failure by the tenant to satisfy any reasonable condition imposed by the landlord in giving consent to an improvement which the tenant proposes to make, or has made, shall be treated for the purposes of this Chapter as a breach by the tenant of an obligation of his tenancy.

[^{F19}Right to compensation for improvements

34A.—(1) The duty imposed by this Article shall apply in relation to cases where a secure tenant whose landlord is the Executive has made an improvement and—

- (a) the Executive has given its written consent to the improvement or is treated as having given its consent; and
- (b) the work on the improvement was begun not earlier than the date of the coming into operation of Article 132 of the Housing (Northern Ireland) Order 2003; and
- (c) at the time when the tenancy comes to an end the landlord is the Executive and the tenancy is a secure tenancy.

(2) The Executive shall prepare and submit to the Department a scheme for entitling a secure tenant whose landlord is the Executive—

- (a) at the time when the tenancy comes to an end; and
- (b) subject to and in accordance with the scheme,

to be paid compensation by the Executive in respect of the improvement.

(3) A scheme submitted under paragraph (2) may contain such provision as the Executive thinks appropriate and, without prejudice to the generality of the foregoing, shall include provision with respect to—

- (a) the types of improvement to which the scheme applies;
- (b) the manner in which and the period within which claims for compensation under the scheme are to be made, and the procedure to be followed in determining such claims;
- (c) the conditions under which compensation shall not be payable;
- (d) the method by which sums of compensation payable under the scheme are to be calculated;
- (e) the minimum and maximum amounts of compensation payable in respect of any claim for compensation; and
- (f) the circumstances in which the Executive may set off against any compensation payable under the scheme any sums owed to it by the tenant to whom compensation is payable.

(4) The Department may approve a scheme submitted under paragraph (2) with or without modifications.

(5) The Executive shall comply with a scheme approved by the Department under paragraph (4).

(6) The Executive may at any time, and if the Department so directs shall, submit to the Department proposals amending a scheme approved under paragraph (4) or a scheme replacing any such scheme; and paragraphs (4) and (5) shall have effect in relation to those proposals or a scheme replacing an existing scheme as they have effect in relation to a scheme.

(7) For the purposes of this Article a tenancy shall be treated as coming to an end if—

- (a) it ceases to be a secure tenancy by reason of the landlord condition no longer being satisfied, or
- (b) it is assigned, with the consent of the landlord, to a person to whom Article 32A(1) applies.]

F19 2003 NI 2

Reimbursement of costs of tenant's improvements

35.—(1) This Article applies where a secure tenant has made an improvement and—

- (a) the landlord, or a predecessor in title of the landlord, has given its written consent to the improvement or is treated as having given its consent; and
- (b) work on the improvement was begun not earlier than the date of coming into operation of this Order; and
- (c) the improvement has materially added to the price which the dwelling-house may be expected to fetch if sold on the open market or the rent which the landlord may be expected to be able to charge on letting the dwelling-house.

(2) Where this Article applies, the landlord^[F20] may] (in addition to any other power^[F20] or duty] to make such payments) make, at or after the end of the tenancy, such payment to the tenant (or his personal representatives) in respect of the improvement as the landlord considers to be appropriate.

(3) The amount of any payment under paragraph (2) in respect of an improvement must not exceed the cost, or likely cost, of the improvement after deducting the amount of any grant in respect of that improvement under Part III.

F20 2003 NI 2

Rent not to be increased on account of tenant's improvements

36.—(1) Where a person who is or was the secure tenant of a dwelling-house has lawfully made an improvement and has borne or would, but for a grant under Part III, have borne, the whole or part of its cost, then in determining—

- (a) at any time whilst he is a secure tenant of that dwelling-house; or
- (b) if he has died and on his death the tenancy vested in a person qualified to succeed him under Article 26, at any time whilst that person or his spouse is a secure tenant of the dwelling-house;]^[F21] or]
- ^[F21](c) if he has assigned the tenancy and the assignment was made as mentioned in sub# paragraph (a) or (b) of Article 32(1), at any time whilst the assignee is a secure tenant of that dwelling#house; or
- ^[F22](d) if the tenancy has been transferred to a spouse, former spouse,^[F23] civil partner, former civil partner,] cohabitee or former cohabitee of his by an order made under Schedule 1 to the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 or Schedule 2

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to the Family Homes and Domestic Violence (Northern Ireland) Order 1998, at any time whilst the transferee is a secure tenant of that dwelling#house;]]

whether or to what extent to increase the rent, the landlord shall treat the improvement as justifying only such part of any increase which would otherwise be attributable to the improvement as corresponds to the part of the cost which neither has nor would have been so borne (and accordingly as not justifying an increase if the whole of the cost has or would have been so borne).

(2) Paragraph (1) does not apply to any increase attributable to rates.

F21 [1986 NI 13](#)

F22 [1998 NI 6](#)

F23 [2004 c.33](#)

Variation of terms of secure tenancy

37.—(1) The terms of a secure tenancy may be varied in accordance with the provisions of this Article but not otherwise.

(2) This Article does not apply to any term of a tenancy which is implied by any statutory provision (including this Order).

(3) The variation may be effected—

- (a) by agreement between the landlord and the tenant;
- (b) to the extent only that it relates to rent or to payments in respect of rates or services, by the landlord or the tenant in accordance with any provision in the lease or agreement creating the tenancy or in any agreement varying it; or
- (c) by the landlord by a notice of variation served on the tenant.

(4) A notice of variation must specify the variation effected by it and the date on which it takes effect; and the period between the date on which it is served and the date on which it takes effect must not be shorter than four weeks.

(5) Before serving a notice of variation on the tenant the landlord shall—

- (a) serve on him a preliminary notice informing him of the landlord's intention to serve a notice of variation, specifying the variation proposed to be effected and its effect and inviting him to comment on the proposed variation within such time, to be specified in the notice, as the landlord considers reasonable; and
- (b) consider any comment made by the tenant within the time specified in the preliminary notice;

and when the notice of variation is served it must be accompanied by such information as the landlord considers necessary to inform the tenant of the nature and effect of the variation.

(6) Paragraph (5) does not apply to a variation—

- (a) of the rent or of payments in respect of services or facilities provided by the landlord; or
- (b) of payments in respect of rates.

(7) Where a notice of variation is served on the tenant and the tenant, before the date specified in it, gives a valid notice to quit under Article 27(3), the notice of variation does not take effect unless the tenant, with the written agreement of the landlord, withdraws his notice to quit before that date.

(8) References in this Article to variation include addition and deletion; and for the purposes of this Article the conversion of a monthly or fortnightly tenancy into a weekly, or a weekly into a monthly or fortnightly tenancy is a variation of a term of the tenancy, but a variation of the premises let under a tenancy is not.

Provision of information about tenancies

38.—(1) The landlord shall, within two years of the coming into operation of this Order and thereafter from time to time, publish information about its secure tenancies in such form as it considers best suited to explain in simple terms and so far as it considers appropriate, the effect of—

- (a) the express terms of its secure tenancies;
- (b) the provisions of this Part in so far as they apply.

(2) The landlord shall ensure that, so far as is reasonably practicable, the information published under paragraph (1) is kept up to date.

(3) The landlord under a secure tenancy shall supply the tenant—

- (a) with a copy of the information for secure tenants published by it under paragraph (1); and
- (b) with a written statement of the terms of the tenancy, so far as they are neither expressed in the lease or written tenancy agreement, if any, nor implied by law.

(4) The statement required by paragraph (3)(b) shall be supplied—
[^{F24}when the tenancy arises or as soon as practicable afterwards]

F24 2003 NI 2

[^{F25}Other rights of secure tenants

F25 1986 NI 13

[^{F26}Right to have repairs carried out

38A.—(1) The Executive shall prepare and submit to the Department a scheme for entitling secure tenants of the Executive to have qualifying repairs carried out, at the Executive's expense, to the dwelling-houses of which they are secure tenants.

(2) A scheme submitted under paragraph (1) may contain such provision as the Executive thinks appropriate and, without prejudice to the foregoing, shall include provision with respect to—

- (a) the period of time within which the repairs must be carried out;
- (b) the payment of sums to tenants by way of compensation where the repairs are not carried out within the period of time specified in the scheme;
- (c) the method by which sums of compensation payable under the scheme are to be calculated; and
- (d) the circumstances in which the Executive may set off against any compensation payable under the scheme any sums owed to it by the tenant to whom compensation is payable.

(3) The Department may approve a scheme submitted under paragraph (1) with or without modifications.

(4) The Executive shall comply with a scheme approved by the Department under paragraph (3).

(5) The Executive may at any time, and if the Department so directs shall, submit to the Department proposals amending a scheme approved under paragraph (3) or a scheme replacing any such scheme; and paragraphs (3) and (4) shall have effect in relation to those proposals or a scheme replacing an existing scheme as they have effect in relation to a scheme.

(6) Any question arising under a scheme approved under paragraph (3) may be referred to and determined by the county court.

Status: Point in time view as at 01/01/2006.

Changes to legislation: There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1983, PART II. (See end of Document for details)

(7) In this Article—

“qualifying repair”, in relation to a dwelling-house, means any repair of a description specified in a scheme approved under paragraph (3) which the Executive is obliged by a repairing covenant to carry out;

“repairing covenant”, in relation to a dwelling-house, means a covenant (whether express or implied) obliging the Executive to keep in repair the dwelling-house or any part of the dwelling-house.]]

F26 2003 NI 2

Housing management

Provision of information about housing allocation

39.—(1) The landlord shall publish a summary of its rules—

- (a) for determining the order in which prospective tenants or occupiers of the landlord's dwelling-houses are to be granted tenancies or licences of those houses; and
- (b) governing cases where secure tenants wish to move (whether or not by way of an exchange of dwelling-houses) to other dwelling-houses let under secure tenancies by that landlord or by another landlord.

(2) The landlord shall—

- (a) maintain a set of the rules referred to in paragraph (1) and of the rules which it has laid down governing the procedure to be followed in allocating housing accommodation; and
- (b) make such rules available for inspection at all reasonable hours without charge by members of the public—
 - (i) in the case of the Executive, at its district offices, and
 - (ii) in the case of a registered housing association, at its registered office.

(3) A registered housing association shall also send a copy of the rules referred to in paragraph (2)

(a) to the Department.

(4) A copy of any summary published under paragraph (1) shall be furnished without charge, and a copy of any set of rules maintained under paragraph (2) shall be furnished on payment of a reasonable fee, to any member of the public who asks for one.

(5) At the request of any person who has applied to it for housing accommodation, the landlord shall make available to him, at all reasonable times and without charge, details of the particulars which he has given to the landlord about himself and his family and which the landlord has recorded as being relevant to his application for accommodation.

Consultation with secure tenants

40.—(1) Before making any decision in relation to any matter of housing management, the landlord shall consult those of its secure tenants affected by the matter.

(2) For the purposes of paragraph (1) a matter is one of housing management if, in the opinion of the landlord, it—

- (a) relates to the management, maintenance, improvement or demolition of dwelling-houses let by the landlord under secure tenancies, or to the provision of services or amenities in connection with such dwelling-houses; and

- (b) represents a new programme of maintenance, improvement or demolition or a change in the practice or policy of the landlord; and
 - (c) is likely substantially to affect its secure tenants as a whole or a group of them.
- (3) A matter is not one of housing management for the purposes of paragraph (1) in so far as it relates to the rent payable under any secure tenancy or to any charge for services or facilities provided by the landlord.
- (4) In paragraph (2) “group” means a group of secure tenants who—
- (a) form a distinct social group; or
 - (b) occupy dwelling-houses which constitute a distinct class (whether by reference to the kind of dwelling-house concerned or the housing estate or other larger area in which they are situated).

Rights of landlord where secure tenancy appears to have been abandoned

- 41.**—(1) Where the landlord under a secure tenancy has reasonable grounds for believing that—
- (a) the dwelling-house is unoccupied, and
 - (b) the tenant does not intend to occupy it as his home,
- the landlord shall be entitled to enter the dwelling-house at any time, for the purpose of making safe the dwelling-house, and any fittings, fixtures or furniture.
- (2) For the purposes of paragraph (1) the landlord and its servants or agents may open, by force if necessary, any door or window of the dwelling-house.
- (3) Where the, landlord—
- (a) has entered a dwelling-house under paragraph (1), and
 - (b) wishes to take possession of the dwelling-house,
- the landlord shall serve on the tenant a notice in the prescribed form—
- (i) stating that it has reason to believe that the dwelling-house is unoccupied and that the tenant does not intend to occupy it as his home;
 - (ii) requiring the tenant to inform it in writing within four weeks of service of the notice if he intends to occupy the dwelling-house as his home; and
 - (iii) informing the tenant that, if it appears to the landlord at the end of the said period of four weeks that the tenant does not intend so to occupy the dwelling-house, the secure tenancy will be terminated forthwith.
- (4) Where the landlord has—
- (a) served on the tenant a notice which complies with paragraph (3); and
 - (b) made such inquiries as may be necessary to satisfy the landlord that the dwelling-house is unoccupied and that the tenant does not intend to occupy it as his home,
- and at the end of the period of four weeks mentioned in paragraph (3) is so satisfied, it may serve a further notice on the tenant which shall bring the tenancy to an end forthwith.
- (5) Where a tenancy has been terminated under paragraph (4) the landlord shall be entitled to take possession of the dwelling-house forthwith without any further proceedings.
- (6) The Department may by order make provision for the landlord to ensure the safe custody and delivery to the tenant of any property which is found in a dwelling house to which this Article applies; and in particular—
- (a) for requiring charges to be paid in respect of such property before it is delivered to the tenant; and

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Changes to legislation: There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1983, PART II. (See end of Document for details)

- (b) for authorising the disposal of such property, if the tenant has not arranged for its delivery to him before the expiry of such period as the order may specify and the application of any proceeds towards any costs incurred by the landlord and any rent due but unpaid by the tenant to the landlord.

Tenant's right of appeal against termination of tenancy under Article 41

42.—(1) A tenant under a secure tenancy who is aggrieved by termination of the tenancy by the landlord under Article 41 may appeal to the court within six months after the date of the termination.

(2) Where in proceedings under paragraph (1) it appears to the court that—

- (a) the landlord has failed to comply with any provision of Article 41; or
- (b) the landlord did not have reasonable grounds for finding that the dwelling-house was unoccupied, or did not have reasonable grounds for finding that the tenant did not intend to occupy it as his home; or
- (c) the landlord was in error in finding that the tenant did not intend to occupy the dwelling-house as his home, and the tenant had reasonable cause, by reason of illness or otherwise, for failing to notify the landlord of his intention so to occupy it,

the court shall—

- (i) where the dwelling-house has not been let to a new tenant, make an order that the secure tenancy shall continue; or
- (ii) in any other case, direct the landlord to make other suitable accommodation available to the tenant.

(3) Part II of Schedule 3 shall have effect to determine whether accommodation is suitable for the purposes of paragraph (2)(ii).

Article 43 rep. by 1989 NI 4

Miscellaneous

Application to existing tenancies

44. This Chapter applies to tenancies granted before as well as tenancies granted after the coming into operation of this Order.

Application to licences

45.—(1) Where a person who is not the tenant of a dwelling-house has a licence (whether or not granted for a consideration) to occupy the dwelling-house and the circumstances are such that, if the licence were a tenancy, it would be a secure tenancy, then, subject to paragraph (2), this Part applies to the licence as it applies to a secure tenancy and, as so applying, has effect as if expressions appropriate to a licence were substituted for “landlord”, “tenant”, “tenancy” and “secure tenancy”.

(2) Paragraph (1) does not apply to a licence which was granted to a person who entered the dwelling-house or any other land as a trespasser (whether or not before the grant another licence to occupy that or another dwelling house had been granted to him).

CHAPTER III JURISDICTION

Jurisdiction of county court

46.—(1) ^{F27} . . . , a county court has jurisdiction to determine any question arising under Chapter^{F27} . . . II of this Part and to entertain any proceedings brought thereunder and any claim (for whatever amount) in connection with a secure tenancy.

(2) The jurisdiction conferred by this Article includes jurisdiction to entertain proceedings on^{F27} . . . any question—

(a) whether any consent required by Article 30 or Article 34 was withheld or unreasonably withheld; or

[^{F28}(aa) whether any consent required by Article 32A was withheld otherwise than on one or more of the grounds set out in Schedule 3A;]

(b) whether a statement supplied in pursuance of Article 38(3)(b) is accurate;

notwithstanding that no other relief is sought than a declaration.

(3) If a person take proceedings in the High Court which, by virtue of this Article, he could have taken in the county court he is not entitled to recover any costs.

F27 Chapter 1 (arts. 3, 4) substituted for Chapter 1 (arts. 3-23) by 1992/1725 (NI 15), art. 96(1)(2).

F28 1986 NI 13

Extended discretion of court in certain proceedings for possession

47.—(1) Where proceedings are brought for possession of a dwelling-house let under a secure tenancy on any of grounds 1 to 6 or 8 to 11 in Part I of Schedule 3, the court may adjourn the proceedings for such period or periods as it thinks fit.

(2) On the making of an order for possession of such a dwelling-house on any of those grounds, or at any time before the execution of the order, the court may—

(a) stay or suspend execution of the order, or

(b) postpone the date of the possession,

for such period or periods as the court thinks fit.

(3) On any such adjournment as is referred to in paragraph (1) or any such stay, suspension or postponement as is referred to in paragraph (2), the court shall, unless it considers that to do so would cause exceptional hardship to the tenant or would otherwise be unreasonable, impose conditions with regard to payment by the tenant of arrears of rent (if any) and rent or payments in respect of occupation after termination of the tenancy (mesne profits) and may impose such other conditions as it thinks fit.

(4) If such conditions as are referred to in paragraph (3) are complied with, the court may, if it thinks fit, discharge or rescind the order concerned.

[^{F29}(5) Paragraph (6) applies in any case where—

(a) proceedings are brought for possession of a dwelling house which is let under a secure tenancy;

(b) the[^{F30} tenant's spouse or former spouse, or civil partner or former civil partner, having home rights][^{F31} under the Family Homes and Domestic Violence (Northern Ireland) Order 1998], is then in occupation of the dwelling house; and

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(c) the tenancy is, or may be, terminated as a result of those proceedings.

(6) In any case to which this paragraph applies, the spouse or former spouse^{F30}, or the civil partner or former civil partner] shall, so long as he or she remains in occupation, have the same rights in relation to, or in connection with, any such adjournment as is referred to in paragraph (1) or any such stay, suspension or postponement as is referred to in paragraph 2, as he or she would have if^{F30} those home rights] were not affected by the termination of the tenancy.]

^{F31}(7) Paragraph (8) applies in any case where—

- (a) proceedings are brought for possession of a dwelling-house which is let under a secure tenancy;
- (b) an order is in force under Article 13 of the Family Homes and Domestic Violence (Northern Ireland) Order 1998 conferring rights on the^{F30} former spouse or former civil partner of the tenant] or an order is in force under Article 14 of that Order conferring rights on a cohabitee or former cohabitee (within the meaning of that Order) of the tenant;
- (c) that former spouse^{F30} former civil partner], cohabitee or former cohabitee is then in occupation of the dwelling-house; and
- (d) the tenancy is or may be terminated as a result of those proceedings.

(8) In any case to which this paragraph applies, the former spouse,^{F30} former civil partner,] cohabitee or former cohabitee shall, so long as he or she remains in occupation, have the same rights in relation to, or in connection with, any such adjournment as is referred to in paragraph (1) or any such stay, suspension or adjournment as is referred to in paragraph (2), as he or she would have if the rights conferred by the order referred to in paragraph (7)(b) were not affected by the termination of the tenancy.]

F29 1984 NI 14

F30 2004 c.33

F31 1998 NI 6

Status:

Point in time view as at 01/01/2006.

Changes to legislation:

There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1983, PART II.