
STATUTORY INSTRUMENTS

1983 No. 1118

The Housing (Northern Ireland) Order 1983

PART V

PRIVATE SECTOR TENANTS

Interpretation of Part V

90. In this Part “the 1978 Order” means the Rent (Northern Ireland) Order 1978.

Protected shorthold tenancies

Preliminary

91. Articles 92 to 95 modify the operation of the 1978 Order in relation to protected shorthold tenancies as defined in Article 92, and shall be construed as one with the 1978 Order.

Protected shorthold tenancies

92.—(1) A protected shorthold tenancy is a protected tenancy granted after the coming into operation of this Order which is granted for a term certain of not less than one year nor more than five years and satisfies the following conditions, that is to say,—

- (a) it cannot be brought to an end by the landlord before the expiry of the term, except in pursuance of a provision for re-entry for forfeiture for non-payment of rent or breach of any other obligation of the tenancy; and
- (b) before the grant the landlord has given the tenant a valid notice stating that the tenancy is to be a protected shorthold tenancy; and
- (c) either—
 - (i) a rent for the dwelling-house is registered by^{[F1} the Executive] under Article 26 of the 1978 Order at the time the tenancy is granted, or
 - (ii) an application for the registration of a rent for the dwelling-house is made under Article 26 of the 1978 Order not later than 28 days after the beginning of the term and is not withdrawn.

(2) A tenancy of a dwelling-house is not a protected shorthold tenancy if it is granted to a person who, immediately before it was granted, was a protected or statutory tenant of that dwelling-house.

(3) A notice is not valid for the purposes of paragraph (1)(b) unless it complies with the requirements of regulations made by the Department.

(4) The Department may by order direct that paragraph (1) shall have effect, either generally or in relation to any area specified in the order, as if sub-paragraph (c) were omitted.

(5) If a protected tenancy is granted after the coming into operation of this Order—

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- (a) for such a term certain as is mentioned in paragraph (1), to be followed, at the option of the tenant, by a further term; or
- (b) for such a term certain and thereafter from year to year or some other period;

and satisfies the conditions stated in that paragraph, the tenancy is a protected shorthold tenancy until the end of the term certain.

F1 [2003 NI 2](#)

Right of tenant to terminate protected shorthold tenancy

93.—(1) A protected shorthold tenancy may be brought to an end (by virtue of this Article and notwithstanding anything in the terms of the tenancy) before the expiry of the term certain by notice in writing of the appropriate length given by the tenant to the landlord; and the appropriate length of the notice is—

- (a) one month if the term certain is two years or less; and
- (b) three months if it is more than two years.

(2) Any agreement relating to a protected shorthold tenancy (whether or not contained in the instrument creating the tenancy) shall be void in so far as it purports to impose any penalty or disability on the tenant in the event of his giving a notice under this Article.

Subletting or assignment

94.—(1) Where the whole or part of a dwelling-house let under a protected shorthold tenancy has been sublet at any time during the continuous period specified in paragraph (3), and, during that period, the landlord becomes entitled, as against the tenant, to possess of the dwelling-house, he shall also be entitled to possession against the sub-tenant and Article 19 of the 1978 Order shall not apply.

(2) A protected shorthold tenancy of a dwelling-house and any protected tenancy of the same dwelling-house granted during the continuous period specified in paragraph (3) shall not be capable of being assigned, except in pursuance of an order under Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978^{F2} or Part 2 of Schedule 15, or paragraph 9(2) or (3) of Schedule 17, to the Civil Partnership Act 2004].

(3) The continuous period mentioned in paragraph (1) and (2) is the period beginning with the grant of the protected shorthold tenancy and continuing until either—

- (a) no person is in possession of the dwelling-house as a protected or statutory tenant; or
- (b) a protected tenancy of the dwelling-house is granted to a person who is not, immediately before the grant, in possession of the dwelling-house as a protected or statutory tenant.

F2 [2004 c.33](#)

Orders for possession

95.—(1) The following Case shall be added to the Case in Part II of Schedule 4 to the 1978 Order (mandatory orders for possession):

“Case 17

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.” .

(2) If, in proceedings for possession under Case 17, the court is of opinion that, notwithstanding that the condition of paragraph (1)(b) or (c) of Article 92 is not satisfied, it is just and equitable to make an order for possession, it may treat the tenancy under which the dwelling-house was let as a protected shorthold tenancy.

Amendments of 1978 Order

Protected tenancies

96.—(1) For paragraph (2) of Article 3 of the 1978 Order (protected tenancies) there shall be substituted the following paragraphs—

“(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 Article 114 of the Housing (Northern Ireland) Order 1981, which is not registered under Article 124 of that Order.” .

(2) In paragraph (7) of Article 5 of the 1978 Order—

(a) for sub-paragraph (e) there shall be substituted the following sub-paragraph—

“(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;” ;

(b) in sub-paragraph (f), after the words “society” there shall be inserted the words, “ other than a housing association ”.

(3) In Article 7 of the 1978 Order, after paragraph (3) there shall be added the following paragraph—

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“(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.” .

(4) In Article 8 of the 1978 Order, after paragraph (7) there shall be added the following paragraphs—

“(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.” .

Proceedings for possession of certain dwelling-houses

97. In Article 14 of the 1978 Order (which gives the court an extended discretion in actions for possession of certain dwelling-houses) for paragraph (3) there shall be substituted the following paragraph—

“(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.” .

Change in condition of dwelling-houses, etc.

98. For Article 31 of the 1978 Order there shall be substituted the following Article—

“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.

(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.” .

Enforcement of certificates of disrepair

99. In Article 48 of the 1978 Order (Enforcement, etc., of certificates of disrepair)—

(a) after paragraph (1) there shall be inserted the following paragraph—

“(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).” ;

(b) after paragraph (3) there shall be added the following paragraph—

“(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.” ;

(c) in paragraph (5) after the word “may” there shall be inserted the words, “ without prejudice to any other method of recovery, ”.

Meaning of “premium” in Part VIII of the 1978 Order

100. In Article 53(1) of the 1978 Order (Interpretation of Part VIII) for the definition of “premium”, there is substituted the following definition—

““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.” .

Entry to carry out works to certain premises

101.—(1) In Article 63 of the 1978 Order (which provides for the inspection, etc. of certain premises), after paragraph (2) there shall be inserted the following paragraphs—

“(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,

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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.” .

(2) In Article 69(1) of the 1978 Order, after sub-paragraph (c) insert the following sub-paragraph—

“(d) as to whether a landlord should be empowered to enter a dwelling-house under Article 63 (2A).” .

Ascertainment of landlord's identity by district council

102. In paragraph (2) of Article 73 of the 1978 Order (which deals with the service of notices, etc.), for the words from the beginning to “dwelling-house” there shall be substituted—

“If—

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

Amendment of Cases 11 and 12 of Schedule 4 to the 1978 Order

103.—(1) In Case 11 in Schedule 4 to the 1978 Order (dwelling-house required by a person who was owner-occupier at time of letting) for sub-paragraph (c) of paragraph (1) there shall be substituted the following sub-paragraph—

“(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) For Case 12 in Schedule 4 to the 1978 Order (dwelling-house required for use by owner on his retirement) there shall be substituted the following Case—

“Case 12

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.

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.” .

(3) Subject to paragraph (4) and (5), Cases 11 and 12, as amended by this Article, apply to tenancies granted before, as well as those granted after, the coming into operation of this Order; and nothing in this Article invalidates a notice that possession might be recovered under Case 11 which was duly given to a tenant before then.

(4) Paragraphs (a) and (b) of Case 12, as substituted by this Article, do not apply to tenancies granted before the coming into operation of this Order.

(5) Paragraph (2)(c) and (d) of Part V of Schedule 4 to the 1978 Order (as set out in Part I of Schedule 9) do not apply to Case 11 if the tenancy was granted and the owner dies, before the coming into operation of this Order; and paragraph (2) (d) does not apply to Case 12 in any such case.

Lettings by servicemen

104. The following Case shall be added to the Cases in Part II of Schedule 4 to the 1978 Order (mandatory orders for possession) after the Case inserted in Part II by Article 95—

“Case 18

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.” .

Article 105—Amendments

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