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STATUTORY INSTRUMENTS

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**1978 No. 1050 (N.I. 20)**

**Rent (Northern Ireland) Order 1978 <sup>F1</sup>**

- - - - - [25th July 1978]

**F1** functions transf. by SR 1999/481

**PART I**  
**INTRODUCTORY**

**Title and commencement**

1. This Order<sup>F2</sup> may be cited as the Rent (Northern Ireland) Order 1978 ... *Commencement* ...

**F2** 1981 NI 3

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“commencement of this Order” means the date on which the provision of this Order in which that expression occurs comes into operation;

“the Department” means the Department of the Environment;

“dwelling-house” includes part of a house;

“the Executive” means the Northern Ireland Housing Executive;

“government department” includes a department of the Government of the United Kingdom;

“the Housing Acts” means the Housing Acts (Northern Ireland) 1890 to 1977;

“the landlord” includes any person from time to time deriving title under the original landlord and also includes, in relation to any dwelling-house, any person other than the tenant who is, or but for Part III would be, entitled to possession of the dwelling-house;

“let” includes sub-let;

“net annual value” means the net annual value under the Rates (Northern Ireland) Order 1977 ;

“prescribed” means prescribed by regulations made by the Department;

“private tenancy” means any tenancy except—

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- (a) a tenancy under which the estate of the landlord belongs to—
- (i) the Crown (whether in right of Her Majesty's Government in the United Kingdom or in Northern Ireland);
  - (ii) a government department;
  - (iii) the Executive;
  - (iv) a registered housing association;
- or is held in trust for Her Majesty for the purposes of a government department;
- (b) a tenancy the purpose of which is to confer on the tenant the right to occupy a dwelling-house for a holiday;

“protected tenancy” has the meaning assigned by Article 3(1);

“Public Health Acts” means the Public Health Acts (Northern Ireland) 1878 to 1967;

*Definition rep. by 1985 NI 15*

“rates” means the regional rate and the district rate;

“registered”, in relation to a housing association, means registered in the register maintained under<sup>F3</sup> Part VII of the Housing (Northern Ireland) Order 1981];

“regulated rent certificate” has the meaning assigned by Article 8(2);

“regulated tenancy” has the meaning assigned by Article 7(3);

“rent” does not include any sum payable on account of rates;

“Rent Restriction Acts” means the Rent and Mortgage Interest (Restriction) Acts (Northern Ireland) 1920 to 1932 or Part II of the Rent and Mortgage Interest (Restrictions) Act (Northern Ireland) 1940 ;

“rental period” means a period in respect of which a payment of rent falls to be made;

“restricted rent certificate” has the meaning assigned by Article 8(2);

“restricted tenancy” has the meaning assigned by Article 7(1);

“statutory tenant” shall be construed in accordance with Article 4(5);

“tenancy” includes a statutory tenancy;

“tenant” includes a statutory tenant and also includes a sub-tenant and any person deriving title under the original tenant or sub-tenant.

**F3** 1983 NI 15

## PART II

### PROTECTED, STATUTORY, RESTRICTED AND REGULATED TENANCIES

#### Protected tenancies

**3.—(1)** A tenancy under which a dwelling-house (which may be a house or part of a house) to which the Rent Restriction Acts applied immediately before the commencement of this Order or to which paragraph (2) applies is,<sup>F4</sup> . . . , let as a separate dwelling is a protected tenancy for the purposes of this Order and, subject to Article 5, any reference to a protected tenant shall be construed accordingly.

[<sup>F4</sup>(2) This paragraph applies to a dwelling-house let by an unregistered housing association if, immediately before the commencement of Part V of the Housing (Northern Ireland) Order 1983, this Order applied to such a dwelling-house, or would have so applied if the landlord had not been an unregistered housing association.

(2A) In paragraph (2) “unregistered housing association” means a housing association, as defined in [<sup>F5</sup> Article 3 of the Housing (Northern Ireland) Order 1992 which is not registered under Article 14 of that Order].]

(3) If any question arises in any proceedings whether the Rent Restriction Acts applied to a dwelling-house immediately before the commencement of this Order, it shall be deemed to be a dwelling-house to which those Acts applied unless the contrary is shown.

(4) In this Order “protected tenancy” does not include a fee farm grant or a tenancy granted for a term certain exceeding ninety-nine years, unless that tenancy is, or may become, terminable before the end of that term by notice given to the tenant.

F4 1983 NI 15

F5 1992 NI 15

### Statutory tenants and tenancies

4.—(1) After the termination of a protected tenancy of a dwelling-house the person who, immediately before that termination, was the protected tenant of the dwelling-house shall, if and so long as he occupies the dwelling-house as his residence, be the statutory tenant of it.

(2) Schedule 1 shall have effect for determining what person (if any) is the statutory tenant of a dwelling-house at any time after the death of a person who, immediately before his death, was either a protected tenant of the dwelling-house or the statutory tenant of it by virtue of paragraph (1) or (5).

(3) In paragraph (1) and in Schedule 1, the phrase “if and so long as he occupies the dwelling-house as his residence” shall be construed as requiring the fulfilment of the same, and only the same, qualifications (whether as to residence or otherwise) as had to be fulfilled before the commencement of this Order to entitle a tenant, within the meaning of the Rent Restriction Acts, to retain possession, by virtue of those Acts and not by virtue of a tenancy, of a dwelling-house to which those Acts applied.

(4) A person who becomes a statutory tenant of a dwelling-house as mentioned in paragraph (1) is, in this Order, referred to as a statutory tenant by virtue of his previous protected tenancy, and a person who becomes a statutory tenant as mentioned in paragraph (2) is, in this Order, referred to as a statutory tenant by succession.

(5) In this Order—

(a) any reference to a statutory tenant by virtue of his previous protected tenancy shall be deemed to include a reference to a person—

(i) who has been the tenant under a tenancy of a dwelling-house to which the Rent Restriction Acts applied immediately before the commencement of this Order; and

(ii) who has retained possession of that dwelling-house by virtue of those Acts and is in possession of that dwelling-house immediately before that commencement;

(b) any reference to a statutory tenant by succession shall be deemed to include a reference to a tenant of a dwelling-house to which the Rent Restriction Acts applied immediately before the commencement of this Order whose right to retain possession of that dwelling-house by virtue of the Acts arose on the death of either—

(i) a person who had been the tenant under a tenancy of the dwelling-house and had retained possession of that dwelling-house by virtue of the Rent Restriction Acts; or

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(ii) a person who became the tenant of the dwelling-house after the death of such a person as is mentioned in head (i),  
and “statutory tenant” shall be construed accordingly.

(6) In this Order a dwelling-house is referred to as subject to a statutory tenancy when there is a statutory tenant of it.

### **Application to new tenancies**

5.—(1) Where—

- (a) a protected tenancy or a statutory tenancy of a dwelling-house is terminated; and
- (b) after the termination of the tenancy referred to in sub-paragraph ( a)—
  - (i) the dwelling-house is let on a further tenancy, or
  - (ii) a tenancy begins which comprises accommodation which is substantially the same as the accommodation comprised in the tenancy referred to in sub-paragraph ( a),

the tenancy mentioned in sub-paragraph ( b)(i) or first mentioned in sub-paragraph ( b)(ii) shall, subject to paragraph (2), be a protected tenancy.

(2) A tenancy is not a protected tenancy by virtue of paragraph (1) if, immediately before the commencement of that tenancy, the net annual value of the dwelling-house in which the tenancy subsists is more than £140.

(3) Subject to paragraph (6), a tenancy is not a protected tenancy by virtue of paragraph (1) if under the tenancy the dwelling-house is bona fide let at a rent which includes payments in respect of board, attendance or the use of furniture.

(4) For the purposes of paragraph (3), a dwelling-house is not to be taken as let at a rent which includes payments in respect of attendance unless the amount of the rent which is fairly attributable to attendance, having regard to the value of the attendance to the tenant, forms a substantial part of the whole rent.

(5) For the purposes of paragraph (3), a dwelling-house shall not be deemed to be bona fide let at a rent which includes payments in respect of the use of furniture unless the house is let with all such furniture (other than plate, cutlery, linen and cooking utensils) as is reasonably required having regard to the character of the house, for its occupation as a furnished house.

(6) Paragraph (3) does not apply where, immediately before the tenancy in question comes into operation—

- (a) a restricted rent certificate has effect in relation to the dwelling-house in which the tenancy subsists; or
- (b) a notice served (whether before or after the commencement of this Order) by a district council under section 110 of the Public Health (Ireland) Act 1878 or by the Executive under<sup>F6</sup> Article 41 of the Housing (Northern Ireland) Order 1981] has not been complied with within the period specified in the notice.

(7) A tenancy is not a protected tenancy by virtue of paragraph (1) at any time when the estate of the landlord under the tenancy belongs to—

- (a) the Crown (whether in right of Her Majesty's Government in the United Kingdom or in Northern Ireland);
- (b) a government department;
- (c) the Executive;
- (d) a registered housing association;

[<sup>F6</sup>(e) an unregistered housing association, within the meaning of paragraph (2A) of Article 3, if paragraph (2) of that Article does not apply to the dwelling-house;]

(f) a society[<sup>F6</sup> other than a housing association] registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 or any Act for the time being in force in Great Britain for purposes similar to those of that Act;

or is held in trust for Her Majesty for the purposes of a government department.

(8) A tenancy is not a protected tenancy by virtue of paragraph (1) if the dwelling-house let under the tenancy consists only of separate and self-contained premises produced by conversion, after the commencement of this Order, of other premises with or without the addition of premises erected after that commencement.

(9) For the purposes of paragraph (8), premises are to be treated as converted after the commencement of this Order if the conversion was completed then, notwithstanding that it began before that commencement.

**F6** 1983 NI 15

*Art. 6 rep. by 1989 NI 4*

### Restricted and regulated tenancies

7.—(1) A protected tenancy or a statutory tenancy of a dwelling-house is for the purposes of this Order a “restricted tenancy” if a restricted rent certificate served, or deemed to have been served, by a district council under Article 8 has effect in respect of the dwelling-house.

(2) Where, immediately before the commencement of this Order—

(a) a tenancy to which the Rent Restriction Acts applied subsisted in a dwelling-house to which those Acts applied; and

(b) the net annual value of the dwelling-house is less than £60,

a restricted rent certificate shall, subject to Article 9(3), be deemed to have been served under Article 8 on that commencement on the landlord of that dwelling-house in respect of the dwelling-house.

(3) For the purposes of this Order, a “regulated tenancy” is a protected or statutory tenancy which is not (either because it never was or because it has ceased to be) a restricted tenancy.

[<sup>F7</sup>(4) A protected or statutory tenancy to which Article 3(2) applies shall be deemed to be a regulated tenancy for the purposes of this Order.]

**F7** 1983 NI 15

### Restricted and regulated rent certificates

8.—(1) A district council shall, if an application in that behalf is made to it within one year after the commencement of this Order by the landlord or tenant of a dwelling-house let on a regulated tenancy, cause the dwelling-house to be inspected with a view to ascertaining whether it meets the regulated tenancy standards.

(2) Where, on an application under paragraph (1), a district council is satisfied that a dwelling-house—

(a) does not meet the regulated tenancy standards, the council shall issue and serve on the landlord of the dwelling-house a certificate to that effect (in this Order referred to as a “restricted rent certificate”);

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- (b) meets those standards, the council shall issue and serve on the landlord of the dwelling-house a certificate to that effect (in this Order referred to as a “regulated rent certificate”).
- (3) A restricted rent certificate—
- (a) shall, if no appeal is brought to the county court within the first period specified in Article 11(1), be deemed to have taken effect on the date on which it was issued;
- (b) if such an appeal is brought, shall, if it is confirmed by the county court, be deemed to have taken effect on that date.
- (4) The powers conferred on a district council by this Article shall not prejudice or affect its powers under section 110 of the Public Health (Ireland) Act 1878 .
- (5) A notice served, whether before or within one year after the commencement of this Order, by a district council under the said section 110 or by the Executive under<sup>[F8]</sup> Article 41 of the Housing (Northern Ireland) Order 1981] in respect of any house which is or includes such a dwelling-house as is mentioned in paragraph (1) shall if the notice is not, or was not, complied with within the period specified in the certificate be deemed, for the purposes of this Order, to be a restricted rent certificate served under this Article.
- (6) Any notice served, which by virtue of paragraph (5) is deemed to be a restricted rent certificate, against which an appeal is made under any statutory provision—
- (a) shall not have effect for the purposes of this Order until after the appeal has been finally determined, and
- (b) shall have effect then only if it is confirmed.
- <sup>[F9]</sup>(7) A dwelling-house satisfies the regulated tenancy standards if it is fit for human habitation.
- (7A) Article 46 of the Housing (Northern Ireland) Order 1981 (standard of fitness for human habitation) shall apply for the purposes of paragraph (7) as if for any reference in that Article to the Executive there were substituted a reference to a district council.]
- <sup>[F8]</sup>(8) In the application of this Article to a protected or statutory tenancy which, by virtue of Article 7 (4), is deemed to be a regulated tenancy for the purposes of this Order, paragraph (1) shall have effect as if for the reference to the commencement of this Order there were substituted a reference to the commencement of the Housing (Northern Ireland) Order 1983.
- (9) Where a restricted rent certificate takes effect in relation to a dwelling-house, the tenancy of which is deemed, by virtue of Article 7 (4) to be a regulated tenancy—
- (a) the tenancy shall no longer be deemed to be regulated tenancy and shall become a restricted tenancy; and
- (b) the rent recoverable for any rental period from the tenant under the restricted tenancy shall, notwithstanding anything in any agreement, not exceed the rent which was recoverable for the last such period immediately before the commencement of the Housing (Northern Ireland) Order 1983.]

**F8** 1983 NI 15

**F9** 1992 NI 15

### Conversion of restricted tenancies

9.—(1) A district council shall, if an application is made to it in that behalf at any time by the landlord<sup>[F10]</sup> of a dwelling-house—]

- <sup>[F10]</sup>(a) which at the date of the application is let under a restricted tenancy, or
- (b) which is not let at that date but was so let before it,]

[<sup>F10</sup>cause the dwelling-house] to be inspected with a view to ascertaining whether it meets the regulated tenancy standards.

(2) Where, on such an application, a district council is satisfied that the dwelling-house meets those standards, it shall issue to the landlord a regulated rent certificate, but if the council is not so satisfied it shall give notice to him of its refusal of his application containing[<sup>F11</sup> a written statement—]

[<sup>F11</sup>(a) of its reasons for the refusal and (where appropriate)

(b) of the works which, in its opinion, would be necessary to enable the dwelling-house to meet those standards.]

(3) When a regulated rent certificate takes effect under paragraph (2)[<sup>F10</sup> in relation to a dwelling-house described in paragraph (1)(a)], the tenancy shall cease to be a restricted tenancy and shall become a regulated tenancy.

[<sup>F10</sup>(3A) Where a regulated rent certificate is issued under paragraph (2) in relation to a dwelling-house described in paragraph (1)(b), the dwelling-house shall, if let under a tenancy to which this Order applies, be let under a regulated tenancy.]

(4) If a regulated rent certificate is issued under paragraph (2), any restricted rent certificate then in force in respect of the dwelling-house to which the regulated rent certificate relates shall cease to have effect.

**F10** 1992 NI 15

**F11** 1983 NI 15

### **Ancillary provisions as to applications under Articles 8 and 9**

**10.**—(1) An application by a landlord under Article 8 or 9 must state the name of the tenant under the tenancy to which the application relates and an application by a tenant under Article 8 must state the name of the landlord or his agent.

(2) Before considering such an application, a district council shall serve on the other party to the application a copy of the application and a notice in the prescribed form—

(a) informing him that he may, within twenty-eight days from the service of the notice or such other period as may be prescribed, make representations to the council as to whether or not the dwelling-house meets the regulated tenancy standards; and

(b) containing such other information or explanation of the effect of a regulated or restricted rent certificate as may be prescribed.

(3) A district council shall—

(a) serve a copy of a certificate issued under Article 8 or 9 on the tenant; and

(b) serve a copy of a notice of refusal under Article 9(2) on the tenant.

[<sup>F12</sup>(4) Nothing in this Article applies in relation to a dwelling-house described in Article 9(1)(b).]

**F12** 1992 NI 15

### **Appeal to county court**

**11.**—(1) A landlord on whom a restricted rent certificate is served under Article 8(2) or on whom a notice of refusal is served under Article 9(2) and a tenant on whom a copy of a regulated rent certificate is served under Article 10(3)(a) may, within twenty-eight days after the date of the service

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of the certificate, notice or copy or such longer period as the county court may allow, appeal to the county court.

(2) On an appeal under this Article, the court—

- (a) shall have regard to the state of the dwelling-house at the time of the hearing as well as at the time of the issue or refusal of the certificate, and
- (b) shall make no order as to costs unless it appears to the court, having regard to the conduct of the parties and all other circumstances, that it would be equitable to do so.

(3) If on an appeal under paragraph (1) the court orders a district council to issue a regulated rent certificate, any certificate issued in pursuance of such an order shall be deemed to have been issued on the date of the order.

(4) Where a regulated rent certificate in respect of any dwelling-house is quashed on appeal under this Article the certificate shall, for the purposes of Article 9, be deemed never to have been issued.

(5) Where an appeal by way of case stated is made to the Court of Appeal under [<sup>F13</sup> Article 61 of the County Courts (Northern Ireland) Order 1980 ] on any point of law arising from a decision of a county court under this Article in respect of a restricted rent certificate, the certificate shall, if confirmed, be deemed to have had effect on the date on which the certificate was issued.

**F13** 1980 NI 3

### **Premises with a business use**

**12.**—(1) Subject to paragraph (2), the fact that part of the premises comprised in a dwelling-house is used as a shop or office or for business, trade or professional purposes shall not prevent the dwelling-house from being let on a protected tenancy or subject to a statutory tenancy.

(2) Paragraphs (3) to (5) apply, subject to paragraph (6), where, immediately before the commencement of this Order, part ( “the non-residential part”) of a house to which the Rent Restriction Acts applied was used as a shop or office or for business, trade or professional purposes.

(3) Where it is possible to enter the house (excluding the non-residential part) otherwise than through the non-residential part, Articles 3 and 4 shall apply to the house as if the Rent Restriction Acts applied only to so much of the house as excludes the non-residential part.

(4) Where paragraph (3) does not apply, Articles 3 and 4 shall apply to the entire house.

(5) In the application of Article 7(2) as respects any such house as is referred to in paragraph (2), the non-residential part shall be left out of account.

(6) A tenancy of a dwelling-house which consists of or comprises premises licensed for the sale of intoxicating liquors for consumption on the premises shall not be a protected tenancy, nor shall such a dwelling-house be the subject of a statutory tenancy.

*Para. (7) rep. by 1996 NI 5*



## PART III

### SECURITY OF TENURE

#### *Limitations on recovery of possession of dwelling-houses let on protected tenancies or subject to statutory tenancies*

#### **Grounds for possession of certain dwelling-houses**

13.—(1) Subject to the following provisions of this Part, a court shall not make an order for possession of a dwelling-house which is for the time being let on a protected tenancy or subject to a statutory tenancy unless the court considers it reasonable to make such an order and either—

- (a) the court is satisfied that suitable alternative accommodation is available for the tenant or will be available for him when the order in question takes effect, or
- (b) the circumstances are as specified in any of the Cases in Part I of Schedule 4.

(2) If, apart from paragraph (1), the landlord would be entitled to recover possession of a dwelling-house which is for the time being let on a protected tenancy or subject to a statutory tenancy, the court shall make an order for possession if the circumstances of the case are as specified in any of the Cases in Part II of Schedule 4.

(3) Part III of Schedule 4 shall have effect in relation to Case 8 in that Schedule.

(4) Part IV of Schedule 4 shall have effect for determining whether, for the purposes of paragraph (1)(a), suitable alternative accommodation is or will be available for a tenant.

[<sup>F14</sup>(5) Part V of Schedule 4 shall have effect for the purpose of setting out the conditions which are relevant to Cases 11, 12 and 18 of that Schedule.]

F14 1983 NI 15

#### **Extended discretion of court in claims for possession of certain dwelling-houses**

14.—(1) Subject to paragraph (5), a court may adjourn, for such period or periods as it thinks fit, proceedings for possession of a dwelling-house which is let on a protected tenancy or subject to a statutory tenancy.

(2) On the making of an order for possession of such a dwelling-house or at any time before the enforcement of such an order (whether made before or after the commencement of this Order), the court, subject to paragraph (5), on the application of the tenant or of the tenant's spouse<sup>[F15]</sup> or civil partner<sup>[F15]</sup> if that spouse<sup>[F15]</sup> or civil partner<sup>[F15]</sup> is occupying the dwelling-house as his or her residence, may—

- (a) stay or suspend enforcement of the order, or
- (b) postpone the date of possession,

for such period or periods as the court thinks fit.

[<sup>F16</sup>(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.]

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(4) If any such conditions as are referred to in paragraph (3) are complied with, the court may, if it thinks fit, discharge or rescind any such order as is referred to in paragraph (2).

[<sup>F17</sup>(4A) Paragraph (4B) applies in any case where—

- (a) proceedings are brought for possession of a dwelling house which is let on a protected tenancy or subject to a statutory tenancy;
- (b) the [<sup>F15</sup> tenant's spouse or former spouse, or civil partner or former civil partner, having home rights] [<sup>F18</sup> under the Family Homes and Domestic Violence (Northern Ireland) Order 1998], is then in occupation of the dwelling house; and
- (c) the tenancy is, or may be, terminated as a result of those proceedings.

(4B) In any case to which this paragraph applies, the spouse or former spouse [<sup>F15</sup>, 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 [<sup>F15</sup> those home rights] were not affected by the termination of the tenancy.]

[<sup>F18</sup>(4C) Paragraph (4D) applies in any case where—

- (a) proceedings are brought for possession of a dwelling-house which is let on a protected tenancy or subject to a statutory 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 [<sup>F15</sup> 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, [<sup>F15</sup> 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.

(4D) In any case to which this paragraph applies, the former spouse, [<sup>F15</sup> 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 postponement as is referred to in paragraph (2), as he or she would have if the rights conferred by the order referred to in paragraph (4C)(b) were not affected by the termination of the tenancy.]

(5) [<sup>F17</sup>Paragraphs (1) to [<sup>F18</sup> (4D)]] shall not apply if the circumstances are as specified in any of the Cases in Part II of Schedule 4.

**F15** 2004 c.33

**F16** 1983 NI 15

**F17** 1984 NI 14

**F18** 1998 NI 6

### *Protected and statutory tenancies*

#### **Terms and conditions of statutory tenancies**

**15.**—(1) So long as he retains possession, a statutory tenant shall observe and be entitled to the benefit of all the terms and conditions of the original contract of tenancy, so far as they are consistent with this Order.

(2) A statutory tenant of a dwelling-house shall be entitled to give up possession of the dwelling-house only—

- (a) if he gives such notice as would have been required under the original contract of tenancy, or
- (b) if no notice would have been so required, on giving not less than four weeks' notice.

(3) Notwithstanding anything in the contract of tenancy, a landlord who obtains an order for possession of a dwelling-house as against a statutory tenant shall not be required to give the statutory tenant any notice to quit.

### Payments demanded by protected or statutory tenants as a condition of giving up possession

**16.**—(1) A protected or statutory tenant of a dwelling-house who, as a condition of giving up possession of the dwelling-house, asks for or receives the payment of any sum, or the giving up of any other consideration, by any person other than the landlord, shall be guilty of an offence and liable to<sup>F19</sup> a fine not exceeding £500].

(2) Where a protected or statutory tenant of a dwelling-house requires that furniture or other articles shall be purchased as a condition of his giving up possession of the dwelling-house—

- (a) the price demanded shall, at the request of the person on whom the demand is made, be stated in writing, and
- (b) if the price exceeds the reasonable price of the articles, the excess shall be treated, for the purposes of paragraph (1), as a sum asked to be paid as a condition of giving up possession.

(3) The court by which a person is convicted of an offence under this Article may order the payment—

- (a) to the person who made any such payment, or gave any such consideration, as is referred to in paragraph (1), of the amount of that payment or the value of that consideration, or
- (b) to the person who paid any such price as is referred to in paragraph (2)( a), of the amount by which the price paid exceeds the reasonable price.

**F19** 1983 NI 15

### *Changes of statutory tenants*

#### **Change of statutory tenant by agreement**

**17.**—(1) Where it is so agreed in writing between—

- (a) a statutory tenant (in this Article referred to as “the outgoing tenant”); and
- (b) a person proposing to occupy the dwelling (in this Article referred to as “the incoming tenant”),

the incoming tenant shall, subject to paragraphs (2) to (6), be deemed to be the statutory tenant of the dwelling as from such date as may be specified in the agreement (in this Article referred to as “the transfer date”).

(2) Such an agreement as is referred to in paragraph (1) shall not have effect unless the landlord is a party thereto, and, if the consent of any superior landlord would have been required to an assignment of the previous contractual tenancy, the agreement shall not have effect unless the superior landlord is a party thereto.

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(3) If the outgoing tenant is the statutory tenant by virtue of his previous protected tenancy, then subject to paragraph (6), this Order shall have effect, on and after the transfer date, as if the incoming tenant—

- (a) had been a protected tenant; and
- (b) had become the statutory tenant by virtue of his previous protected tenancy.

(4) Subject to paragraphs (5) and (6), if the outgoing tenant is a statutory tenant by succession, then, on and after the transfer date,—

- (a) this Order shall have effect as if the incoming tenant were a statutory tenant by succession, and
- (b) the incoming tenant shall be deemed to have become a statutory tenant by virtue of that paragraph of Schedule 1 by virtue of which the outgoing tenant became (or is deemed to have become) a statutory tenant.

(5) If the outgoing tenant is a statutory tenant by succession, the agreement referred to in paragraph (1) may provide that, notwithstanding anything in paragraph (4), on and after the transfer date, this Order shall have effect, subject to paragraph (6), as if the incoming tenant—

- (a) had been a protected tenant; and
- (b) had become the statutory tenant by virtue of his previous protected tenancy.

(6) Unless the incoming tenant is deemed, by virtue of paragraph (4)( b) to have become a statutory tenant by virtue of paragraph 7, 8 or 9 of Schedule 1, paragraphs 6 to 9 of that Schedule shall not apply where a person has become a statutory tenant by virtue of this Article.

(7) In this Article “the dwelling” means the aggregate of the premises comprised in the statutory tenancy of the outgoing tenant.

### **No pecuniary consideration to be required on change of tenant under Article 17**

**18.**—(1) Any person who requires the payment of any pecuniary consideration for entering into such an agreement as is referred to in Article 17(1) shall be guilty of an offence and liable to<sup>[F20]</sup> a fine not exceeding £500].

(2) The court by which a person is convicted of an offence under paragraph (1) may order the amount of the payment to be repaid by the person to whom it was paid.

(3) Without prejudice to paragraph (2), the amount of any such payment as is referred to in paragraph (1) shall be recoverable by the person by whom it was made—

- (a) by proceedings for its recovery, or
- (b) if it was made to the landlord by a person liable to pay rent to the landlord, by deduction from any rent so payable.

(4) Notwithstanding anything in paragraph (1), if apart from this Article he would be entitled to do so, the outgoing tenant may require the payment by the incoming tenant—

- (a) of so much of any outgoings discharged by the outgoing tenant as is referable to any period after the transfer date;
- (b) of a sum not exceeding the amount of any expenditure reasonably incurred by the outgoing tenant in carrying out any structural alteration of the dwelling or in providing or improving fixtures therein, being fixtures which, as against the landlord, the outgoing tenant is not entitled to remove;
- (c) where the outgoing tenant became a tenant of the dwelling by virtue of an assignment of the previous protected tenancy, of a sum not exceeding any reasonable amount paid by him to his assignor in respect of expenditure incurred by the assignor, or by any previous

assignor of the tenancy, in carrying out any such alteration or in providing or improving any such fixtures as are mentioned in sub-paragraph ( b ); or

- (d) where part of the dwelling is used as a shop or office, or for business, trade or professional purposes, of a reasonable amount in respect of any goodwill of the business, trade or profession, being goodwill transferred to the incoming tenant in connection with his becoming a statutory tenant of the dwelling or accruing to him in consequence thereof.

(5) In this Article “outgoing tenant”, “incoming tenant”, “the transfer date” and “the dwelling” have the same meanings as in Article 17.

**F20** 1983 NI 15

### *Miscellaneous*

#### **Effect on sub-tenancies of determination of superior tenancy**

**19.**—(1) If—

- (a) a court makes an order for possession of a dwelling-house from a tenant; and  
(b) the order is made by virtue of Article 13(1)( a ) or ( b ),

nothing in the order shall affect the right of any sub-tenant to whom the dwelling-house or any part of it has been lawfully sub-let before the commencement of the proceedings to retain possession by virtue of this Part, nor shall the order operate to give a right to possession as against any such sub-tenant.

(2) Where a protected or statutory tenancy of a dwelling-house is determined, either as a result of an order for possession or for any other reason, any sub-tenant to whom the dwelling-house or any part of it has been lawfully sub-let shall, subject to the provisions of this Order, be deemed to become the tenant of the landlord on the same terms as he would have held from the tenant if the tenant's protected or statutory tenancy had continued.

(3) Where a dwelling-house—

- (a) forms part of premises which have been let as a whole on a superior letting but do not constitute a dwelling-house let on a protected tenancy or subject to a statutory tenancy; and  
(b) is itself let on a protected tenancy, or subject to a statutory tenancy,

then, from the coming to an end of the superior letting, this Order shall apply in relation to the dwelling-house as if, in lieu of the superior letting, there had been separate lettings of the dwelling-house and of the remainder of the premises, for the like purposes as under the superior letting, and at rents equal to the just proportion of the rent under the superior letting.

#### **Compensation for misrepresentation or concealment**

**20.** Where in such circumstances as are specified in any Case in Schedule 4—

- (a) a landlord obtains an order for possession of a dwelling-house let on a protected tenancy or subject to a statutory tenancy; and  
(b) it is subsequently made to appear to the court that the order was obtained by misrepresentation or concealment of material facts,

the court may order the landlord to pay to the former tenant such sum as appears sufficient as compensation for damage or loss sustained by that tenant as a result of the order.

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

*Changes to legislation: There are currently no known outstanding effects for the Rent (Northern Ireland) Order 1978. (See end of Document for details)*

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## PART IV

### RENTS UNDER REGULATED TENANCIES

#### *Rent limit under regulated tenancies*

##### **Limit of rent under regulated tenancies**

**21.**—(1) The rent recoverable for any rental period of a regulated tenancy of a dwelling-house is limited to the greater of the following, namely—

- (a) the rent registered under Part V for the dwelling-house;
- (b) if the tenancy exists on the commencement of this Order, the rent payable under the tenancy immediately before that commencement.

(2) Subject to Article 27(5)( *b*), where a rent for a dwelling-house is registered under Part V, if the rent payable for any statutory period of a regulated tenancy of the dwelling-house would be less than the rent so registered, it may be increased up to the amount of that rent by a notice of increase served by the landlord on the tenant and specifying the date from which the increase is to take effect.

(3) Where a limit is imposed by paragraph (1) on the rent recoverable in relation to a regulated tenancy, the amount by which the rent payable under the tenancy exceeds that limit shall, notwithstanding anything in any agreement, be irrecoverable from the tenant.

##### **Ancillary provisions as to notices of increase**

**22.**—(1) Any reference in this Article to a notice of increase is a reference to a notice of increase under Article 21(2).

- (2) A notice of increase must be in the prescribed form.
- (3) The date specified in a notice of increase shall not be earlier than—
  - (a) the date on which the registered rent to which it relates takes effect; nor
  - (b) four weeks after the service of the notice.

(4) Where the registered rent for a dwelling-house is increased by virtue of an order made under Article 33, any notice of increase of that rent which gives effect to that increase shall not take effect earlier than four weeks after the commencement of that order.

(5) Neither a notice of increase nor Article 21 shall operate to increase the rent under a regulated tenancy for any contractual period, except in so far as may be consistent with the terms of the tenancy.

(6) Notwithstanding that a notice of increase relates to statutory periods it may be served during a contractual period.

- (7) Where—
  - (a) a notice of increase is served during a contractual period of a protected tenancy; and
  - (b) the protected tenancy could, by a notice to quit served by the landlord at the same time, be brought to an end before the date specified in the notice of increase.

the notice of increase shall operate to convert the protected tenancy into a statutory tenancy on that date.

(8) If the county court is satisfied that any error or omission in a notice of increase is due to a bona fide mistake on the part of the landlord—

- (a) the court may by order amend the notice by correcting any errors or supplying any omission therein which, if not corrected or supplied, would render the notice invalid; and

(b) if the court so directs, the notice as so amended shall have effect and be deemed to have had effect as a valid notice.

(9) Any amendment of a notice of increase under paragraph (8) may be made on such terms and conditions with respect to arrears of rent or otherwise as appear to the court to be just and reasonable.

(10) No increase of rent which becomes payable by reason of an amendment of a notice of increase under paragraph (8) shall be recoverable in respect of any statutory period which ended more than six months before the date of the order making the amendment.

### *Enforcement*

#### **Recovery from landlord of sums paid in excess of recoverable rent, etc.**

**23.**—(1) Where a tenant has paid on account of rent any amount which, by virtue of this Part, is irrecoverable by the landlord, then, subject to paragraph (3), the tenant who paid it shall be entitled to recover that amount from the landlord who received it or his personal representatives.

(2) Subject to paragraph (3), any amount which a tenant is entitled to recover under paragraph (1) may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.

(3) No amount which a tenant is entitled to recover under paragraph (1) shall be recoverable at any time after the expiry of two years from the date of payment.

(4) Any person who, in any rent book or similar document, makes an entry showing or purporting to show any tenant as being in arrears in respect of any sum on account of rent which is irrecoverable by virtue of this Part shall be guilty of an offence and liable to<sup>F21</sup> a fine not exceeding £500], unless he proves that, at the time of the making of the entry, the landlord had a bona fide claim that the sum was recoverable.

(5) If, where any such entry has been made by or on behalf of any landlord, the landlord on being requested by or on behalf of the tenant to do so, refuses or neglects to cause the entry to be deleted within seven days, the landlord shall be guilty of an offence and liable to<sup>F21</sup> a fine not exceeding £500], unless he proves that, at the time of the neglect or refusal to cause the entry to be deleted, he had a bona fide claim that the sum was recoverable.

**F21** 1983 NI 15

### *Interpretation*

#### **Interpretation of Part IV**

**24.** In this Part—

“contractual period” means a rental period of a regulated tenancy which is a period beginning before the expiry or termination of the protected tenancy;

“registered” means registered under Part V;

“statutory period” means any rental period of a regulated tenancy which is not a contractual period.

## PART V

### REGISTRATION AND DETERMINATION OF RENTS

#### Register of rents

<sup>F22</sup>25.—(1) The<sup>F23</sup> Executive] shall prepare and keep up to date a register of rents payable under regulated and restricted tenancies of dwelling-houses and shall make the register available for public inspection without charge at such place and at such times as the<sup>F23</sup> Executive] considers appropriate.

(2) Subject to the following provisions of this Part, the rent registered for a tenancy of a dwelling-house shall be—

- (a) if it is a regulated tenancy for which an appropriate rent has not been determined, the appropriate proportion of the net annual value of the dwelling-house multiplied by two and one-half, together with any increases which have effect by virtue of an order under Article 33;
  - (b) if it is a regulated tenancy for which an appropriate rent has been determined, that rent, together with any increases which have effect in relation to that rent by virtue of an order under Article 33;
  - (c) if it is a restricted tenancy, the rent payable under the tenancy immediately before the commencement of this Order.
- (3) For the purposes of paragraph (2)( a)—
- (a) if the rent under a regulated tenancy is payable weekly—
    - (i) the appropriate proportion of the net annual value of the dwelling-house is one fifty-second;
    - (ii) the product of the appropriate proportion of any net annual value and two and one-half shall be deemed not to exceed £8;
  - (b) if the rent under a regulated tenancy is payable monthly—
    - (i) the appropriate proportion of the net annual value of the dwelling-house is one-twelfth;
    - (ii) the product of the appropriate proportion of any net annual value and two and one-half shall be deemed not to exceed £35;

and so on according to the intervals at which the rent under the regulated tenancy is payable.

(4) The register shall contain, in addition to the rent, the prescribed particulars with regard to the tenancy and the dwelling-house.

(5) The<sup>F23</sup> Executive] may at any time correct any clerical error in the register.

(6) Where the<sup>F23</sup> Executive] corrects a clerical error under paragraph (5), it shall serve a notice of the alteration on the landlord and tenant under the tenancy in question.

(7) A copy of an entry in the register purporting to be certified under the hand of an officer of the<sup>F23</sup> Executive] shall be receivable in evidence in any court and in any proceedings.

(8) A person requiring such a certified copy shall be entitled to obtain it<sup>F24</sup> . . . .

**F22** functions transf. by 2003 NI 2

**F23** 2003 NI 2

**F24** 1992 NI 15



### [<sup>F25</sup>Amounts attributable to services

**25A.** In order to assist the Executive to give effect to the housing benefit scheme under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, where a rent is registered under this Part, there shall be noted on the register the amount (if any) of the registered rent which, in the opinion of the rent officer or rent assessment committee, is fairly attributable to the provision of services, except any amount which is negligible in the opinion of the officer or, as the case may be, the committee.]

F25 1992 c. 9

### [<sup>F26</sup>Removal of tenancies from the register

[<sup>F27</sup>**25B].**—(1) Subject to the following provisions of this Article, where the rent payable for the tenancy of a dwelling-house is registered in the register of rents, the [<sup>F27</sup> Executive] may, if it is satisfied that the dwelling-house has ceased to be let under a regulated or a restricted tenancy, remove any entry relating to the tenancy or the dwelling-house from the register.

(2) The [<sup>F27</sup> Executive] shall give to any person appearing to it to have an interest in the dwelling-house, 14 days' notice of its intention to remove the entry from the register.

(3) For the purposes of paragraph (1) the [<sup>F27</sup> Executive] may make such enquiries as it considers appropriate.]

F26 1992 NI 15  
F27 2003 NI 2

### Application for registration of rent

**26.**—(1) The landlord or the tenant under a regulated or restricted tenancy of a dwelling-house may apply to the [<sup>F28</sup> Executive] to register the rent under that tenancy.

(2) An application for the registration of a rent under this Part must be sent to the [<sup>F28</sup> Executive], be in the prescribed form and contain the prescribed particulars in relation to the tenancy and the dwelling-house.

(3) Subject to Articles 25(5) and 33, where a rent for a dwelling-house has been registered under this Article no alteration to the registered rent shall be made unless a rent assessment committee determines an appropriate rent for the dwelling-house in pursuance of an application under this Order or a court orders the register to be altered.

(4) Where the [<sup>F28</sup> Executive] registers a rent under this Article in pursuance of an application, it shall serve on the tenant and the landlord a notice in the prescribed form stating the amount of the rent and the date on which the application for registration was received by it.

F28 2003 NI 2

### Applications to rent assessment committee

**27.**—(1) The landlord or the tenant under a regulated tenancy of a dwelling-house, if of the opinion that the rent registered in respect of that dwelling-house by virtue of Article 25(2) is not the appropriate rent having regard to paragraphs (2) to (4), may [<sup>F29</sup> at any time] after the date on which

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the<sup>F30</sup> Executive] serves a notice on him under Article 26(4), apply to a rent assessment committee to determine an appropriate rent for that dwelling-house.

(2) The appropriate rent under a regulated tenancy of a dwelling-house shall be the rent which would be payable for a tenancy of the dwelling-house if it were let by the Executive—

- (a) on the terms (except those as to rent) which apply to that regulated tenancy;
- (b) subject to paragraph (4), in the physical condition which the dwelling-house is in at the date of the determination.

(3) In determining such an appropriate rent, regard shall be had to the rents of dwelling-houses let by the Executive which are comparable, or as comparable as may be, to the dwelling-house in question.

(4) There shall be disregarded—

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

(5) Where, on an application to a rent assessment committee, the committee determines an appropriate rent for a dwelling-house which is different to the rent registered for that house—

- (a) if the appropriate rent is greater than the registered rent, the amendment of the entry in the register effected in pursuance of paragraph 4(4) of Schedule 6 shall (without prejudice to the previous operation of the entry) be deemed to be made and to take effect on the date on which the committee gives its decision;
- (b) if the appropriate rent is less than the registered rent, the amendment of that entry shall be deemed to have been made and to have taken effect on whichever of the following dates is the later—

- (i) the expiration of ten weeks after the commencement of this Order; or
- (ii) the date on which the application to the committee was received.

(6) Where paragraph (5)(b) applies, the tenant under the tenancy in question shall be entitled to recover from the landlord or his personal representatives the amount of any rent paid by him for any time after the amendment is deemed to have taken effect which exceeds the amount of the rent registered by virtue of this Part.

(7) Any amount which a tenant is entitled to recover under paragraph (6) may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.

(8) In this Article “improvement” includes the replacement of any fixture or fitting.

**F29** 1983 NI 15

**F30** 2003 NI 2

#### **Rent assessment committees: constitution, etc.**

**28.**—(1) Rent assessment committees shall be constituted in accordance with Schedule 5.

(2) Schedule 6 shall have effect with respect to the procedure to be followed by rent assessment committees in considering applications for the determination of appropriate rents.

### **Recoupment of rates, etc. from tenants**

**29.**—(1) Where any rates in respect of a dwelling-house which is let on a protected tenancy or subject to a statutory tenancy are borne by the landlord or a superior landlord then, notwithstanding anything in the terms of the contract of tenancy in question, the amount of rates, ascertained in accordance with Schedule 7 for any rental period which is a statutory period as defined in Article 24, shall be recoverable, without service of any notice of increase, in addition to the sums recoverable from the tenant apart from this paragraph.

(2) Where, under a protected or statutory tenancy, the sums payable by the tenant to the landlord include any sums varying according to the cost from time to time of—

- (a) any services provided by the landlord or a superior landlord; or
- (b) any works of maintenance or repair carried out by the landlord or a superior landlord.

the amount to be registered under this Part as rent may be entered as an amount variable in accordance with the terms as to the variation.

### **Effect of registration of rent**

**30.**—(1) Where a rent is registered for a tenancy in pursuance of an application under Article 26, the registration shall take effect on the expiration of ten weeks after the date on which the application is received by the<sup>F31</sup> Executive], unless the rent assessment committee determines that it is to take effect on a later date.

(2) The date on which the registration takes effect shall be entered in the register and on that date any previous registration of a rent for the dwelling-house shall cease to have effect.

(3) Where—

- (a) a valid notice of increase under Article 21(2) has been served on a tenant; and
- (b) in consequence of the registration or amendment of an appropriate rent, part but not the whole of the increase specified in the notice becomes irrecoverable from the tenant,

the registration or amendment shall not invalidate the notice, but the notice shall, as from the date from which the registration takes effect, have effect as if it specified such part only of the increase as has not become irrecoverable.

**F31** 2003 NI 2

### **[<sup>F32</sup>Application for determination of appropriate rent following change in condition of dwelling-houses, etc.**

**31.**—(1) Notwithstanding anything in paragraph (1) of Article 27, the landlord or the statutory tenant under a regulated tenancy of a dwelling house may apply to a rent assessment committee to determine an appropriate rent for that dwelling-house under that Article at any time if there has been such a change in the circumstances relating to the dwelling-house or tenancy, or in the manner in which the Executive assesses the rents of houses let by it, as to make the registered rent no longer an appropriate rent.

(2) For the purposes of paragraph (1) but without prejudice to its generality, failure to comply with a certificate of disrepair within the period allowed by the district council which issued it shall constitute a change of circumstances relating to the dwelling-house or tenancy.

[<sup>F33</sup>(2A) Where, by virtue of paragraph (2), there is a change of circumstances relating to a dwelling-house or tenancy, the appropriate rent for that dwelling-house shall be such amount as a rent

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*Changes to legislation: There are currently no known outstanding effects for the Rent (Northern Ireland) Order 1978. (See end of Document for details)*

assessment committee may determine, being an amount which is no less than the rent payable under the tenancy immediately before 1st October 1978.]

(3) Where the landlord or tenant of a dwelling-house let under a regulated tenancy is of the opinion that the registered rent, or the amount of increase provided for by an order under Article 33(2), does not properly reflect any obligation as to the repair or care of the premises expressly provided for in the contract of tenancy, he may apply to a rent assessment committee to determine an appropriate rent for that dwelling-house under Article 27.]

**F32** 1983 NI 15

**F33** 1992 NI 15

### Applications for determination of future rent

32.—(1) Where—

- (a) a protected or statutory tenancy subsists in a dwelling-house; and
- (b) the landlord under that tenancy intends to carry out any works in relation to the dwelling-house,

the landlord may apply to a rent assessment committee for a certificate of future rent under the regulated tenancy.

(2) An application under paragraph (1)—

- (a) shall be accompanied by plans and specifications of the relevant works and an estimate of their cost; and
- (b) shall state the name of the tenant under the regulated tenancy.

(3) Where an application is made to a rent assessment committee under paragraph (1), the committee shall determine what an appropriate rent would be if the works shown in the plans and specifications were carried out and issue a certificate of future rent specifying the amount of that rent.

(4) An application for a certificate of future rent shall be dealt with by a rent assessment committee as if it were an application for the determination of an appropriate rent.

(5) If, on an application in that behalf, it is shown to the satisfaction of a rent assessment committee after it issues a certificate of future rent—

- (a) that the works specified in the relevant application have been carried out; and
- (b) that the dwelling-house is then in the state in which it would be expected to be after the carrying out of the works; and
- (c) that the cost of the works was that specified in the relevant application under paragraph (1),

the rent specified in the certificate of future rent shall be deemed to have been determined under paragraph 4 of Schedule 6.

(6) Where, on an application under paragraph (5), a rent assessment committee is satisfied as mentioned in that paragraph, it shall notify the persons referred to in sub-paragraph (3) of paragraph 4 of Schedule 6 as if the rent specified in the certificate of future rent had been determined under that paragraph and sub-paragraph (4) of that paragraph shall apply accordingly.

(7) Where, on an application under paragraph (5), a rent assessment committee is satisfied—

- (a) as mentioned in paragraph (5)(a) and (b), and
- (b) that the cost of the works was different to that specified in the relevant application under paragraph (1),

the committee shall determine the appropriate rent under the regulated tenancy and notify the persons referred to in paragraph 4(3) of Schedule 6 as mentioned in paragraph (6) above.

(8) Schedule 6 shall, with any necessary modifications, apply to an application under any provision of this Article as if it were an application for the determination of an appropriate rent.

### **Review of registered rents**

**33.**—(1) [<sup>F34</sup>The Executive] shall from time to time review the rents registered under this Part for dwelling-houses which are let under regulated tenancies, taking into account the general level of rents for dwelling-houses let by the Executive, the cost of repairs, and any other matter appearing to it to be relevant, with a view to determining, after consulting the rent officer, whether those rents should be increased.

[<sup>F34</sup>(2) Where the Executive determines under paragraph (1) that those registered rents should be increased, it shall make a recommendation to the Department that those rents should be increased.

(2A) Where the Department accepts a recommendation under paragraph (2), it shall make an order providing for the increase of those rents—

- (a) by an amount recommended by the Executive, or
- (b) by such other amount as the Department, after consultation with the Executive, considers appropriate.

(2B) The amount of an increase may be expressed as a percentage.]

(3) Where the Department makes an order under [<sup>F34</sup> paragraph (2A), the Executive] shall make such alterations in the rents registered under this Part for dwelling-houses which are let under regulated tenancies as appear to it to be necessary in consequence of the order.

F34 2003 NI 2

### **Collection of information about certain tenancies**

**34.** [<sup>F35</sup>The Executive] may collect such information as it considers desirable with respect to the terms of such tenancies (other than regulated or restricted tenancies) as it may determine.

F35 2003 NI 2

### **Offences under Part V**

**35.** Any person who, in an application under Article 26, wilfully makes or causes to be made any statement which he knows to be false in a material particular shall be guilty of an offence and liable to a fine not exceeding £1,000 or to imprisonment for a term not exceeding six months, or to both.

## **PART VI**

### **RENTS UNDER RESTRICTED TENANCIES**

#### **Rents of restricted tenancies**

**36.** The rent recoverable for any rental period from the tenant under a restricted tenancy shall, notwithstanding anything in any agreement, not exceed the rent which was recoverable for the last such period immediately before the commencement of this Order.

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

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### **Recovery from landlord of sums paid in excess of recoverable rent, etc.**

37.—(1) Where a tenant has paid on account of rent any amount which, by virtue of Article 36, is irrecoverable by the landlord, then, subject to paragraph (3), the tenant who paid it shall be entitled to recover that amount from the landlord who received it or his personal representatives.

(2) Subject to paragraph (3), any amount which a tenant is entitled to recover under paragraph (1) may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.

(3) No amount which a tenant is entitled to recover under paragraph (1) shall be recoverable at any time after the expiry of two years from the date of payment.

(4) Any person who, in any rent book or similar document, makes an entry showing or purporting to show any tenant as being in arrears in respect of any sum on account of rent which is irrecoverable by virtue of Article 36 shall be guilty of an offence and liable to<sup>[F36]</sup> a fine not exceeding £500], unless he proves that, at the time of the making of the entry, the landlord had a bona fide claim that the sum was recoverable.

(5) If, where any such entry has been made by or on behalf of any landlord, the landlord on being requested by or on behalf of the tenant to do so, refuses or wilfully neglects to cause the entry to be deleted within seven days, the landlord shall be guilty of an offence and liable to<sup>[F36]</sup> a fine not exceeding £500], unless he proves that, at the time of the neglect or refusal to cause the entry to be deleted, he had a bona fide claim that the sum was recoverable.

F36 1983 NI 15

## **PART VII**

### **RENT BOOKS AND RIGHTS AND REPAIRING OBLIGATIONS UNDER REGULATED TENANCIES**

#### **Rent books for private tenancies**

38.—(1) The landlord of a dwelling-house held under a private tenancy shall provide the tenant with a rent book for use in respect of the dwelling-house.

(2) A rent book provided in pursuance of paragraph (1) shall contain such particulars and information relating to the tenancy as may be prescribed.

(3) In this Article “private tenancy” does not include a fee farm grant or a tenancy granted for a term certain exceeding ninety-nine years, unless that tenancy is, or may become, terminable before the end of that term by notice given to the tenant.

#### **Offences under Article 38**

39.—(1) If the landlord under a private tenancy fails to comply with Article 38, he and, subject to paragraph (4), any person who on his behalf demands or receives rent in respect of the dwelling-house held under that tenancy while the failure continues shall be guilty of an offence.

(2) Any person guilty of an offence under paragraph (1) shall be liable to<sup>[F37]</sup> a fine not exceeding £500].

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

(4) If any person other than the landlord is charged with an offence under paragraph (1), it shall be a defence for him to prove that he neither knew nor had reasonable cause to believe that Article 38 had not been complied with.

[<sup>F38</sup>(5) Proceedings for an offence under paragraph (1) may be instituted by the district council in whose district the dwelling-house held under the private tenancy is situated.]

F37 1983 NI 15

F38 2003 NI 2

### Provisions applied to regulated tenancies

40. The provisions set out in Articles 41 to 45 shall apply in relation to a regulated tenancy only in so far as they are not inconsistent with any express provision in the contract of tenancy.

### Landlord's duties to repair, etc. under regulated tenancy

41.—(1) The landlord under a regulated tenancy—

- (a) shall keep in repair the structure and exterior of the dwelling-house comprised in that tenancy;
- (b) shall, subject to Article 42, keep in repair the interior of the dwelling-house;
- (c) shall keep in repair and in proper working order—
  - (i) the installations in the dwelling-house for the supply of water, gas and electricity and for sanitation (including basins, sinks, baths and sanitary conveniences but not, except as mentioned in the preceding provision of this sub-paragraph, fixtures, fittings or appliances for making use of the supply of water, gas or electricity); and
  - (ii) the installations in the dwelling-house for space heating or heating water.

(2) The duty imposed by paragraph (1)( a) includes a duty to keep exterior paintwork in reasonable order.

(3) In this Article “structure and exterior” includes drains, gutters and external pipes.

### Care of premises by tenant under regulated tenancy

42. The tenant under a regulated tenancy of a dwelling-house—

- (a) shall take proper care of the premises comprised in that tenancy as a good tenant;
- (b) shall, without prejudice to sub-paragraph ( a), keep in repair—
  - (i) open fireplaces (including tiles) in the dwelling-house;
  - (ii) glass, whether external or internal, in the dwelling-house (including mirrors);
  - (iii) tap washers and similar seals for taps in the dwelling-house;
  - (iv) boundary walls of the dwelling-house constructed by him or any previous tenant from whom he derives title;
- (c) shall make good any damage to those premises wilfully or negligently done or caused to the premises by the tenant, by any tenant of his or by any other person lawfully living in or lawfully visiting the premises;
- (d) shall keep the interior of the dwelling-house in reasonable decorative order;
- (e) shall not carry out any alterations to those premises without the consent of the landlord, but that consent shall not be unreasonably withheld;

and shall clear any blockage in any pipes and drains within the dwelling-house or in any trap for foul or surface water from the dwelling-house.

### **Landlord's obligations under regulated tenancy of parts of building**

**43.** Where a dwelling-house let under a regulated tenancy consists of a part of a building and the tenant under the regulated tenancy is entitled to the use (whether with others or not) for access or other purposes of other parts of the building or its curtilage, the landlord shall—

- (a) keep in good order and condition any part of the building or curtilage which the tenant is entitled to use as mentioned above;
- (b) ensure that any part of the building or curtilage which the tenant is entitled to use as mentioned above for access is adequately lit and safe to use.

### **General qualifications on landlord's duties**

**44.** The duties imposed on the landlord by Articles 41 and 43 do not require the landlord—

- (a) to carry out works or repairs for which the tenant is liable by virtue of Article 42;
- (b) to keep in repair or maintain anything—
  - (i) which was not constructed or provided by the landlord or any person from whom he derives title; or
  - (ii) which the tenant is entitled to remove from the dwelling-house;
- (c) to rebuild or re-instate the dwelling-house in the case of destruction or damage by fire, or by tempest, flood or other inevitable accident.

### **Standard of repair and knowledge of disrepair**

**45.—(1)** In determining the standard of repair required by virtue of Articles 41 to 43, regard is to be had to the age, character and prospective life of the premises.

(2) A landlord is not under a duty to carry out works by virtue of Articles 41 and 43 unless he has actual knowledge (whether because of notice given by the tenant or otherwise) of the need for those works.

### **Certificates of disrepair**

**46.—(1)** A district council shall, if an application in that behalf is made to it by the landlord or tenant of a dwelling-house let on a regulated tenancy, cause the dwelling-house to be inspected with a view to ascertaining whether the other party under the tenancy is in breach of any covenant or condition (whether express or implied) to repair, maintain or take care of the premises comprised in that tenancy, any fixtures attached to those premises or any such installations as are mentioned in Article 41(1)(c) (in this Article referred to as “the repairing conditions”).

(2) Where, on an application under paragraph (1), a district council is satisfied that any such landlord or tenant is in breach of the repairing conditions in relation to any premises, fixtures or installations the council shall—

- (a) issue and serve on that person a certificate to that effect (in this Part referred to as a “certificate of disrepair”);
  - (b) serve a copy of that certificate on the other party to the tenancy.
- (3) A certificate of disrepair issued under paragraph (2) shall—
- (a) specify the works which in the opinion of the district council are required to make good the breach of the repairing conditions by the landlord or the tenant, as the case may be;



- (b) require that landlord or tenant, as the case may be, to carry out to the district council's satisfaction the works specified in the certificate within such period as the council may allow.

### **Appeals in relation to certificates of disrepair**

**47.**—(1) The landlord or tenant under a regulated tenancy may, within twenty-eight days after the date of the service of a certificate of disrepair or of a notice stating that the district council does not intend to issue such a certificate in relation to the dwelling-house, appeal to the county court against the certificate or the failure of the council to issue such a certificate.

(2) For the purposes of paragraph (1), where a district council does not, within three months from the date of the application to it for such a certificate, issue such a certificate or a notice stating that it does not intend to issue such a certificate, the council shall be deemed to have issued such a notice at the end of that period of three months.

### **Enforcement, etc. of certificates of disrepair**

**48.**—(1) If the person on whom a certificate of disrepair is served under Article 46 fails to comply with that certificate within the period allowed by the district council, the council may apply to a court of summary jurisdiction for an order under this Article.

[<sup>F39</sup>(1A) Where—

- (a) under Article 46 a certificate of disrepair has been served, or is deemed to have been served, on the landlord of a dwelling-house, and
- (b) it appears to the district council that the landlord is residing outside Northern Ireland,

a summons for the purposes of an application to a court of summary jurisdiction under paragraph (1) shall be deemed to be duly served on the landlord if it is served in accordance with sub-paragraph (a) or (b) of Article 73 (1).]

(2) Where, on the hearing of an application under paragraph (1), it appears to a court of summary jurisdiction that a person has failed to comply with a certificate of disrepair within the period allowed by the district council, it may, after affording him an opportunity to be heard, make an order requiring him to comply with that certificate within such period as it may specify.

(3) Where a person fails to comply with an order made under paragraph (2) he shall be guilty of an offence and liable to [<sup>F39</sup> a fine not exceeding £500].

[<sup>F39</sup>(3A) Where a summons for the purposes of an application to a court of summary jurisdiction under paragraph (1) has been served in accordance with paragraph (1A), a person shall not be convicted of an offence under paragraph (3) if he shows that he did not know of the service of that summons.]

(4) Where an order made under paragraph (2) is not complied with, the district council may, after serving notice of its intention to do so on the person in breach of the order, carry out so much of the works required by the order as has not been completed.

(5) Where, in pursuance of paragraph (4), a district council carries out any works, the council may [<sup>F39</sup> without prejudice to any other method of recovery,] recover summarily as a civil debt from the person served with the notice of disrepair specifying those works the expenses incurred by the council in carrying out those works.

(6) In any proceedings to recover any expenses by virtue of paragraph (5) the court may order that only so much of those expenses as it determines to be reasonable must be paid to the district council by the person against whom the proceedings have been instituted.

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

*Changes to legislation: There are currently no known outstanding effects for the Rent (Northern Ireland) Order 1978. (See end of Document for details)*

(7) Where a district council fails to recover from any person the expenses incurred by it in carrying out works under paragraph (4),<sup>[F40]</sup> the Executive may, with the consent of the Department, pay] to the council a sum not exceeding the appropriate amount.

(8) In paragraph (7) “the appropriate amount” means—

- (a) the amount which, in the opinion of<sup>[F40]</sup> the Executive], would have been payable to the district council if the council had been the landlord of the premises in question and had applied for a repairs grant for the works which it executed, less
- (b) so much of the sum recovered from the person who is liable to pay the expenses referred to in paragraph (6) as exceeds such part of those expenses as was incurred in respect of works for which a repairs grant would not have been so payable.

<sup>[F40]</sup>In this paragraph “repairs grant” means a grant under Article 74 of the Housing (Northern Ireland) Order 1992.]

**F39** 1983 NI 15  
**F40** 2003 NI 2

## PART VIII

### PREMIUMS, ETC.

#### **Prohibition of premiums and loans on grant, etc. of protected tenancies**

**49.**—(1) Any person who, as a condition of the grant, renewal or continuance of a protected tenancy, requires, in addition to the rent, the payment of any premium or the making of any loan (whether secured or unsecured) shall be guilty of an offence under this Article.

(2) Any person who, in connection with the grant, renewal or continuance of a protected tenancy, receives any premium, or any loan, in addition to the rent, shall be guilty of an offence under this Article.

(3) A person guilty of an offence under this Article shall be liable to a fine not exceeding £1,000.

(4) The court by which a person is convicted of an offence under the provisions of this Article relating to requiring or receiving any premium may order the amount of the premium to be repaid to the person by whom it was paid.

#### **Prohibition of premiums and loans on assignment of protected tenancies**

**50.**—(1) Subject to paragraphs (3) to (5), any person who, as a condition of the assignment of a protected tenancy, requires the payment of any premium or the making of any loan (whether secured or unsecured) shall be guilty of an offence under this Article.

(2) Subject to paragraphs (3) to (5), any person who, in connection with the assignment of a protected tenancy, receives any premium or any loan shall be guilty of an offence under this Article.

(3) Notwithstanding anything in paragraphs (1) and (2), an assignor of a protected tenancy of a dwelling-house may, if apart from this Article he would be entitled to do so, require the payment by the assignee or receive from the assignee a payment—

- (a) of so much of any outgoings discharged by the assignor as is referable to any period after the assignment takes effect;

- (b) of a sum not exceeding the amount of any expenditure reasonably incurred by the assignor in carrying out any structural alteration of the dwelling-house or in providing or improving fixtures therein, being fixtures which, as against the landlord, he is not entitled to remove;
  - (c) where the assignor became a tenant of the dwelling-house by virtue of an assignment of the protected tenancy, of a sum not exceeding any reasonable amount paid by him to his assignor in respect of expenditure incurred by that assignor, or by any previous assignor of the tenancy, in carrying out any such alteration or in providing or improving any such fixtures as are mentioned in sub-paragraph ( b ); or
  - (d) where part of the dwelling-house is used as a shop or office, or for business, trade or professional purposes, of a reasonable amount in respect of any goodwill of the business, trade or profession, being goodwill transferred to the assignee in connection with the assignment or accruing to him in consequence thereof.
- (4) Without prejudice to paragraph (3), the assignor shall not be guilty of an offence under this Article by reason only that—
- (a) any payment of outgoings required or received by him on the assignment was a payment of outgoings referable to a period before the assignment took effect; or
  - (b) any expenditure which he incurred in carrying out structural alterations of the dwelling-house or in providing or improving fixtures therein and in respect of which he required or received the payment of any sum on the assignment was not reasonably incurred; or
  - (c) any amount paid by him as mentioned in paragraph (3)( c ) was not a reasonable amount; or
  - (d) any amount which he required to be paid, or which he received, on the assignment in respect of goodwill was not a reasonable amount.
- (5) A person guilty of an offence under this Article shall be liable to a fine not exceeding £1,000.
- (6) The court by which a person is convicted of an offence under the provisions of this Article relating to requiring or receiving any premium may order the amount of the premium, or so much of it as cannot lawfully be required or received under this Article (including any amount which, by virtue of paragraph (4), does not give rise to an offence) to be repaid to the person by whom it was paid.

### **Excessive price for furniture to be treated as premium**

**51.** Where the purchase of any furniture has been required as a condition of the grant, renewal, continuance or assignment of a protected tenancy then, if the price exceeds the reasonable price of the furniture, the excess shall be treated, for the purposes of this Part, as if it were a premium required to be paid as a condition of the grant, renewal, continuance or assignment of the tenancy.

### **Recovery of premiums and loans unlawfully required or received**

**52.—**(1) Where under any agreement (whether made before or after the commencement of this Order)—

- (a) any premium is paid after that commencement; and
- (b) the whole or any part of that premium could not lawfully be required or received under the preceding provisions of this Part,

the amount of the premium or, as the case may be, so much of it as could not lawfully be required or received, shall be recoverable by the person by whom it was paid.

(2) Nothing in Article 49 or 51 shall invalidate any agreement for the making of a loan or any security issued in pursuance of such an agreement but, notwithstanding anything in the agreement for the loan, any sum lent in circumstances involving a contravention of either of those Articles shall be repayable to the lender on demand.

**Interpretation of Part VIII**

53.—(1) In this Part—

“furniture” includes fittings and other articles;

[<sup>F41</sup>“premium” includes—

- (a) any fine or other like sum;
- (b) any other pecuniary consideration in addition to rent; and
- (c) any sum paid by way of a deposit, other than one which does not exceed one-sixth of the annual rent and is reasonable in relation to the potential liability in respect of which it is paid.]

(2) Nothing in this Part renders any amount recoverable more than once.

**F41** 1983 NI 15

**PART IX****PROTECTION AGAINST HARASSMENT AND  
EVICTION WITHOUT DUE PROCESS OF LAW****Modifications etc. (not altering text)**

**C1** Pt. IX (arts. 54-58) excluded (17.9.2011) by [Caravans Act \(Northern Ireland\) 2011](#) (c. 12), **ss. 14(3), 18**

**Unlawful eviction and harassment of occupier**

54.—(1) If any person unlawfully deprives the tenant of a dwelling-house of his occupation of the dwelling-house or any part thereof or attempts to do so he shall be guilty of an offence unless he proves that he believed, and had reasonable cause to believe, that the tenant had ceased to reside in the dwelling-house.

(2) If any person with intent to cause the tenant of a dwelling-house—

- (a) to give up the occupation of the dwelling-house or any part thereof; or
- (b) to refrain from exercising any right or pursuing any remedy in respect of the dwelling-house or any part thereof;

does acts calculated to interfere with the peace or comfort of the tenant or members of his household, or persistently withdraws or withholds services reasonably required for the occupation of the dwelling-house as a residence, he shall be guilty of an offence.

(3) A person guilty of an offence under this Article shall be liable—

- (a) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding six months or to both; and
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

[<sup>F42</sup>(3A) Proceedings for an offence under this Article may be instituted by the district council in whose district the dwelling-house is situated.]

(4) Nothing in this Article shall prejudice any liability or remedy to which a person guilty of an offence thereunder may be subject in civil proceedings.

F42 1992 NI 15

### Restriction on re-entry without due process of law

55. Where any premises are let as a dwelling-house on a lease which is subject to a right of re-entry or forfeiture it shall not be lawful to enforce that right otherwise than in pursuance of proceedings in the court while any person is lawfully residing in the premises or any part of them.

#### Modifications etc. (not altering text)

C2 Arts. 54-58 excluded (17.9.2011) by Caravans Act (Northern Ireland) 2011 (c. 12), ss. 14(3), 18

### Prohibition of eviction without due process of law

56.—(1) Where any premises have been let as a dwelling-house under a tenancy and—

- (a) the tenancy (in this Part referred to as “the former tenancy”) has come to an end; but
- (b) the occupier continues to reside in the premises or part of them;

it shall not be lawful for the owner to enforce against the occupier, otherwise than in pursuance of proceedings in the court, his right to recover possession of the premises.

(2) Paragraph (1) shall, with the necessary modifications, apply where the owner's right to recover possession arises on the death of the tenant under a statutory tenancy.

(3) In this Article “occupier” means any person lawfully residing in a dwelling-house at the termination of the former tenancy.

#### Modifications etc. (not altering text)

C3 Arts. 54-58 excluded (17.9.2011) by Caravans Act (Northern Ireland) 2011 (c. 12), ss. 14(3), 18

### Savings (Part IX)

57.—(1) Nothing in this Part shall affect the jurisdiction of the High Court in proceedings—

- (a) to enforce a lessor's right of re-entry or forfeiture;
- (b) to enforce a mortgagee's right of possession in a case where the former tenancy was not binding on the mortgagee.

(2) Nothing in this Part shall affect the operation of—

- (a) section 19 of the Defence Act 1842 ;
- (b) section 91 of the Lands Clauses Consolidation Act 1845 ;
- (c) section 5(1) of the Criminal Law Amendment Act 1912 .

[<sup>F43</sup>(d) Article 129 of, and Schedule 15 to, the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985]

F43 1985 NI 11

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

*Changes to legislation: There are currently no known outstanding effects for the Rent (Northern Ireland) Order 1978. (See end of Document for details)*

**Modifications etc. (not altering text)**

C4 Arts. 54-58 excluded (17.9.2011) by Caravans Act (Northern Ireland) 2011 (c. 12), ss. 14(3), 18

**Interpretation of Part IX**

**58.**—(1) In this Part—

“the court” means—

- (a) the county court, in relation to premises with respect to which the county court has for the time being jurisdiction in actions for the recovery of land; and
- (b) the High Court, in relation to other premises;

“the owner”, in relation to any premises, means the person who, as against the occupier, is entitled to possession of the premises.

(2) For the purpose of this Part a person who, under the terms of his employment, had exclusive possession of a dwelling-house otherwise than as a tenant shall be deemed to have been a tenant and “let” and “tenancy” shall be construed accordingly.

**Modifications etc. (not altering text)**

C5 Arts. 54-58 excluded (17.9.2011) by Caravans Act (Northern Ireland) 2011 (c. 12), ss. 14(3), 18

*Part X (Arts. 59#61) rep. by 1983 NI 14*

## PART XI

### MISCELLANEOUS AND GENERAL

**Length of notice to quit under tenancies of dwelling-houses**

**62.** A notice by a landlord or tenant to quit a dwelling-house let (whether before or after the commencement of this Order) under a [<sup>F44</sup> private] tenancy shall not be valid unless it is given not less than four weeks before the date on which it is to take effect.

F44 1981 NI 3

**Inspection and entry of certain premises**

**63.**—(1) A district council may, if an application in that behalf is made to it by the landlord or tenant of a dwelling-house let on a regulated tenancy, cause the dwelling-house to be inspected with a view to ascertaining whether it meets the regulated tenancy standard.

(2) The tenant under a protected or statutory tenancy shall permit the landlord, and persons authorised by him for the purpose, to enter the premises comprised in the tenancy at reasonable times and upon reasonable notice—

- (a) in order to inspect them and carry out any works which, by virtue of this Order, the landlord is under a duty to execute;
- (b) in order to inspect the state of repair of the premises.

[<sup>F45</sup>(2A) Subject to paragraphs (2B) and (2C), where—

- (a) the landlord under a restricted tenancy wishes to carry out such works as are specified in a statement issued by a district council under paragraph (2) of Article 9 (works necessary to enable dwelling-house to meet the regulated tenancy standards); and
- (b) the works cannot be carried out without the consent of the tenant, but the tenant is unwilling to give his consent;

the landlord may apply to the county court for an order empowering him, or a person authorised by him, to enter the dwelling-house and carry out the works.

(2B) An order under paragraph (2A) may be made subject to such conditions as to—

- (a) the time at which the works are to be carried out; and
- (b) any provision to be made for the accommodation of the tenant and his household,

as the court may think fit.

(2C) In determining whether to make such an order and, if it is made, what (if any) conditions it should be subject to, the court shall have regard to all the circumstances and in particular to—

- (a) any disadvantage to the tenant that might be expected to result from the works;
- (b) the accommodation that might be available for him whilst the works are carried out; and
- (c) the age and health of the tenant;

but the court shall not take into account the means and resources of the tenant.]

(3) Where, in the exercise of powers conferred by paragraph (2), any damage is caused to the premises or any property in or on the premises, by the landlord or any person authorised by him, the landlord shall make that damage good.

F45 1983 NI 15

### **Tenant sharing accommodation with persons other than landlord**

64.—(1) Where a tenant has the exclusive occupation of any accommodation (in this Article referred to as “the separate accommodation”) and—

- (a) the terms as between the tenant and his landlord on which he holds the separate accommodation include the use of other accommodation (in this Article referred to as “the shared accommodation”) in common with another person or other persons, not being or including the landlord, and
- (b) by reason only of the circumstances mentioned in sub-paragraph ( a ), the separate accommodation would not, apart from this Article, be a dwelling-house let on or subject to a protected or statutory tenancy,

the separate accommodation shall be deemed to be a dwelling-house let on a protected tenancy or, as the case may be, subject to a statutory tenancy and the following provisions of this Article shall have effect.

(2) Where, for the purpose of determining the net annual value of the separate accommodation, it is necessary to make an apportionment under this Order, regard is to be had to the circumstances mentioned in paragraph (1)( a ).

(3) Subject to paragraph (4), while the tenant is in possession of the separate accommodation (whether as a protected or statutory tenant), any term or condition of the contract of tenancy terminating or modifying, or providing for the termination or modification of, his right to the use of any of the shared accommodation which is living accommodation shall be of no effect.

(4) Where the terms and conditions of the contract of tenancy are such that at any time during the tenancy the persons in common with whom the tenant is entitled to the use of the shared

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accommodation could be varied, or their number could be increased, nothing in paragraph (3) shall prevent those terms and conditions from having effect so far as they relate to any such variation or increase.

(5) Subject to paragraph (6) and without prejudice to the enforcement of any order made thereunder, while the tenant is in possession of the separate accommodation, no order shall be made for possession of any of the shared accommodation, whether on the application of the immediate landlord of the tenant or on the application of any person under whom that landlord derives title, unless a like order has been made, or is made at the same time, in respect of the separate accommodation; and Article 13(1) shall apply accordingly.

(6) Subject to paragraph (7), on the application of the landlord, the county court may make such order, either—

- (a) terminating the right of the tenant to use the whole or any part of the shared accommodation other than living accommodation, or
- (b) modifying his right to use the whole or any part of the shared accommodation, whether by varying the persons or increasing the number of persons entitled to the use of that accommodation, or otherwise,

as the court thinks just.

(7) No order shall be made under paragraph (6) so as to effect any termination or modification of the rights of the tenant which, apart from paragraph (3), could not be effected by or under the terms of the contract of tenancy.

(8) In this Article “living accommodation” means accommodation of such a nature that the fact that it constitutes or is included in the shared accommodation is (or, if the tenancy has ended, was) sufficient, apart from this Article, to prevent the tenancy from constituting a protected or statutory tenancy of a dwelling-house.

### **Certain sub-lettings not to exclude any part of sub-lessor's premises from Order**

**65.**—(1) Where the tenant of any premises consisting of a dwelling-house has sub-let a part, but not the whole, of the premises, then, as against his landlord or any superior landlord, no part of the premises shall be treated as not being a dwelling-house let on or subject to a protected or statutory tenancy by reason only that—

- (a) the terms on which any person claiming under the tenant holds any part of the premises include the use of accommodation in common with other persons; or
- (b) part of the premises is let to any such person at a rent which includes payments in respect of board, attendance or use of furniture.

(2) This Article does not affect the rights against, and liabilities to, each other of the tenant and any person claiming under him, or of any two such persons.

### **Overholding**

**66.** A tenant shall not be deemed for the purposes of section 76 of the Landlord and Tenant Law Amendment Act, Ireland, 1860 (payment of double rent for overholding) wilfully to hold over any land comprised in a tenancy by reason only of his remaining in possession thereof under or by virtue of this Order.

### **Adjustment for differences in lengths of rental periods**

**67.**—(1) In ascertaining for the purposes of this Order whether there is any difference with respect to rents or rates between one rental period and another (whether of the same tenancy or not) or the



amount of any such difference, any necessary adjustment shall be made to take account of periods of different lengths.

- (2) For the purposes of an adjustment referred to in paragraph (1)—
- (a) one month shall be treated as equivalent to one-twelfth of a year; and
  - (b) one week shall be treated as equivalent to one fifty-second of a year.

### **Appropriate district councils**

**68.** Where an application may be made under this Order to a district council in relation to a dwelling-house, the application shall be made to the council in whose area the dwelling-house is situated.

### **County court jurisdiction**

**69.**—(1) A county court shall have jurisdiction, either in the course of any proceedings relating to a dwelling or on an application made for the purpose by the landlord or the tenant, to determine any question—

- (a) as to whether a tenancy is a protected tenancy or whether any person is a statutory tenant of a dwelling-house;
- (b) as to the rent recoverable under a regulated or restricted tenancy;
- (c) as to whether a tenancy is a restricted or regulated tenancy,
- [<sup>F46</sup>(d) as to whether a landlord should be empowered to enter a dwelling-house under Article 63 (2A).]

or as to any matter which is or may become material for determining any such question.

(2) A county court shall have jurisdiction to deal with any claim or other proceedings arising out of any of the provisions of this Order (except Part IX) notwithstanding that by any reason of the amount of the claim or otherwise the case would not, apart from this paragraph, be within the jurisdiction of a county court.

(3) If, under this Order, a person takes proceedings in the High Court which he could have taken in the county court he shall not be entitled to receive any costs.

**F46** 1983 NI 15

### **Prosecution of offences**

**70.** Offences under this Order are, subject to Article 54(3), punishable summarily.

### **Net annual value**

**71.**—(1) The net annual value on any day of a dwelling-house shall be ascertained for the purposes of this Order as follows:—

- (a) if the dwelling-house is a hereditament for which a net annual value is then shown in the valuation list, it shall be that net annual value;
- (b) if the dwelling-house forms part only of such a hereditament or consists of or forms part of more than one such hereditament, its net annual value shall be taken to be such value as is found by a proper apportionment or aggregation of the net annual value or values so shown;

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*Changes to legislation: There are currently no known outstanding effects for the Rent (Northern Ireland) Order 1978. (See end of Document for details)*

- (c) if Article 12(3) applies in relation to the dwelling-house, its net annual value shall be taken to be the value appointed, under Article 44(2) of the Rates (Northern Ireland) Order 1977, to so much of the dwelling-house as is used for the purposes of a private dwelling;
  - (d) if Article 12(4) applies in relation to the dwelling-house, its net annual value shall be taken to be the net annual value shown in the valuation list for the dwelling-house.
- (2) Any question arising under this Article as to the proper apportionment or aggregation of any value or values shall be determined by the Commissioner of Valuation for Northern Ireland.
- (3) Any person who is aggrieved by the decision of the Commissioner of Valuation for Northern Ireland under paragraph (2) as to the proper apportionment or aggregation of any value or values may, within twenty-eight days from the date on which he receives notice of the decision, appeal to the Lands Tribunal against the decision.
- (4) Where, after the commencement of this Order—
- (a) the valuation list is altered so as to vary the net annual value of the hereditament of which the dwelling-house consists or forms part; and
  - (b) the alteration has effect from a date not later than that commencement, the net annual value of the dwelling-house on the commencement of this Order shall be ascertained as if the value shown in the valuation list on that commencement had been the value shown in the list as altered.
- (5) Paragraphs (1) to (4) apply in relation to any other land as they apply in relation to a dwelling-house.

### Information

72. The Department<sup>F47</sup> and the Executive, acting either jointly or individually] may publish information, for the assistance of landlords and tenants, as to their rights and duties and as to the procedure for enforcing those rights or securing the performance of those duties.

F47 2003 NI 2

### Service of notices on landlord's agents

73.—(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) [<sup>F48</sup>If—]

- <sup>F48</sup>(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 (2) fails or refuses forthwith to comply with a notice served on him under that paragraph, he shall be liable to<sup>F48</sup> a fine not exceeding £500], 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.

**F48** 1983 NI 15

#### [<sup>F49</sup>Method of serving certain documents

**73A.**—(1) Any document to be served under any of the following provisions of this Order, namely Articles 8, 9, 10, 25(6), 25A(2), 26(4), 46 and 73(2) and paragraph 2(1) of Schedule 6 may be served by being sent by ordinary post.

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

**F49** 1992 NI 15

#### Regulations

**74.**—(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 the procedure on applications to, and to be followed by, rent assessment committees;
- (d) prescribing anything which is required by this Order to be prescribed;
- (e) generally for carrying into effect this Order.

(2) Regulations under paragraph (1) may contain provisions modifying Schedule 6, but any such regulations shall be made subject to affirmative resolution.

(3) Subject to paragraph (2), regulations under paragraph (1) shall be subject to negative resolution.

#### Application to Crown property

**75.**—(1) Subject to Article 5(7), 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.

#### Prohibition of agreements excluding Order

**76.** This Order shall have effect notwithstanding any agreement to the contrary.

#### Amendments, savings and repeals

**77.** *Para.(1), with Schedule 8, effects amendments*

(2) The savings in Schedule 9 shall have effect.

*Para.(3), with Schedule 10, effects repeals*

**Status:** Point in time view as at 01/01/2006.  
**Changes to legislation:** There are currently no known outstanding effects for the Rent (Northern Ireland) Order 1978. (See end of Document for details)

## SCHEDULES

### SCHEDULE 1

Article 4.

#### STATUTORY TENANTS BY SUCCESSION

1. Paragraph 2<sup>F50</sup> . . . or, as the case may be, paragraph 4 shall have effect, subject to Article 4(3), for the purpose of determining who is the statutory tenant of a dwelling-house by succession after the death of the person (in this Schedule referred to as “the original tenant”) who, immediately before his death, was a protected tenant of the dwelling-house or the statutory tenant of it by virtue of his previous protected tenancy.

**F50** 1986 NI 13

[<sup>F51</sup>2. The surviving spouse]<sup>F52</sup>, or surviving civil partner,] (if any) of the original tenant, if residing in the dwelling-house immediately before the death of the original tenant, shall after the death be the statutory tenant if and so long as he or she occupies the dwelling-house as his or her residence.]

**F51** 1986 NI 13

**F52** 2004 c.33

*Para. 3 rep. by 1986 NI 13*

4. Where—

- (a) paragraph 2<sup>F53</sup> . . . does not apply, but
- (b) a person who was a member of the original tenant's family was residing with him at the time of and for the period of six months immediately before his death,

then, after his death, that person or if there is more than one such person such one of them as may be decided by agreement, or in default of agreement by the county court, shall be the statutory tenant if and so long as he occupies the dwelling-house as his residence.

**F53** 1986 NI 13

5. A person who becomes the statutory tenant of a dwelling-house by virtue of paragraph 2,<sup>F54</sup> . . . or 4 is in this Schedule referred to as “the first successor”.

**F54** 1986 NI 13

6. If, immediately before his death, the first successor was still a statutory tenant, paragraph 7<sup>F55</sup> . . . or, as the case may be, paragraph 9 shall have effect, subject to Article 4(3), for the purpose of determining who is the statutory tenant after the death of the first successor.

**F55** 1986 NI 13

[<sup>F56</sup>7. The surviving spouse<sup>F57</sup>, or surviving civil partner,] (if any) of the first successor, if residing in the dwelling-house immediately before the death of the first successor, shall after the death of the statutory tenant if and so long as he or she occupies the dwelling-house as his or her residence.]

**F56** 1986 NI 13

**F57** 2004 c.33

*Para. 8 rep. by 1986 NI 13*

**9.** Where—

- (a) paragraph 7<sup>F58</sup> . . . does not apply, but
- (b) a person who was a member of the first successor's family was residing with him at the time of and for the period of six months immediately before his death,

then, after his death, that person or if there is more than one such person such one of them as may be decided by agreement, or in default of agreement by the county court, shall be the statutory tenant if and so long as he occupies the dwelling-house as his residence.

**F58** 1986 NI 13

**10.**—(1) Where after a succession the successor becomes the tenant of the dwelling-house by the grant to him of another tenancy, “the original tenant” and “the first successor” in this Schedule in relation to that other tenancy, mean the persons who were respectively the original tenant and the first successor at the time of the succession, and accordingly—

- (a) if the successor was the first successor, and, immediately before his death he was still the tenant (whether protected or statutory), paragraphs 7<sup>F59</sup> and] 9 shall apply on his death,
- (b) if the successor was not the first successor, no person shall become a statutory tenant on his death by virtue of this Schedule.

(2) Sub-paragraph (1) applies—

- (a) even if a successor enters into more than one other tenancy of the dwelling-house, and
- (b) even if both the first successor, and the successor on his death, enter into other tenancies of the dwelling-house.

(3) In this paragraph “succession” means the occasion on which a person becomes the statutory tenant of a dwelling-house by virtue of this Schedule and “successor” shall be construed accordingly.

**F59** 1986 NI 13

**11.** In this Schedule references to “the first successor” shall be deemed to include references to a tenant of a dwelling-house to which the Rent Restriction Acts applied immediately before the

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commencement of this Order whose right to retain possession of that dwelling-house arose on the death of such a person as is mentioned in Article 4(5)( b)(i).

*Schedule 2 rep. by 1989 NI 4*

*Schedule 3 rep. by 1992 NI 15*

#### SCHEDULE 4

Article 13.

### GROUND FOR POSSESSION OF DWELLING-HOUSES LET ON OR SUBJECT TO PROTECTED OR STATUTORY TENANCIES

#### PART I

#### CASES IN WHICH COURT MAY ORDER POSSESSION

##### *Case 1*

Where any rent lawfully due from the tenant has not been paid, or any obligation of the protected or statutory tenancy which arises under this Order, or—

- (a) in the case of a protected tenancy, any other obligation of the tenancy, in so far as it is consistent with Part III of this Order, or
- (b) in the case of a statutory tenancy, any other obligation of the previous protected tenancy which is applicable to the statutory tenancy,

has been broken or not performed.

[<sup>F60</sup>In paragraphs (a) and (b) above any reference to an obligation of a tenancy does not include an obligation to repair, maintain or carry out works to the dwelling-house comprised in the tenancy, other than an obligation arising by virtue of Article 42.]

**F60** 1992 NI 15

##### *Case 2*

Where the tenant or any person residing or lodging with him or any sub-tenant of his—

- (a) has been guilty of conduct which is a nuisance or annoyance to adjoining occupiers; or

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

**Changes to legislation:** There are currently no known outstanding effects for the Rent (Northern Ireland) Order 1978. (See end of Document for details)

- (b) has been convicted of using the dwelling-house or allowing the dwelling-house to be used for immoral or illegal purposes.

#### Case 3

Where—

- (a) the condition of the dwelling-house has, in the opinion of the court, deteriorated owing to acts of waste by, or the neglect or default of, the tenant or any person residing or lodging with him or any sub-tenant of his, and
- (b) in the case of any act of waste by, or the neglect or default of, a person lodging with the tenant or a sub-tenant of his, the court is satisfied that the tenant has not, before the making of the order in question, taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant, as the case may be.

#### Case 4

Where—

- (a) the condition of any furniture provided for use under the tenancy has, in the opinion of the court, deteriorated owing to ill-treatment by the tenant or any person residing or lodging with him or any sub-tenant of his, and
- (b) in the case of any ill-treatment by a person lodging with the tenant or a sub-tenant of his the court is satisfied that the tenant has not, before the making of the order in question, taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant, as the case may be.

#### Case 5

Where—

- (a) the tenant has given notice to quit, and
- (b) in consequence of that notice, the landlord has contracted to sell or let the dwelling-house or has taken any other steps as the result of which he would, in the opinion of the court, be seriously prejudiced if he could not obtain possession.

#### Case 6

Where, without the consent of the landlord, the tenant has, at any time after the commencement of this Order, assigned or sub-let the whole of the dwelling-house or sub-let part of the dwelling-house, the remainder being already sub-let.

#### Case 7

Where—

- (a) the dwelling-house is reasonably required by the landlord for occupation as a residence for some person engaged in his whole-time employment, or in the whole-time employment

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- of some tenant from him or with whom, conditional on housing being provided, a contract for such employment has been entered into, and
- (b) the tenant was in the employment of the landlord or a former landlord; and
  - (c) the dwelling-house was let to the tenant in consequence of that employment and he has ceased to be in that employment.

#### Case 8

Where the dwelling-house is reasonably required by the landlord for occupation as a residence for—

- (a) himself, or
- (b) any son or daughter of his over the age of 18, or
- (c) his father or mother, or
- (d) if the dwelling-house is let on or subject to a regulated tenancy, the father or mother of his<sup>F61</sup> spouse or civil partner].

and the landlord did not become landlord by purchasing the dwelling-house or any estate therein after the commencement of this Order.

**F61** [2004 c.33](#)

**F61** [2004 c.33](#)

#### Case 9

Where the court is satisfied that the rent charged by the tenant for any sub-let part of the dwelling-house which is a dwelling-house let on a protected tenancy or subject to a statutory tenancy is or was in excess of the maximum rent for the time being recoverable for that part, having regard to Part IV or, as the case may be, Part VI of this Order.

#### Case 10

Where—

- (a) the dwelling-house is the sole or principal dwelling-house on any agricultural land used for agriculture; and
- (b) the court is satisfied that the landlord intends to sell the land.

For the purposes of this Case “agriculture” has the same meaning as in the Agricultural Wages (Regulation) (Northern Ireland) Order 1977 .

## PART II

### CASES IN WHICH COURT MUST ORDER POSSESSION

#### Case 11



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

**Changes to legislation:** There are currently no known outstanding effects for the Rent (Northern Ireland) Order 1978. (See end of Document for details)

(1) [<sup>F62</sup>Where a person (in this Case referred to as “the owner-occupier”) who let the dwelling-house on a protected tenancy had, at any time before the letting, occupied it as his residence], and

- (a) not later than the commencement of that tenancy the landlord gave notice to the tenant that possession might be recovered under this Case; and
- (b) the dwelling-house has not since the commencement of that tenancy been let by the owner-occupier on a protected tenancy with respect to which the condition mentioned in sub-paragraph ( a ) was not satisfied; and

[<sup>F63</sup>(c) the court is of the opinion that the conditions set out in Part V of this Schedule one of those in sub-paragraphs (a) and (c) to (f) of paragraph (2) is satisfied.]

(2) If the court is of the opinion that, notwithstanding that the condition in paragraph (1)( a ) or ( b ) is not complied with, it is just and equitable to make an order for possession of the dwelling-house, the court may dispense with the requirements of either or both of those sub-paragraphs.

[<sup>F62</sup>(3) Where the dwelling-house has been let by the owner-occupier on a protected tenancy (in this paragraph referred to as “the earlier tenancy”) granted on or after 16th November 1984 but not later than the end of the period of two months beginning with the day of the coming into operation of the Rent (Amendment) (Northern Ireland) Order 1985 and either—

- (a) the earlier tenancy was granted for a term certain (whether or not followed by a further term or to continue thereafter from year to year or some other period) and was during that term a protected shorthold tenancy as defined in Article 92 of the Housing (Northern Ireland) Order 1983, or
- (b) the conditions mentioned in paragraphs (a) to (c) of Case 18 were satisfied in relation to the dwelling-house and the earlier tenancy,

then for the purposes of sub-paragraph (b) of paragraph (1) the condition in sub-paragraph (a) of that paragraph is to be treated as having been satisfied with respect to the earlier tenancy.]

**F62** 1985 NI 10  
**F63** 1983 NI 15

**F62** 1985 NI 10  
**F63** 1983 NI 15

#### *[<sup>F64</sup>Case 12*

**F64** 1983 NI 15

Where the owner intends to occupy the dwelling-house as his residence at such time as he might retire from regular employment and has let it on a protected tenancy before he has so retired and—

- (a) not later than the commencement of the protected tenancy the owner gave notice in writing to the tenant that possession might be recovered under this Case;
- (b) the dwelling-house has not, since the commencement of the Housing (Northern Ireland) Order 1983, been let by the owner on a protected tenancy with respect to which the condition mentioned in paragraph (a) was not satisfied; and
- (c) the court is of the opinion that of the conditions set out in Part V one of those in sub-paragraphs (b) to (e) of paragraph (2) is satisfied.

**Status:** Point in time view as at 01/01/2006.  
**Changes to legislation:** There are currently no known outstanding effects for the Rent (Northern Ireland) Order 1978. (See end of Document for details)

If the court is of the opinion that, notwithstanding that the conditions in paragraph (a) and (b) are not complied with, it is just and equitable to make an order for possession of the dwelling-house, the court may dispense with the requirements of either or both of those paragraphs, as the case may require.]

#### Case 13

Where—

- (a) the dwelling-house is held for the purpose of being available for occupation by a minister or a full-time lay missionary of any religious denomination as a residence from which to perform the duties of his office; and
- (b) the court is satisfied that the dwelling-house is required for occupation by such a minister or missionary as such a residence.

#### Case 14

Where the dwelling-house was at any time occupied by a person under the terms of his employment as a person employed in agriculture and—

- (a) the tenant neither is nor at any time was so employed by the landlord and is not the widow of a person who was so employed, and
- (b) not later than 1st April 1979 or the date of the commencement of the protected tenancy in question (whichever is the later), the tenant was given notice in writing that possession might be recovered under this Case, and
- (c) the court is satisfied that the dwelling-house is required for occupation by a person employed or to be employed by the landlord in agriculture;

and for the purposes of this Case “employed”, “employment” and “agriculture” have the same meanings as in the Agricultural Wages (Regulation) (Northern Ireland Order) 1977 .

#### Case 15

Where proposals for amalgamation, approved for the purposes of a scheme under section 26 of the Agriculture Act 1967 , have been carried out and, at the time when the proposals were submitted, the dwelling-house was occupied by a person responsible (whether as owner, tenant, or servant or agent of another) for the control of the farming of any part of the land comprised in the amalgamation and—

- (a) after the carrying out of the proposals, the dwelling-house was let on a protected tenancy otherwise than to, or to the widow of, either a person ceasing to be so responsible as part of the amalgamation or a person who is, or at any time was, employed by the landlord in agriculture, and
- (b) not later than the date of the commencement of the protected tenancy in question the tenant was given notice in writing that possession might be recovered under this Case, and
- (c) the court is satisfied that the dwelling-house is required for occupation by a person employed, or to be employed, by the landlord in agriculture, and
- (d) the proceedings for possession are commenced by the landlord at any time during the period of 5 years beginning with the date on which the proposals for the amalgamation were approved or, if occupation of the dwelling-house after the amalgamation continued

in, or was first taken by, a person ceasing to be responsible as mentioned in paragraph (a) or his widow, during a period expiring 3 years after the date on which the dwelling-house next became unoccupied.

For the purposes of this Case “employed” and “agriculture” have the same meanings as in the Agricultural Wages (Regulation) (Northern Ireland) Order 1977 and “amalgamation” has the same meaning as in Part II of the Agriculture Act 1967.

### Case 16

(1) Where—

- (a) the last occupier of the dwelling-house before the date of the commencement of the protected tenancy in question was a person, or the widow of a person, who was at some time during his occupation responsible (whether as owner, tenant, or servant or agent of another) for the control of the farming of land which formed, together with the dwelling-house, an agricultural unit, and
- (b) the tenant is neither—
  - (i) a person, or the widow of a person, who is or has at any time been responsible for the control of the farming of any part of that land, nor
  - (ii) a person, or the widow of a person, who is or at any time was employed by the landlord in agriculture, and
- (c) the creation of the tenancy was not preceded by the carrying out in connection with any of that land of an amalgamation approved for the purposes of a scheme under section 26 of the Agriculture Act 1967, and
- (d) not later than the date of the commencement of the protected tenancy in question the tenant was given notice in writing that possession might be recovered under this Case, and
- (e) the court is satisfied that the dwelling-house is required for occupation either by a person responsible or to be responsible (whether as owner, tenant, or servant or agent of another) for the control of the farming of any part of that land or by a person employed or to be employed by the landlord in agriculture, and
- (f) where the date of the commencement of the protected tenancy in question was before the commencement of this Order, the proceedings for possession are commenced by the landlord before the expiry of 5 years from the date on which the occupier referred to in paragraph (a) went out of occupation.

(2) For the purposes of this Case “employed” and “agriculture” have the same meanings as in the Agricultural Wages (Regulation) (Northern Ireland) Order 1977 and “amalgamation” has the same meaning as in Part II of the Agriculture Act 1967.

(3) In this Case “agricultural unit” means land which is occupied as a unit for agricultural purposes, including any dwelling-house or other building occupied by the same person for the purpose of farming the land.

### *F*<sup>65</sup>Case 17

**F65** 1983 NI 15

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

**Changes to legislation:** There are currently no known outstanding effects for the Rent (Northern Ireland) Order 1978. (See end of Document for details)

Where the dwelling-house was let under a protected shorthold tenancy (or is treated under Article 95 of the Housing (Northern Ireland) Order 1983 as having been so let) and—

- (a) there either has been no grant of a further tenancy of the dwelling-house since the end of the protected shorthold tenancy or, if there was such a grant, it was to a person who immediately before the grant was in possession of the dwelling-house as a protected or statutory tenant; and
- (b) the proceedings for possession were commenced after appropriate notice by the landlord to the tenant and not later than three months after the expiry of the notice.

A notice is appropriate for this Case if—

- (i) it is in writing and states that proceedings for possession under this Case may be brought after its expiry; and
- (ii) it expires not earlier than three months after it is served and, if at the time of service the tenancy is a periodic tenancy, not earlier than the date by which that periodic tenancy could be brought to an end by a notice to quit served by the landlord on the same day;
- (iii) it is served—
  - (a) in the period of three months immediately preceding the date on which the protected shorthold tenancy comes to an end; or
  - (b) if that date has passed, in the period of three months immediately preceding any anniversary of that date; and
- (iv) in a case where a previous notice has been served by the landlord on the tenant in respect of the dwelling-house, and that notice was an appropriate notice, it is served not earlier than three months after the expiry of the previous notice.]

*F<sup>66</sup>Case 18*

**F66** 1983 NI 15

Where the dwelling-house was let by a person (in this Case referred to as “the owner”) at any time after the commencement of the Housing (Northern Ireland) Order 1983 and—

- (a) at the time when the owner acquired the dwelling-house he was a member of the regular armed forces of the Crown;
- (b) at the commencement of that tenancy the owner was a member of the regular armed forces of the Crown;
- (c) not later than the commencement of that tenancy the owner gave notice in writing to the tenant that possession might be recovered under this Case;
- (d) the dwelling-house has not, since the commencement of the said Order of 1983, been let by the owner on a protected tenancy with respect to which the condition mentioned in paragraph (c) was not satisfied; and
- (e) the court is of the opinion that—
  - (i) the dwelling-house is required as a resident for the owner; or
  - (ii) of the conditions set out in Part V of this Schedule one of those in paragraphs (c) to (f) is satisfied.

If the court is of the opinion that, notwithstanding that the condition in paragraph (c) or (d) above is not complied with, it is just and equitable to make an order for possession of the dwelling-house,

the court may dispense with the requirements of either or both of these paragraphs, as the case may require.

For the purposes of this Case “regular armed forces of the Crown” has the same meaning as in section 1 of the Northern Ireland Assembly Disqualification Act 1975.]

## PART III

### PROVISION APPLICABLE TO CASE 8

A court shall not make an order for possession of a dwelling-house by reason only that the circumstances of the case fall within Case 8 in Part I if the court is satisfied that, having regard to all the circumstances of the case, including the question whether other accommodation is available for the landlord or the tenant, greater hardship would be caused by granting the order than by refusing to grant it.

## PART IV

### SUITABLE ALTERNATIVE ACCOMMODATION

1. For the purposes of Article 13(1)( a), a certificate of the Executive or of a registered housing association certifying that the Executive or the registered housing association, as the case may be, will provide suitable alternative accommodation for the tenant by a date specified in the certificate, shall be conclusive evidence that suitable alternative accommodation will be available for him by that date.

2. Where no such certificate as is mentioned in paragraph 1 is produced to the court, accommodation shall be deemed to be suitable for the purposes of Article 13(1)( a) if it consists of either—

- (a) premises which are to be let as a separate dwelling such that they will then be let on a protected tenancy, or<sup>F67</sup> (other than one under which the landlord might recover possession of the dwelling-house under one of the Cases in Part II of this Schedule)]
- (b) premises to be let as a separate dwelling on terms which will, in the opinion of the court, afford to the tenant security of tenure reasonably equivalent to the security afforded by Part III of this Order in the case of a protected tenancy<sup>F67</sup> of a kind mentioned in sub-paragraph (a)].

and, in the opinion of the court, the accommodation fulfils the relevant conditions as defined in paragraph 3.

**F67** 1983 NI 15

3.—(1) For the purposes of paragraph 2, the relevant conditions are that the accommodation is reasonably suitable to the needs of the tenant and his family as regards proximity to place of work, and either—

- (a) similar as regards rental and extent to the accommodation afforded by dwelling-house provided in the neighbourhood by the Executive for persons whose needs as regards extent are, in the opinion of the court, similar to those of the tenant and his family; or

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

*Changes to legislation: There are currently no known outstanding effects for the Rent (Northern Ireland) Order 1978. (See end of Document for details)*

- (b) reasonably suitable to the means of the tenant and to the needs of the tenant and his family as regards extent and character.
- (2) For the purposes of sub-paragraph (1)(a), a certificate of the Executive stating—
  - (a) the extent of the accommodation afforded by dwelling-houses provided by the Executive to meet the needs of tenants with families of such number as may be specified in the certificate, and
  - (b) the amount of the rent charged by the Executive for dwelling-houses affording accommodation of that extent,

shall be conclusive evidence of the facts so stated.

4. Accommodation shall not be deemed to be suitable to the needs of the tenant and his family if the result of their occupation of the accommodation would be that it would be an overcrowded dwelling-house for the purposes of the Public Health Acts or the Housing Acts.

5. Any document purporting to be a certificate of the Executive or of a registered housing association named therein issued for the purposes of this Schedule and to be signed by a member of the Executive or by an authorised employee of the Executive or by a member of the committee of the registered housing association, as the case may be, shall be received in evidence and, unless the contrary is shown, shall be deemed to be such a certificate without further proof.

## [<sup>F68</sup>Part V

### Provisions applying to Cases 11, 12 and 18

**F68** 1983 NI 15

1. In this Part of this Schedule—

“mortgage” includes a charge;

“owner” means, in relation to Case 11, the owner-occupier; and

“successor in title” means any person deriving title from the owner, other than a purchaser for value or a person deriving title from a purchaser for value.

2. The conditions referred to in paragraph (1)(c) of Case 11, in paragraph (c) of Case 12 and in paragraph (e)(ii) of Case 18 are that—

- (a) the dwelling-house is required as a residence for the owner or any member of his family who resided with the owner when he last occupied the dwelling-house as a residence;
- (b) the owner has retired from regular employment and requires the dwelling-house as a residence;
- (c) the owner has died and the dwelling-house is required as a residence for a member of his family who was residing with him at the time of his death;
- (d) the owner has died and the dwelling-house is required by a successor in title as his residence or for the purpose of disposing of it with vacant possession;
- (e) the dwelling-house is subject to a mortgage, made by deed and granted before the tenancy, and the mortgagee—

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

**Changes to legislation:** There are currently no known outstanding effects for the Rent (Northern Ireland) Order 1978. (See end of Document for details)

- (i) is entitled to exercise a power of sale conferred on him by the mortgage or by section 19 of the Conveyancing Act 1881; and
- (ii) requires the dwelling-house for the purpose of disposing of it with vacant possession in exercise of that power; and
- (f) the dwelling-house is not reasonably suitable to the needs of the owner, having regard to his place of work, and he requires it for the purpose of disposing of it with vacant possession and of using the proceeds of that disposal in acquiring, as his residence, a dwelling-house which is more suitable to those needs.]

## SCHEDULE 5

Article 28(1).

### RENT ASSESSMENT COMMITTEES

1. The Department shall draw up and revise a panel of persons to act as chairmen and other members of rent assessment committees.

2. The panel shall consist of a number of persons appointed by the Department,<sup>F69</sup> . . .

**F69** 1983 NI 15

[<sup>F70</sup>3. The Department shall nominate one person on the panel to act as rent officer and may nominate another person on the panel to act as deputy rent officer.]

**F70** 1983 NI 15

4. Subject to paragraphs 5 to 8, the number of rent assessment committees, the areas for which any such committees shall act and the constitution of those committees shall be determined by the rent officer or, in the case of the rent officer's absence or incapacity, by the deputy rent officer.

5. Subject to paragraph 6, each rent assessment committee shall consist of a chairman and one or two other members.

6. The rent officer may, if he thinks fit, direct that when dealing with a case in such circumstances as may be specified in the direction, the chairman sitting alone may, with the consent of the parties, exercise the functions of a rent assessment committee.

7. There shall be paid to members of the panel such remuneration and allowances as the Department, with the consent of the Department of the Civil Service, may determine.

8. The Department may make available to rent assessment committees such of its officers as it considers necessary.

*Status: Point in time view as at 01/01/2006.*  
*Changes to legislation: There are currently no known outstanding effects for the Rent (Northern Ireland) Order 1978. (See end of Document for details)*

## SCHEDULE 6

Article 28(2).

## APPLICATIONS FOR DETERMINATION OF APPROPRIATE RENTS

1.—(1) An application for the determination of an appropriate rent by a rent assessment committee shall be sent to the rent officer.

(2) The rent officer shall assign an application sent to him under sub-paragraph (1) to such rent assessment committee as he considers appropriate.

2.—(1) The rent assessment committee to which an application for the determination of an appropriate rent is assigned—

- (a) may by notice in the prescribed form served on the landlord or the tenant require him to give to the committee, within such period of not less than twenty-one days from the service of the notice as may be specified in the notice, such information as it may reasonably require; and
- (b) shall serve on the landlord and on the tenant a notice specifying a period of not less than twenty-one days from the service of the notice during which either representations in writing or a request to make oral representations may be made by him to the committee.

(2) If any person fails without reasonable cause to comply with any notice served on him under sub-paragraph (1)( a), he shall be guilty of an offence and liable to<sup>F71</sup> a fine not exceeding £500].

F71 1983 NI 15

3. Where, within the period specified in paragraph 2(1)( b), or such further period as the committee may allow, the landlord or the tenant requests to make oral representations the committee shall give him an opportunity to be heard either in person or by a person authorised by him in that behalf, whether or not that person is of counsel or a solicitor.

4.—(1) The committee shall make such inquiry (if any) as it thinks fit and consider any information supplied or representation made to it in pursuance of paragraph 2 or 3 and—

- (a) if it appears to it that the rent sought to be registered is an appropriate rent, it shall confirm that rent;
- (b) if it does not appear to it that the rent is an appropriate rent, it shall determine an appropriate rent for the dwelling-house.

(2) Before confirming or determining a rent under this paragraph, the committee shall afford to the rent officer an opportunity to make oral or written representations.

(3) Where the committee confirms or determines a rent under this paragraph it shall notify the landlord, the tenant and<sup>F72</sup> the Executive] accordingly.

(4) On receiving the notification,<sup>F72</sup> the Executive] shall, as the case may require, either indicate in the register that the rent has been confirmed or register the rent determined by the committee as the rent for the dwelling-house.

F72 2003 NI 2



## SCHEDULE 7

Article 29.

### CALCULATION OF AMOUNT OF RATES

1. For the purposes of this Order, the amount of rates for any rental period shall be taken, subject to the following provisions of this Schedule, to be an amount which bears to the total rates payable during the relevant rating period the same proportion as the length of the rental period bears to the length of the relevant rating period.

2. In this Schedule “the relevant rating period”, in relation to a rental period, means the rating period during which the rent for that rental period is payable.

3. The amount of the rates for any rental period which precedes the making by the Department<sup>F73</sup> . . . of its first demand for, or for an instalment of, the rates for the relevant rating period shall be calculated on the basis that the rates for that rating period will be the same as for the last preceding rating period.

**F73** 1983 NI 15

4.—(1) On the making by the Department<sup>F74</sup> . . . of its first such demand, and on the making by<sup>F74</sup> the Department] of any subsequent such demand, the amount of the rates for any rental period shall if necessary be recalculated on the basis that the rates for the relevant rating period will be such as appears from the information given in the demand and any previous demands.

(2) Any such recalculation shall not affect the ascertainment of the rates for any rental period beginning more than thirteen weeks before the date of the service of the demand giving rise to the recalculation.

**F74** 1983 NI 15

5. If as a result of the alteration of the net annual value of a dwelling-house the rates payable for the relevant rating period are varied, the amount of the rates for a rental period shall be recalculated so as to give effect to the variation; but any such recalculation shall not affect the ascertainment of the rates for any rental period beginning more than thirteen weeks before the date of the service of the demand giving rise to the recalculation.

6. In computing the rates for any rental period for the purposes of this Schedule, any discount, and any allowance made under any of the statutory provisions relating to allowances given where rates are paid by the owner instead of by the occupier, shall be left out of account, and accordingly those rates shall be computed as if no such discount or allowance had fallen to be, or had been, allowed or made.

**Status:** Point in time view as at 01/01/2006.  
**Changes to legislation:** There are currently no known outstanding effects for the Rent (Northern Ireland) Order 1978. (See end of Document for details)

## SCHEDULE 9

Article 77(2).

### SAVINGS

1. The repeal by this Order of the Rent Restriction Acts shall not affect the continued operation of those Acts in relation to any mortgage to which those Acts applied which was created before the commencement of this Order.

2. The repeal by this Order of section 3 of the Rent and Mortgage Interest (Restrictions) Act (Northern Ireland) 1932 or section 19 of the Act of 1940 shall not affect the continued operation of that section in relation to—

- (a) an agreement, made before the commencement of this Order, for the sale of a dwelling-house;
- (b) an agreement, made before the commencement of this Order, giving an option to purchase a dwelling-house;
- (c) an agreement, made before the commencement of this Order, to pay periodical instalments for the purpose of the purchase of a dwelling-house.

3. Where—

- (a) before the commencement of this Order, either—
  - (i) a landlord has obtained an order for possession of a dwelling-house on the ground specified in section 5(1)(e) of the Act of 1920 or section 8(1)(e) of the Act of 1940; or
  - (ii) a tenant has given up possession of a dwelling-house upon a representation by the landlord or his agent that the house was required by the landlord for any of the purposes set out in the said section 5(1)(e) or 8(1)(e);
- (b) after the commencement of this Order, it is made to appear to the court that that order was obtained, or the tenant gave up possession, owing to misrepresentation or concealment of material facts,

the repeal by this Order of section 5(6) and (7) of the Act of 1920 shall not prevent the court from exercising any power to order the payment of compensation by the landlord to the former tenant which it could have exercised if this Order had not been made.

4. In this Schedule—

“the Act of 1920” means the Increase of Rent and Mortgage Interest (Restrictions) Act 1920 ;

“the Act of 1940” means the Rent and Mortgage Interest (Restrictions) Act (Northern Ireland) 1940 .

*Schedule 10—Repeals*

**Status:**

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

**Changes to legislation:**

There are currently no known outstanding effects for the Rent (Northern Ireland) Order 1978.