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STATUTORY INSTRUMENTS

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**2006 No. 1459**

**The Private Tenancies (Northern Ireland) Order 2006**

**PART I**

**INTRODUCTORY**

**Title and commencement**

- 1.—(1) This Order may be cited as the Private Tenancies (Northern Ireland) Order 2006.
- (2) This Article and Article 2 shall come into operation on the expiration of 7 days from the day on which this Order is made.
- (3) The other provisions of this Order shall come into operation on such day or days as the Department may by order appoint.

**Subordinate Legislation Made**

- P1 [Art. 1\(3\)](#) power fully exercised: different dates appointed for specified provisions by [S.R. 2006/428](#), [arts. 2, 3](#)

**General interpretation**

- 2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) shall apply to Article 1 and the following provisions of this Order as it applies to an Act of the Assembly.
- (2) In this Order—
- “the appropriate district council”, in relation to a dwelling-house, means the district council in whose district the dwelling-house is situated;
- “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 for Social Development;
- “dwelling-house” includes part of a house;
- “the Executive” means the Northern Ireland Housing Executive;
- “final determination”, in relation to an appeal, shall be construed in accordance with Article 23(3) and (4);
- “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 of the Rent Order would be, entitled to possession of the dwelling-house;
- “let” includes sub-let;
- “modify” includes amend or repeal;
- “prescribed” means prescribed by regulations made by the Department;

- “private tenancy” has the meaning given in Article 3;
- “protected tenancy” shall be construed in accordance with Article 3 of the Rent Order;
- “rates” means the regional rate and the district rate;
- “rent” does not include any sum payable on account of rates;
- “the rent officer” means the person appointed under Schedule 1 to act as rent officer;
- “the Rent Order” means the Rent (Northern Ireland) Order 1978 (NI 20);
- “statutory provision” has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954;
- “statutory tenancy” shall be construed in accordance with Article 4(5) of the Rent Order;
- “tenancy” includes, except where the context otherwise requires, a statutory tenancy;
- “tenant” includes, except where the context otherwise requires, a statutory tenant and also includes a sub-tenant and any person deriving title under the original tenant or sub-tenant.

### **Meaning of “private tenancy”**

- 3.—(1) In this Order “private tenancy”–
- (a) means any tenancy of a dwelling-house except–
    - (i) a fee farm grant, or
    - (ii) any of the tenancies described in paragraph (2); and
  - (b) includes, except where the context otherwise requires, a protected tenancy and a statutory tenancy.
- (2) Those tenancies are–
- (a) a tenancy for a term certain exceeding 99 years, unless that tenancy is, or may become, terminable before the end of that term by notice given to the tenant;
  - (b) 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; and
  - (c) a tenancy the purpose of which is to confer on the tenant the right to occupy a dwelling-house for a holiday.
- (3) In paragraph (2)(b)–
- (a) “government department” includes a department of the government of the United Kingdom; and
  - (b) “registered”, in relation to a housing association, means registered in the register maintained under Part II of the Housing (Northern Ireland) Order 1992 (NI 15).

## PART II

### OBLIGATIONS OF LANDLORDS AND TENANTS

*Particulars relating to the tenancy, etc.*

#### [<sup>F1</sup>Tenant to be given notice regarding certain matters: grant of tenancy

**4A.**—(1) This Article applies where a private tenancy of a dwelling-house is granted on or after the date on which section 1 of the Private Tenancies Act (Northern Ireland) 2022 comes into operation.

(2) The landlord under the tenancy must, within 28 days after the date on which the tenancy is granted, give to the tenant a notice—

- (a) in the prescribed form, and
- (b) containing the prescribed particulars and other prescribed information relating to the tenancy.

(3) A tenant must not be required to make a payment in respect of any notice under paragraph (2).

(4) A landlord who fails to comply with paragraph (2) is guilty of an offence under this Order.

#### Textual Amendments

**F1** Arts. 4A-4C inserted (28.4.2022 for specified purposes, 1.4.2023 in so far as not already in operation) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 1(2), 14(2)(a)**; S.R. 2023/20, art. 2, Sch.

#### Tenant to be given notice regarding certain matters: variation of certain terms

**4B.**—(1) This Article applies where, on or after the date on which section 1 of the Private Tenancies Act (Northern Ireland) 2022 comes into operation, a prescribed term of a private tenancy of a dwelling-house is varied; and it applies regardless of the date on which the tenancy was granted.

(2) The landlord under the tenancy must, within 28 days after the date on which the term of the tenancy is varied, give to the tenant a notice—

- (a) in the prescribed form, and
- (b) containing the prescribed information relating to the variation of the term.

(3) In paragraphs (1) and (2) “varied” includes varied by omission.

(4) A tenant must not be required to make a payment in respect of any notice under paragraph (2).

(5) A landlord who fails to comply with paragraph (2) is guilty of an offence under this Order.

#### Textual Amendments

**F1** Arts. 4A-4C inserted (28.4.2022 for specified purposes, 1.4.2023 in so far as not already in operation) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 1(2), 14(2)(a)**; S.R. 2023/20, art. 2, Sch.

### **Continued failure by landlord to provide notice under Article 4A or 4B after conviction or fixed penalty**

**4C.**—(1) If a landlord is convicted of an offence under Article 4A(4) or 4B(5), and the failure continues for more than 14 days after the conviction, the landlord is deemed to have committed a further offence under that paragraph in respect of that failure.

(2) Paragraph (3) applies where—

- (a) a landlord fails to comply with Article 4A(2) or 4B(2),
- (b) the landlord is given a fixed penalty notice under Article 68A in respect of an offence under Article 4A(4) or 4B(5) on the grounds of that failure, and
- (c) the landlord pays the fixed penalty stated in the notice.

(3) If the failure to comply with Article 4A(2) or 4B(2) continues for more than 14 days after the landlord pays the fixed penalty, the landlord is guilty of an offence under this Order.]

#### **Textual Amendments**

**F1** Arts. 4A-4C inserted (28.4.2022 for specified purposes, 1.4.2023 in so far as not already in operation) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 1(2), 14(2)(a)**; [S.R. 2023/20](#), **art. 2**, **Sch.**

### **Tenant to be given notice regarding certain matters**

**4.** <sup>F2</sup> .....

#### **Textual Amendments**

**F2** [Art. 4](#) repealed (30.6.2011) by [Housing \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 22\)](#), **ss. 1, 24, 25(1)**, **Sch.**; [S.R. 2011/241](#), **art. 2(1)**, **Sch. 1**

### **[<sup>F3</sup>Tenant to be provided with a rent receipt for payment in cash**

**5.**—(1) This Article applies where the tenant of a dwelling-house makes to the landlord in cash—

- (a) any payment in consideration of the grant, renewal or continuance of a private tenancy, or
- (b) any payment in satisfaction (or part satisfaction) of an obligation arising under a private tenancy.

(2) The landlord must provide the tenant with a written receipt for the payment stating—

- (a) the date of payment;
- (b) what the payment was for;
- (c) the amount paid;
- (d) if any amount remains outstanding, that amount;
- (e) if no further amount remains outstanding, that fact.

(3) Where a tenant pays a single sum consisting of two or more payments—

- (a) the duty in paragraph (2)(c) includes a duty to state how the sum paid is apportioned between each payment, and
- (b) sub-paragraphs (d) and (e) of that paragraph apply in respect of each payment.

(4) Where, in the case of any payment within paragraph (1)(b), it is not possible for the person giving the receipt to state with certainty the amount that was required to satisfy the obligation in

question, sub-paragraphs (d) and (e) of paragraph (2) require the matters mentioned in them to be stated to the best of that person's knowledge and belief.

(5) The receipt must be provided—

- (a) at the time the payment is made, or
- (b) if that is not possible, as soon as reasonably possible after that time.

(6) A tenant must not be required to make a payment in respect of the provision of the receipt.

(7) In the event of a failure to comply with paragraph (2) or (5), the following are guilty of an offence under this Order—

- (a) the landlord, and
- (b) any person appointed by the landlord to provide the receipt.

(But see Article 5ZB for a defence to this offence.)

(8) In this Article—

“landlord” includes a former landlord and (in a case falling within paragraph (1)(a)) a prospective landlord;

“tenant” includes a former tenant and (in a case falling within paragraph (1)(a)) a prospective tenant.]

#### Textual Amendments

**F3** Arts. 5-5ZB substituted for art. 5 (1.4.2023) by Private Tenancies Act (Northern Ireland) 2022 (c. 20), ss. 3(2), 14(7); S.R. 2023/20, art. 2, Sch.

### [<sup>F3</sup>Continued failure by landlord to provide rent receipt after conviction or fixed penalty

**5ZA.**—(1) If a landlord is convicted of an offence under Article 5(7)(a) in respect of a failure to comply with Article 5(2), and the failure continues for more than 14 days after the conviction, the landlord is deemed to have committed a further offence under Article 5(7)(a) in respect of that failure.

(2) Paragraph (3) applies where—

- (a) a landlord fails to comply with Article 5(2),
- (b) the landlord is given a fixed penalty notice under Article 68A in respect of an offence under Article 5(7)(a) on the grounds of that failure, and
- (c) the landlord pays the fixed penalty stated in the notice.

(3) If the failure to comply with Article 5(2) continues for more than 14 days after the landlord pays the fixed penalty, the landlord is guilty of an offence under this Order.

(But see Article 5ZB for a defence to this offence.)

(4) In this Article “landlord” has the meaning given by Article 5(8).

#### Textual Amendments

**F3** Arts. 5-5ZB substituted for art. 5 (1.4.2023) by Private Tenancies Act (Northern Ireland) 2022 (c. 20), ss. 3(2), 14(7); S.R. 2023/20, art. 2, Sch.

### **Controlled tenancies: defence to offences under Articles 5 and 5ZA**

**5ZB.**—(1) This Article applies where, in the case of a controlled tenancy (within the meaning given by Article 40(4)), a payment in cash was made in respect of rent for the tenancy.

(2) If—

- (a) a person is charged with an offence under Article 5(7) and a qualifying receipt was provided in accordance with Article 5(5), or
- (b) a person is charged with an offence under Article 5ZA(3) and a qualifying receipt was provided at any time before the end of the period of 14 days mentioned in Article 5ZA(3) (including before the fixed penalty notice was given),

paragraph (6) applies.

(3) A receipt is a qualifying receipt for the purposes of paragraph (2) if—

- (a) it complies with Article 5(2)(a), (b) and (c),
- (b) it complies with Article 5(2)(d) and (e) in respect of any payment, other than the rent, that was included in the sum paid, and
- (c) either condition A or condition B is met.

(4) Condition A is that—

- (a) after the cash payment, no further amount in respect of rent in fact remained outstanding,
- (b) the receipt stated that there was an amount outstanding, and
- (c) that amount consists wholly of a sum that is irrecoverable by virtue of Article 50(1).

(5) Condition B is that—

- (a) after the cash payment, an amount in respect of rent in fact remained outstanding (“the true arrears”),
- (b) the receipt stated as outstanding an amount that was more than the true arrears, and
- (c) the difference between the stated amount and the true arrears consists wholly of a sum that is irrecoverable by virtue of Article 50(1).

(6) It is a defence to the offence under Article 5(7) or (as the case may be) Article 5ZA(3) for the person charged to prove that the landlord (or former landlord) had a bona fide claim that the sum mentioned in paragraph (4)(c) or (5)(c) was recoverable.]

#### **Textual Amendments**

**F3** Arts. 5-5ZB substituted for art. 5 (1.4.2023) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), ss. 3(2), 14(7); S.R. 2023/20, art. 2, Sch.

#### *F<sup>4</sup>Limit on tenancy deposit amount*

#### **Textual Amendments**

**F4** Arts. 5ZC, 5ZD and cross-heading inserted (1.4.2023 with effect in accordance with s. 4(5)) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), ss. 4(2), 14(7); S.R. 2023/20, art. 2, Sch.

### **Tenancy deposit limit of 1 month’s rent**

**5ZC.**—(1) A person (A) must not—

(a) require the payment by another person of a tenancy deposit in connection with a private tenancy, or

(b) require that the person to whom a tenancy deposit would otherwise be repaid (B) consent to the retention of a deposit (by A or a third person) in connection with a private tenancy, that is in excess of the amount of 1 month's rent payable under the tenancy.

(2) For the purposes of paragraph (1)(b), A requires that B consent to the retention of a deposit if—

- (a) a tenancy deposit is paid (at any time) in connection with a private tenancy (“the first tenancy”),
- (b) a person proposes to grant, or has granted, a private tenancy of that or another dwelling-house (whether to the tenant of the first tenancy or to another person), and
- (c) A requires that B consent to some or all of the deposit continuing to be held, on or after the ending of the first tenancy, in connection with the new tenancy.

(3) “1 month's rent payable under the tenancy”, where the rent under a private tenancy is not payable monthly, means—

- (a) where the rent under the tenancy is payable for periods of whole months, the rent for a period divided by the number of months in the period;
- (b) where the rent is payable for periods determined otherwise than by reference to whole months, the rent attributable to 1 day's letting under the tenancy multiplied by 30.

(4) A person who contravenes paragraph (1) is guilty of an offence under this Order.

(5) Where a person—

- (a) is convicted of an offence under paragraph (4), and
- (b) has received or, as the case may be, retained a tenancy deposit in excess of the amount of 1 month's rent payable under the tenancy,

the court may order the excess to be repaid to the person who paid it.

(6) In this Article—

“tenancy deposit”, in relation to a private tenancy, means any money intended to be held (by the landlord or otherwise) as security for—

- (a) the performance of any obligations of the tenant arising under or in connection with the tenancy, or
- (b) the discharge of any liability of the tenant so arising;

“money” means money in the form of cash or otherwise.

### **Breach of tenancy deposit limit: recoverability of excess**

**5ZD.**—(1) A tenancy deposit in relation to a private tenancy that has not been paid is irrecoverable to the extent that it exceeds the amount of 1 month's rent payable under the tenancy (and this is so despite anything in any agreement).

(2) Where, in connection with a private tenancy—

- (a) a tenancy deposit has been paid or retained (as defined in paragraph (3)), and
- (b) at the time of payment or retention, or at any time thereafter, the deposit exceeds the amount of 1 month's rent payable under the tenancy,

the excess is recoverable by the person who paid it.

(3) For the purposes of paragraph (2), if—

- (a) a tenancy deposit is paid (at any time) in connection with a private tenancy (“the first tenancy”),
- (b) a private tenancy is granted of that or another dwelling-house (whether to the tenant of the first tenancy or to another person) or (where the first tenancy is a protected tenancy) a statutory tenancy comes into existence, and
- (c) on or after the ending of the first tenancy, some or all of the deposit continues to be held in connection with the new tenancy,

the deposit is retained in connection with the new tenancy.

(4) In this Article “1 month’s rent payable under the tenancy” and “tenancy deposit” have the same meaning as in Article 5ZC.]

### *[<sup>F5</sup>Tenancy deposit schemes*

#### **Textual Amendments**

**F5** Arts. 5A, 5B and preceding cross-heading inserted (3.5.2011) by [Housing \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 22\)](#), ss. 2, 25(2)

#### **Tenancy deposit schemes**

**5A.**—(1) The Department may by regulations make provision for securing that one or more tenancy deposit schemes are available for the purpose of safeguarding tenancy deposits paid in connection with private tenancies.

(2) A “tenancy deposit scheme” is a scheme which is made for the purpose of safeguarding tenancy deposits paid in connection with private tenancies and facilitating the resolution of disputes arising in connection with such deposits.

(3) Regulations under paragraph (1)—

- (a) must provide for the appointment of a body or person (“the scheme administrator”) to establish and maintain a scheme of a prescribed description;
- (b) must provide that a scheme or an amendment to a scheme does not come into force unless approved by the Department;
- (c) may confer or impose on the scheme administrator such powers or duties in connection with a scheme as are prescribed;
- (d) may provide for information held by a scheme administrator to be disclosed to prescribed persons for prescribed purposes.

(4) The Department may make payments to a scheme administrator.

(5) In this Article and Article 5B—

“money” means money in the form of cash or otherwise;

“tenancy deposit”, in relation to a private tenancy, means any money intended to be held (by the landlord or otherwise) as security for—

- (a) the performance of any obligations of the tenant arising under or in connection with the tenancy, or
- (b) the discharge of any liability of the tenant so arising.

(6) In this Article and Article 5B references to a landlord in relation to any private tenancy include references to a person acting on behalf of the landlord in relation to the tenancy.



## Requirements relating to tenancy deposits

**5B.**—(1) Any tenancy deposit paid to a person in connection with a private tenancy must, as from the time when it is received, be dealt with in accordance with an approved scheme.

(2) A person must not require the payment of a tenancy deposit in connection with a private tenancy which is not to be subject to the requirement in paragraph (1).

(3) Where a landlord receives a tenancy deposit in connection with a private tenancy, the initial requirements of an approved scheme must be complied with by the landlord in relation to the deposit within the period of [<sup>F6</sup>28 days] beginning with the date on which it is received.

(4) For the purposes of this Article “the initial requirements” of an approved scheme are such requirements imposed by the scheme as fall to be complied with by a landlord on receiving such a tenancy deposit.

(5) A landlord who has received such a tenancy deposit must give the tenant and any relevant person such information relating to—

- (a) the approved scheme applying to the deposit,
- (b) compliance by the landlord with the initial requirements of the scheme in relation to the deposit, and
- (c) the operation of this Article and Article 5A in relation to the deposit,

as may be prescribed.

(6) The information required by paragraph (5) must be given to the tenant and any relevant person—

- (a) in the prescribed form or in a form substantially to the same effect, and
- (b) within the period of [<sup>F7</sup>35 days] beginning with the date on which the deposit is received by the landlord.

(7) A person must not, in connection with a private tenancy, require a deposit which consists of property other than money.

(8) In paragraph (7) “deposit” means a transfer of property intended to be held (by the landlord or otherwise) as security for—

- (a) the performance of any obligations of the tenant arising under or in connection with the tenancy, or
- (b) the discharge of any liability of the tenant so arising.

(9) The provisions of this Article apply despite any agreement to the contrary.

(10) A person who contravenes paragraph (7) is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(11) A person who contravenes any other provision of this Article is guilty of an offence and liable on summary conviction to a fine not exceeding £20,000.

[  
<sup>F8</sup>(11A) A person who commits an offence by failing to comply with the requirements of paragraph (3) or (6) continues to commit the offence throughout any period during which the failure continues.]

(12) In this Article—

“approved scheme” means a scheme for the time being in force under Article 5A;

“property” means moveable property;

“relevant person” means any person who, in accordance with arrangements made with the tenant, paid the deposit on behalf of the tenant.]

#### Textual Amendments

- F6** Words in art. 5B(3) substituted (1.4.2023) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 5(a)**, 14(7); S.R. 2023/20, art. 2, Sch.
- F7** Words in art. 5B(6)(b) substituted (1.4.2023) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 5(b)**, 14(7); S.R. 2023/20, art. 2, Sch.
- F8** Art. 5B(11A) inserted (1.4.2023) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 6**, 14(7); S.R. 2023/20, art. 2, Sch.

### *F<sup>9</sup>* Rent decreases

#### Textual Amendments

- F9** Arts. 5C-5E and cross-heading inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 7(2)**, 14(2)(c)

### Rent decreases

**5C.**—(1) This Article applies in relation to private tenancies.

(2) The Department may by regulations do either or both of the following regarding the rent payable under private tenancies in relation to which this Article applies—

- (a) provide that, for a prescribed period, the rent is, or may not exceed, a prescribed proportion of the rent that would be payable apart from the regulations;
  - (b) provide that, for a prescribed period, the rent is, or may not exceed, the rent that was payable on a prescribed date, or during an earlier prescribed period.
- (3) Regulations under paragraph (2) may not—
- (a) specify, for the purposes of sub-paragraph (a) of that paragraph, a proportion that is less than 90%;
  - (b) provide for any limitation, or any series of limitations, to last for longer than 4 years in relation to any particular tenancy.
- (4) Regulations under paragraph (2) may in particular—
- (a) provide for how the rent that would be payable apart from the regulations is to be determined;
  - (b) provide that—
    - (i) the prescribed date for the purposes of sub-paragraph (b) of that paragraph, or
    - (ii) the earlier prescribed period for those purposes,
 is a date, or a period, that falls before the date on which the Private Tenancies Act (Northern Ireland) 2022 was passed;
  - (c) provide for different limitations to apply to the same tenancy for different periods;
  - (d) provide for exceptions in relation to tenancies of prescribed descriptions, or make different provision in relation to tenancies of different descriptions;
  - (e) make further or consequential provision in relation to the limitations, including provision amending any statutory provision (within the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954);

- (f) make such other consequential, supplementary, transitory or transitional provision, or such savings, as the Department considers appropriate.
- (5) Tenancies may be described for the purposes of paragraph (4)(d) by reference to (among other things)—
  - (a) the amount of rent payable under the tenancy;
  - (b) the area within which the dwelling-house in question is situated;
  - (c) whether the tenant is in receipt of housing benefit or any other benefit payable under a statutory provision (within the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954).
- (6) The Department must consult the following persons as to whether to exercise the powers conferred by paragraph (2)—
  - (a) district councils,
  - (b) such persons as appear to it to be representative of landlords,
  - (c) such persons as appear to it to be representative of tenants, and
  - (d) such other persons as it considers appropriate (which may include landlords or tenants).
- (7) The Department must prepare a report on the consultation and—
  - (a) lay the report before the Assembly, and
  - (b) publish it in such manner as the Department considers appropriate.
- (8) The Department must lay and publish the report under paragraph (7) before the end of the period of 6 months beginning with the day on which the Private Tenancies Act (Northern Ireland) 2022 receives Royal Assent.
- (9) If the Department does not make regulations under paragraph (2) before the end of the period of 12 months beginning with the date on which it lays the report under paragraph (7), this Article ceases to have effect at the end of that period.

#### *Rent increases*

#### **Restriction on frequency of rent increases**

**5D.**—(1) This Article applies to any private tenancy except a controlled tenancy (within the meaning given by Article 40(4)).

- (2) The rent payable under a tenancy to which this Article applies may not be increased—
  - (a) within the period of 12 months beginning with the date on which the tenancy is granted, or
  - (b) within the period of 12 months beginning with the date on which the last increase took effect;

but this is subject to regulations under paragraph (3).

(3) The Department may by regulations specify circumstances in which paragraph (2) does not apply.

(4) Circumstances specified under paragraph (3) may include, in particular, circumstances in which the dwelling-house let under the tenancy is renovated, refurbished, altered or extended.

(5) The Department may by regulations amend paragraph (2)(a) or (b) so as to substitute, for the period that is for the time being specified there, a period that is 12 months or more but not more than 2 years.

### **Requirement to give written notice of increase**

**5E.**—(1) This Article applies to any private tenancy except a controlled tenancy (within the meaning given by Article 40(4)).

(2) The rent payable under a tenancy to which this Article applies may not be increased unless the landlord gives written notice complying with paragraphs (3) to (5).

(3) The notice must specify—

- (a) the date on which the increase in the rent will take effect, and
- (b) the rent that will be payable after the increase.

(4) The date specified under paragraph (3)(a) must be not less than 3 months after the date on which the notice is given to the tenant.

(5) The notice must—

- (a) contain such other information, and
- (b) be in such form,

as may be prescribed.]

### *Repair and maintenance*

#### **Application of Articles 7 to 11**

**6.** The provisions set out in Articles 7 to 11 apply in relation to—

- (a) any private tenancy of a dwelling-house granted on or after the commencement of this Order, and
- (b) any protected or statutory tenancy which immediately before the commencement of this Order was a regulated tenancy under the Rent Order;

but only in so far as those provisions are not inconsistent with any express provision in the contract of tenancy.

#### **Landlord's duties to repair**

**7.**—(1) The landlord under a private tenancy—

- (a) shall keep in repair the structure and exterior of the dwelling-house comprised in that tenancy;
- (b) shall, subject to Article 8, 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 and use of water, gas and electricity and for sanitation (including basins, sinks, baths and sanitary conveniences),
  - (ii) the installations in the dwelling-house for space heating or heating water,
  - (iii) any appliances for making use of the supply of water, gas or electricity which the landlord has provided under the terms of the tenancy, and
  - (iv) any fixtures, fittings or furnishings which the landlord has provided under the terms of the tenancy.

(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

8. The tenant under a private tenancy—
- (a) shall take proper care of the premises comprised in that tenancy as a good tenant;
  - (b) 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;
  - (c) shall keep the interior of the dwelling-house in reasonable decorative order; and
  - (d) shall not carry out any alterations to those premises without the consent of the landlord, but that consent shall not be unreasonably withheld.

### Landlord's obligations under private tenancy of parts of building

9. Where a dwelling-house let under a private tenancy consists of a part of a building and the tenant under the private 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

10. The duties imposed on the landlord by Articles 7 and 9 do not require the landlord—
- (a) to carry out works or repairs for which the tenant is liable by virtue of Article 8;
  - (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

11.—(1) In determining the standard of repair required by virtue of Articles 7 to 9, 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 7 and 9 unless he has actual knowledge (whether because of notice given by the tenant or otherwise) of the need for those works.

### <sup>F10</sup>Application of Articles 11B to 11F

- 11A.—(1) The provisions set out in Articles 11B to 11F apply in relation to—
- (a) any private tenancy of a dwelling-house granted on or after the date on which section 8 of the Private Tenancies Act (Northern Ireland) 2022 comes into operation, and
  - (b) any private tenancy of a dwelling-house granted before the date on which section 8 of the Private Tenancies Act (Northern Ireland) 2022 comes into operation (but only from the prescribed date).

(2) For the purposes of paragraph (1)(b), a statutory tenancy is to be treated as if it were a private tenancy granted before the commencement of section 8 of the Private Tenancies Act (Northern Ireland) 2022 (regardless of when the dwelling-house in question became subject to the statutory tenancy).

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**Textual Amendments**

**F10** Arts. 11A-11F inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), ss. 8(2), 14(2)(d)

**Landlord’s duties: fire, smoke and carbon monoxide alarms**

**11B.**—(1) The landlord under a private tenancy must keep in repair and in proper working order—

- (a) sufficient appliances for detecting fire or smoke, and for giving warning in the event that they are detected, and
- (b) sufficient appliances for detecting whether carbon monoxide is present at levels that are harmful to people, and for giving warning if it is.

(2) The Department may by regulations set minimum standards for the purpose of determining whether the duties under paragraph (1) have been complied with.

(3) The standards that may be set under paragraph (2) include standards as to the number, type and condition of appliances that should be installed in circumstances specified in the regulations.

(4) A landlord who fails to comply with a duty under paragraph (1) is guilty of an offence under this Order.

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**Textual Amendments**

**F10** Arts. 11A-11F inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), ss. 8(2), 14(2)(d)

**Tenant’s duties: fire, smoke and carbon monoxide alarms**

**11C.** The tenant under a private tenancy—

- (a) must take proper care of the appliances installed for the purposes of Article 11B as a good tenant;
- (b) must make good any damage to those appliances wilfully or negligently done or caused by the tenant, by any tenant of his or hers or by any other person lawfully living in or lawfully visiting the premises.

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**Textual Amendments**

**F10** Arts. 11A-11F inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), ss. 8(2), 14(2)(d)

**Landlord’s duties: private tenancy of part of a building**

**11D.** Where a dwelling-house let under a private tenancy consists of a part of a building, the duties imposed on the landlord by Article 11B may require the landlord to position appliances in a part or parts of the building not comprised in the tenancy.

#### Textual Amendments

**F10** Arts. 11A-11F inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 8(2)**, 14(2)(d)

#### General qualification on landlord's duties

**11E.** The duties imposed on the landlord by Article 11B do not require the landlord to carry out works or repairs for which the tenant is liable by virtue of Article 11C.

#### Textual Amendments

**F10** Arts. 11A-11F inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 8(2)**, 14(2)(d)

#### Knowledge of disrepair

**11F.** A landlord is not under a duty to carry out works by virtue of Article 11B unless the landlord has actual knowledge (whether because of notice given by the tenant or otherwise) of the need for those works]

#### Textual Amendments

**F10** Arts. 11A-11F inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 8(2)**, 14(2)(d)

#### *F<sup>11</sup> Energy efficiency*

#### Textual Amendments

**F11** Arts. 11G, 11H and cross-heading inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), s. 14(2)(e), **Sch. 2 para. 2**

#### Energy efficiency of dwelling-houses let under a private tenancy

- 11G.**—(1) The Department may by regulations provide that a person may not—
- (a) grant a private tenancy of a dwelling-house to which paragraph (2) applies;
  - (b) continue to let out under a private tenancy a dwelling-house to which paragraph (2) applies.
- (2) This paragraph applies to a dwelling-house—
- (a) in relation to which there is an energy performance certificate, and
  - (b) that falls below such level of energy efficiency (as demonstrated by the energy performance certificate) as is provided for by the regulations.
- (3) Regulations under paragraph (1) may provide for the granting to a person, in respect of a dwelling-house, of—
- (a) an exemption on the ground that the dwelling-house is of such description as is provided for in the regulations;

- (b) an exemption that is to have effect for a period of time and is subject to the condition that specified works or measures for improving efficiency in the use of energy in the dwelling-house are carried out within that period (an “improvement exemption”);
  - (c) an exemption on such other grounds as may be provided for in the regulations.
- (4) In paragraph (3)—
- (a) “exemption” means an exemption from a prohibition imposed under paragraph (1);
  - (b) “specified” means specified in the improvement exemption.
- (5) Regulations that provide for exemptions by virtue of paragraph (3) may include, in particular, provision—
- (a) for exemptions to be granted by a prescribed person or prescribed persons (the “authority”);
  - (b) about the making of applications to the authority (including provision about the evidence which must or may be provided with applications);
  - (c) for exemptions to have effect for a specified period of time (including provision for the authority to determine that period);
  - (d) for a limit on the estimated cost of works or measures that may be specified in an improvement exemption (including a limit set by reference to the value of the dwelling-house or any other prescribed circumstances);
  - (e) for the authority to maintain a publicly-accessible register of exemptions granted;
  - (f) about appeals to a prescribed person or body against decisions regarding exemptions (including provision about how such appeals may be disposed of and the effect of any exemption pending the determination of an appeal);
  - (g) about the inspection of dwelling-houses for the purposes of an application for an exemption or for the purposes of an appeal;
  - (h) in a case where an application or appeal is made in respect of a dwelling-house which is (on the date the application or appeal is made) let under a private tenancy, for the applicant or appellant to be exempt from a prohibition imposed under paragraph (1)(b) in respect of the dwelling-house pending the determination of the application or appeal;
  - (i) about the consequences of providing false or misleading information in an application to the authority or in proceedings on an appeal (including provision creating criminal offences or invalidating exemptions);
  - (j) for a person who acquires an estate in a dwelling-house which is (on the date of the acquisition) let under a private tenancy to be exempt from a prohibition imposed under paragraph (1)(b) in respect of that dwelling-house for a prescribed period of time.
- (6) The regulations may provide that if—
- (a) a person is granted an improvement exemption, and
  - (b) the person complies with prescribed conditions regarding the giving of notice to any tenant of the dwelling-house, or with such other conditions as may be prescribed,
- works or measures specified in the exemption are to be regarded, for the purposes of Article 12, as works that the person is under a duty to execute.
- (7) The regulations may also include such supplementary, incidental or consequential provision as the Department considers appropriate, including provision modifying any statutory provision.
- (8) In this Article—
- “private tenancy” does not include a protected tenancy or a statutory tenancy;
  - “energy performance certificate” means—



- (a) an energy performance certificate within the meaning given by the Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008, or
- (b) such other statutory document issued for the purpose of determining or recording the energy performance or efficiency of a dwelling-house as may be prescribed.

(9) In paragraph (8) “statutory document” has the meaning given by section 1(e) of the Interpretation Act (Northern Ireland) 1954.

### **Private tenancy energy efficiency regulations: power to create offences**

**11H.**—(1) Regulations under Article 11G may provide that a person who breaches a prohibition imposed under paragraph (1) of that Article is guilty of an offence.

(2) Regulations under Article 11G may provide that a person commits an offence if—

- (a) the person is granted an improvement exemption;
- (b) the person fails, without reasonable excuse, to carry out the works or measures specified in the exemption within the period of time so specified;
- (c) Article 11G(2) applies to the dwelling-house immediately after the expiration of that period of time; and
- (d) at any time during which the exemption had effect, the person—
  - (i) granted a private tenancy of the dwelling-house, or
  - (ii) continued to let the dwelling-house out under a private tenancy that was granted before the exemption had effect.

(3) The regulations may provide for inspections of a dwelling-house in respect of which an exemption has been granted by virtue of Article 11G(3)(b), for the purpose of investigating whether an offence created by virtue of this Article has been committed.

(4) The regulations may set out circumstances in which a person is, or is not, to be regarded as having a reasonable excuse for the purposes of an offence created by virtue of paragraph (2) (including circumstances where a person ceases to hold an estate in the dwelling-house).

(5) Any offence created by regulations under Article 11G—

- (a) is not to be triable on indictment or punishable with imprisonment;
- (b) is not to be punishable with a fine exceeding level 5 on the standard scale (but, in the case of an offence in respect of a prohibition imposed under Article 11G(1)(b), this is subject to paragraphs (6) to (9)).

(6) Paragraphs (7) and (8) apply where regulations under Article 11G create an offence in respect of a prohibition imposed under Article 11G(1)(b).

(7) The regulations must provide that where—

- (a) a person is convicted of an offence in respect of the granting of a private tenancy, or the letting out of a dwelling-house under a private tenancy, in breach of a prohibition imposed under Article 11G(1)(a) or (b) (“the initial conviction”),
- (b) after the initial conviction, the person continues to let out the dwelling-house under the tenancy, and
- (c) the person is convicted of an offence in respect of that continued letting in breach of a prohibition imposed under Article 11G(1)(b) (“the continuing offence”),

the continuing offence is to be punishable with a fine not exceeding one-hundredth of level 5 on the standard scale for every day or part of a day for which the letting continues after the initial conviction.

(8) The regulations must also provide that where—

- (a) a person grants a private tenancy, or continues to let out a dwelling-house under a private tenancy, in breach of a prohibition imposed under Article 11G(1)(a) or (b),
- (b) the person is given a fixed penalty notice under Article 68A in respect of an offence on the grounds of that breach,
- (c) the person pays the fixed penalty stated in the notice,
- (d) after payment of the fixed penalty, the person continues to let out the dwelling-house under the tenancy in breach of a prohibition imposed under Article 11G(1)(b), and
- (e) the person is convicted of an offence in respect of that continued breach (“the post-payment offence”),

the post-payment offence is to be punishable with a fine not exceeding one-hundredth of level 5 on the standard scale for every day or part of a day for which the breach continues after payment.

- (9) A fine imposed by virtue of paragraph (7) or (8) may exceed level 5 on the standard scale.]

*[<sup>F12</sup>Electrical safety standards*

**Textual Amendments**

- F12** Arts. 11I-11K and cross-heading inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), s. 14(2)(f), [Sch. 3 para. 2](#)

**Electrical safety standards for dwelling-houses let under a private tenancy**

**11I.**—(1) The Department may by regulations impose duties on the landlord of a dwelling-house let under a private tenancy for the purposes of ensuring that electrical safety standards are met during the period when the dwelling-house is let under the tenancy.

(2) “Electrical safety standards” means standards specified in, or determined in accordance with, the regulations in relation to—

- (a) the installations in the dwelling-house for the supply and use of electricity, or
- (b) electrical fixtures, fittings or appliances provided by the landlord.

(3) The duties imposed on the landlord may include duties to ensure that a qualified person has checked that the electrical safety standards are met.

(4) The regulations may make provision about—

- (a) how and when checks are carried out;
- (b) who is qualified to carry out checks.

(5) The regulations may require the landlord to undertake works as a result of checks carried out by the qualified person.

(6) The regulations may require the landlord—

- (a) to obtain a certificate from the qualified person confirming that electrical safety standards are met;
- (b) to give a copy of the certificate to the tenant, or a prospective tenant, or any other person specified in the regulations;
- (c) where the electrical safety standards are not met, to obtain from the qualified person a written description of the works required to meet the standards.

(7) Regulations under this Article are referred to in Articles 11J and 11K as “electrical safety standards regulations”.

### **Electrical safety standards regulations: power to create an offence**

**11J.**—(1) Electrical safety standards regulations may provide that a landlord who fails to comply with a duty imposed under Article 11I(1) is guilty of an offence.

- (2) Any offence created by virtue of paragraph (1)—
- (a) is not to be triable on indictment or punishable with imprisonment;
  - (b) is not to be punishable with a fine exceeding level 5 on the standard scale.

### **Electrical safety standards regulations: other enforcement**

**11K.**—(1) Electrical safety standards regulations may make provision, for the enforcement of a duty imposed under Article 11I(1)—

- (a) under which a landlord may be required to take remedial action;
  - (b) under which a district council may, with the consent of the tenant, arrange for a person to enter the dwelling-house and take remedial action.
- (2) Regulations made by virtue of paragraph (1) may include, in particular, provision about procedural matters.
- (3) Regulations made by virtue of paragraph (1) that make provision in connection with paragraph (1)(a) may include, in particular, provision enabling the landlord to make representations against any requirement to take remedial action.
- (4) Regulations made by virtue of paragraph (1) that make provision in connection with paragraph (1)(b) may include, in particular, provision—
- (a) about appeals against any proposed remedial action;
  - (b) enabling a district council to recover from the landlord any costs incurred by it in taking remedial action (“remedial costs”);
  - (c) enabling a district council to recover from any agent of the landlord any remedial costs, up to the total amount of money held by the agent on behalf of the landlord;
  - (d) under which any remedial costs due under the regulations are deemed, until recovered, to be charged on and payable out of the estate of the landlord in the land in relation to which the costs were incurred and the estate in that land of any person deriving title from the landlord;
  - (e) about the enforceability and registration of any charge created under the regulations;
  - (f) about the application of costs recovered.]

### *Inspection, etc. of premises*

### **Entry and inspection of premises**

**12.**—(1) The tenant under a private 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 in order to—

- (a) inspect the state of repair of the premises, and
  - (b) carry out any works which the landlord is under a duty to execute.
- (2) Where—
- (a) the landlord under a private tenancy wishes to carry out any works which he is under a duty to execute, and
  - (b) the tenant will not permit him to do so,

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

(3) An order under paragraph (2) may be made subject to 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.

(4) Where, in the exercise of powers conferred by this Article, 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.

#### *Duration of private tenancies*

#### **Tenancies to be for a term certain**

13.—(1) Where, on or after the commencement of this Order—

- (a) a private tenancy is granted, and
- (b) the contract of tenancy does not provide that the duration of the tenancy is to be for a term certain,

the tenancy shall take effect for a term certain of 6 months, beginning on the day on which the tenant is entitled to take possession of the dwelling-house.

(2) Nothing in this Article applies to a statutory tenancy.

#### **Length of notice to quit [<sup>F13</sup>: by landlords]**

14.—<sup>F14</sup>(1) A notice by a landlord to quit a dwelling-house let under a private tenancy is not valid unless—

- (a) it is in the prescribed form and contains the prescribed information, and
- (b) it is given not less than the relevant period before the date on which it is to take effect.]

<sup>F15</sup>(1A) For the purposes of paragraph (1) the relevant period is—

- (a) 8 weeks, if the tenancy has not been in existence for more than 12 months;
- (b) 4 months, if the tenancy has been in existence for more than 12 months but not for more than 3 years;
- (c) 6 months, if the tenancy has been in existence for more than 3 years but not for more than 8 years; and
- (d) 7 months, if the tenancy has been in existence for more than 8 year

but this is subject to regulations made under paragraph (5).

(2) Paragraph (1) applies whether the private tenancy was granted before or after the commencement of this Order.

(3) The Department may by regulations amend any sub-paragraph of paragraph (1A) so as to provide a different relevant period.

(4) Regulations under paragraph (3) may provide that the relevant period is different in different cases within a particular sub-paragraph of paragraph (1A) described by reference to the period for which the tenancy has been in existence.

(But this is without prejudice to the application of section 17(5) of the Interpretation Act (Northern Ireland) 1954.)

(5) The Department may by regulations provide that, in cases falling within the circumstances set out in paragraph (6), the relevant period for the purposes of paragraph (1) is as prescribed in the regulations.

(6) The circumstances are—

- (a) the tenant is in substantial arrears of rent;
- (b) the tenant, or a member of the tenant's household, has engaged in serious anti-social behaviour in, or in the locality of, the dwelling-house;
- (c) the tenant, or a member of the tenant's household, is convicted of a relevant criminal offence.

(But see paragraph (9) for provision regarding other circumstances.)

(7) Regulations under paragraph (5)—

- (a) may make provision that applies to all cases that fall within a sub-paragraph of paragraph (6) and, for that purpose, may make provision about the meaning of any expression used in that sub-paragraph;
- (b) may make provision that applies to cases of a prescribed description that fall within a sub-paragraph of paragraph (6);
- (c) may provide that the relevant period is different in different cases that fall within a sub-paragraph of paragraph (6) described by reference to the period for which the tenancy has been in existence;
- (d) may make provision about the evidence to be provided to show that a case falls within a sub-paragraph of paragraph (6) or within a prescribed description.

(But sub-paragraphs (a) to (c) are without prejudice to the application of section 17(5) of the Interpretation Act (Northern Ireland) 1954.)

(8) The Department—

- (a) may not make regulations under paragraph (5) that come into operation before the end of the emergency period within the meaning of section 1(2) of the Private Tenancies (Coronavirus Modifications) Act (Northern Ireland) 2020, but
- (b) must make regulations under paragraph (5) that come into operation before the end of the period of 2 years beginning with the date on which this Act receives Royal Assent.

(9) The Department may by regulations amend paragraph (6) so as to add to the list of circumstances set out in it.

(10) Amendments made by virtue of regulations under paragraph (3), and provision made by regulations under paragraph (5), do not apply in relation to a notice to quit given before the date on which the regulations come into operation.]

#### Textual Amendments

- F13** Words in art. 14 heading added (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 11(5)**, 14(2)(g)(3)-(5) (with s. 11(11))
- F14** Art. 14(1) substituted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 11(3)**, 14(2)(g)(3)-(5) (with s. 11(11))
- F15** Art. 14(1A)-(10) substituted for art. 14(1A)(2) (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 11(4)**, 14(2)(g)(3)-(6) (with s. 11(11))

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

- C1** [Art. 14](#) applied (with modifications) (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 11(10)**, 14(2)(g)(3)-(5) (with s. 11(11))

**C2** Art. 14(1) applied (with modifications) (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 11(9)**, 14(2)(g)(3)-(5) (with s. 11(11))

**[<sup>F16</sup>Length of notice to quit: by tenants**

**14A.**—(1) A notice by a tenant to quit a dwelling-house let under a private tenancy is not valid unless—

- (a) it is given in writing, and
- (b) it is given not less than the relevant period before the date on which it is to take effect.

(2) For the purposes of paragraph (1) the relevant period is—

- (a) 4 weeks, if the tenancy has not been in existence for more than 10 years;
- (b) 12 weeks, if the tenancy has been in existence for more than 10 years.

(3) Paragraph (1) applies regardless of the date on which the private tenancy was granted.

(4) The Department may by regulations amend paragraph (2) so as to provide that, in relation to a tenancy in existence for more than 12 months but not more than 10 years, the relevant period is a period that is more than 4 weeks but not more than 12 weeks.

(5) Regulations under paragraph (4) may provide that the relevant period is different in different cases within that paragraph described by reference to the period for which the tenancy has been in existence.

(But this is without prejudice to the application of section 17(5) of the Interpretation Act (Northern Ireland) 1954.)

(6) Any amendment made by virtue of regulations under paragraph (4) does not apply in relation to a notice to quit given before the date on which the amendment comes into operation.]

**Textual Amendments**

**F16** Art. 14A inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 11(6)**, 14(2)(g)(3)-(5) (with s. 11(11))

## PART III

### UNFITNESS AND DISREPAIR

#### *Introductory*

#### **Interpretation: Part III**

**15.** In this Part—

“fit for human habitation” shall be construed in accordance with Article 17;

“notice of disrepair” means a notice under Article 19;

“notice of unfitness” means a notice under Article 18;

“the owner”, in relation to a dwelling-house or building, means the person who for the time being receives or is entitled to receive the rent of the dwelling-house or building, whether on his own account or as agent or trustee for any other person.

### **Application of this Part**

16. This Part applies in relation to any dwelling-house which is for the time being let under a private tenancy.

### **Determining fitness for human habitation**

17.—(1) Article 46 of the Housing (Northern Ireland) Order 1981 (NI 3) (standard of fitness for human habitation) shall apply in determining for the purposes of this Order whether a dwelling-house is fit for human habitation.

(2) In its application for those purposes, that Article shall have effect as if for any reference to the Executive there were substituted a reference to the appropriate district council.

### *Notices*

#### **Notice of unfitness**

18.—(1) Where the appropriate district council is satisfied—

- (a) that any dwelling-house to which this Part applies is unfit for human habitation, and
- (b) that serving a notice of unfitness is the most satisfactory course of action,

it may, subject to the provisions of this Part, serve a notice of unfitness under this paragraph on the owner of the dwelling-house.

(2) Where the appropriate district council is satisfied—

- (a) that any dwelling-house to which this Part applies and which is a flat is unfit for human habitation by reason of the defective condition of a part of the building outside the flat, and
- (b) that serving a notice of unfitness is the most satisfactory course of action,

it may, subject to the provisions of this Part, serve a notice of unfitness under this paragraph on the owner of the building.

(3) The appropriate district council, in addition to serving a notice of unfitness in accordance with paragraph (1) or (2)—

(a) shall serve a copy of the notice on—

- (i) the tenant of the dwelling-house,
- (ii) the Executive, and
- (iii) the rent officer; and

(b) may also serve a copy of the notice on any other person having an estate in the dwelling-house.

(4) A notice of unfitness shall—

- (a) require the person on whom it is served to execute the works specified in the notice within such reasonable period, not being less than 21 days after service of the notice, as may be so specified; and
- (b) state that, in the opinion of the appropriate district council, the works will render the dwelling-house fit for human habitation.

(5) This Article is subject to Article 21.

#### **Notice of disrepair**

19.—(1) Where the appropriate district council is satisfied—

- (a) that any dwelling-house to which this Part applies is in such a state of disrepair that, although fit for human habitation, substantial repairs are necessary to bring it up to a reasonable standard, having regard to its age, character and locality; or
- (b) whether on a representation made by an occupying tenant or otherwise, that such a dwelling-house is in such a state of disrepair that, although fit for human habitation, its condition is such as to interfere materially with the personal comfort of the occupying tenant;

it may, subject to the provisions of this Part, serve a notice of disrepair under this paragraph on the owner of the dwelling-house.

(2) Where the appropriate district council is satisfied—

- (a) that any building containing a dwelling-house to which this Part applies and which is a flat is in such a state of disrepair that, although the flat is fit for human habitation, substantial repairs are necessary to a part of the building outside the flat to bring the flat up to a reasonable standard, having regard to its age, character and locality; or
- (b) whether on a representation of an occupying tenant or otherwise, that such a building is in such a state of disrepair that, although the flat is fit for human habitation, the condition of the part of the building outside the flat is such as to interfere materially with the personal comfort of the occupying tenant;

it may, subject to the provisions of this Part, serve a notice of disrepair under this paragraph on the owner of the building.

(3) The appropriate district council, in addition to serving a notice of disrepair in accordance with paragraph (1) or (2)—

- (a) shall serve a copy of the notice on the tenant of the dwelling-house, and
- (b) may also serve a copy of the notice on any other person having an estate in the dwelling-house.

(4) A notice of disrepair shall—

- (a) require the person on whom it is served, to execute the works specified in the notice, not being works of internal decorative repair, within such reasonable period, not being less than 21 days after service of the notice, as may be so specified; and
- (b) state the appropriate district council's reasons for serving the notice.

### **Matters to be taken into consideration by appropriate district council**

**20.**—(1) Without prejudice to the generality of Article 62, guidance issued under that Article may include guidance as to matters that the appropriate district council is to take into consideration in deciding whether serving a notice of unfitness or a notice of disrepair (as the case may be) is the most satisfactory course of action in respect of a dwelling-house.

(2) In particular such guidance may include guidance in respect of financial and social considerations to be taken into account by the appropriate district council.

(3) Where the Department proposes to issue guidance which is or includes guidance under paragraph (2), or to revise such guidance, it shall lay a draft of the guidance or revised guidance before the Assembly.

(4) The Department shall not issue such guidance or revised guidance until after the expiration of the statutory period and, if within that period the Assembly resolves that the guidance or revised guidance is not to be issued, the Department shall not issue it (but without prejudice to the laying of a further draft).



### **Consultation with the Executive**

**21.**—(1) Before serving a notice of unfitness in respect of a dwelling-house, the appropriate district council shall consult the Executive.

(2) The appropriate district council shall not serve a notice of unfitness if the Executive indicates—

- (a) that it intends to exercise any of its powers under Part III of the Housing (Northern Ireland) Order 1981 (NI 3) (development functions) with respect to the dwelling-house; or
- (b) that the dwelling-house forms part of a building which would be a qualifying building in relation to a group repair scheme and that the Executive expects to prepare such a scheme in respect of the building within the period of 12 months from the date on which it was consulted.

(3) Nothing in this Article requires the Executive to serve a repair notice under paragraph (1) or (2) of Article 41 of the Housing (Northern Ireland) Order 1981.

### **Appeal against notice of unfitness or notice of disrepair**

**22.**—(1) Any person aggrieved by a notice of unfitness or notice of disrepair may, within 21 days from the date of service of the notice, appeal to the county court.

(2) Without prejudice to the generality of paragraph (1), it shall be a ground of appeal that serving the notice is not the most satisfactory course of action.

(3) On an appeal under this Article the county court may confirm, quash or vary the notice as it considers fit.

(4) Where an appeal under this Article is allowed and the reason or one of the reasons for allowing the appeal is that specified in paragraph (2) the judge shall, if requested to do so by the appellant or the appropriate district council, include in his judgment a finding to that effect.

### **Operative date of notice of unfitness or notice of disrepair**

**23.**—(1) If no appeal is brought under Article 22 against a notice of unfitness or notice of disrepair, the notice shall become operative on the expiration of 21 days from the date of service of the notice.

(2) Any notice against which an appeal is brought shall, if and so far as it is confirmed by the county court or the Court of Appeal, become operative as from the date of the final determination of the appeal.

(3) For the purposes of this Article, an appeal shall be deemed to be finally determined on the date on which the decision of the Court of Appeal is given, or, in a case where an appeal from the county court is not brought to the Court of Appeal, upon the expiration of the period within which such an appeal might have been brought.

(4) For the purposes of this Article, the abandonment of an appeal shall be deemed to be a final determination thereof, having the like effect as a decision confirming the notice, order or decision against which the appeal was brought.

(5) No steps shall be taken by the appropriate district council to enforce a notice of unfitness or notice of disrepair before the notice becomes operative.

### *Enforcement*

#### **Offence of failing to comply with notice of unfitness or notice of disrepair**

**24.**—(1) Where the person upon whom a notice of unfitness or a notice of disrepair in respect of a dwelling-house has been served fails to comply with the notice within the appropriate period, he shall be guilty of an offence under this Order.

(2) In paragraph (1) “the appropriate period” means—

- (a) the period specified in the notice, or
- (b) where the notice has been varied on appeal, such other period as the court may specify on final determination of the appeal.

(3) If any default in respect of which a person is convicted of an offence under paragraph (1) continues for more than 14 days after that conviction, that person shall be deemed to have committed a further offence under that paragraph in respect of that default.

(4) The obligation to execute the works specified in the notice continues notwithstanding that the period for completion of the works has expired.

(5) The provisions of this Article are without prejudice to the exercise by the appropriate district council of the powers conferred by Article 25.

#### **Enforcement of notice of unfitness or notice of disrepair**

**25.**—(1) If a notice of unfitness or notice of disrepair is not complied with within the appropriate period, the appropriate district council may itself do the work required to be done by the notice or, where the notice has been varied by the court on appeal, by the notice as so varied.

(2) In paragraph (1), “the appropriate period” has the meaning given in Article 24(2).

(3) Where the appropriate district council proposes to exercise its powers under paragraph (1), it may authorise a person to enter the dwelling-house in accordance with Article 27(2).

(4) Subject to paragraph (5), any expenses incurred by the appropriate district council under this Article, together with interest at the prescribed rate from the date when a demand for the expenses is served until payment, may be recovered by the council summarily as a civil debt from the person upon whom the notice was served.

(5) Where the appropriate district council claims to recover any expenses from a person as being the person upon whom the notice was served and that person proves that he—

- (a) is receiving the rent merely as agent or trustee for some other person, and
- (b) has not, and since the date of the service on him of the demand has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the council,

his liability shall be limited to the total amount of the money which he has, or has had, in his hands.

(6) Any expenses and interest due to the appropriate district council under this Article shall, until recovered, be deemed to be charged on and payable out of the estate of the person responsible in the land, in relation to which they have been incurred.

(7) For the purposes of paragraph (6)—

- (a) where a notice of unfitness was served under Article 18(1) or a notice of disrepair was served under Article 19(1), the estate of the person responsible is the estate of the landlord and of any person deriving title from him; and
- (b) where a notice of unfitness was served under Article 18(2) or a notice of disrepair was served under Article 19(2), the estate in the land of the person responsible is the estate of the owner of the building and of any person deriving title from him.

(8) The charge created by paragraph (6) shall be enforceable in all respects as if it were a valid mortgage by deed created in favour of the appropriate district council by the person on whose estate the charge has been created (with, where necessary, any authorisation or consent required by law) and the appropriate district council may exercise the powers conferred by sections 19, 21 and 22 of the Conveyancing Act 1881 on mortgages by deed accordingly.

(9) There shall be included among the matters required to be registered in the Statutory Charges Register any charge created under paragraph (6).

(10) An application for registration of such a charge shall be made by the appropriate district council within 2 months from the date when a demand is served under paragraph (4).

### **Power to require payment for enforcement action**

**26.**—(1) The appropriate district council may require a person upon whom a notice of unfitness or a notice of disrepair has been served to make such reasonable payment as it considers appropriate in respect of the administrative and other expenses incurred by it in connection with serving the notice.

(2) The expenses are those incurred in—

- (a) determining whether to serve the notice,
- (b) identifying the works to be specified in the notice, and
- (c) serving the notice.

(3) The amount of the payment shall not exceed such amount as the Department may specify by order made subject to negative resolution.

(4) Where a court allows an appeal against a notice of unfitness or notice of disrepair, it may make such order as it thinks fit reducing, quashing or requiring reimbursement of any payment under this Article in respect of the notice.

(5) Nothing in Article 25 shall prejudice the power of a district council to require a payment under this Article.

### **Power to enter dwelling-houses**

**27.**—(1) A person authorised by the appropriate district council in relation to this paragraph may, at any reasonable time and having given at least 24 hours' notice to the occupier, and to the owner if known, enter a dwelling-house to which this Part applies for the purpose of survey or examination—

- (a) where it appears to the council that survey or examination is necessary in order to determine whether any powers under this Part should be exercised in respect of the dwelling-house; or
- (b) where a notice of unfitness or a notice of disrepair has been served in respect of the dwelling-house.

(2) A person authorised by the appropriate district council under Article 25(3) may, at any time and having given at least 6 days' notice of his intention to do so to the occupier, and to the owner if known, enter any dwelling-house for the purpose of doing any work required to be done in relation to the dwelling-house by a notice of unfitness or a notice of disrepair or, as the case may be, by such a notice as varied by the county court under Article 22(3).

(3) An authorisation for the purposes of this Article—

- (a) shall be in writing stating the particular purpose or purposes for which the entry is authorised; and
- (b) shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf.

## Obstruction

**28.** A person, who obstructs—

- (a) an officer of an appropriate district council, or
- (b) a person authorised in pursuance of this Part,

in the performance of functions under this Part, shall be guilty of an offence under this Order.

## *Repairs grants*

### Repairs grants

**29.**—(1) Article 74 of the Housing (Northern Ireland) Order 1992 (NI 15) (repairs grants towards costs of meeting certain statutory repairing obligations in respect of dwelling-houses), shall be amended as follows.

(2) In paragraph (1), for sub-paragraph (a) there shall be substituted—

“(a) in a notice of disrepair served in respect of a dwelling-house which is let under a protected tenancy or a statutory tenancy; or”.

(3) After that paragraph there shall be inserted—

“(1A) In paragraph (1)—

- (a) “notice of disrepair” means a notice under Article 19 of the Private Tenancies (Northern Ireland) Order 2006; and
- (b) “protected tenancy” and “statutory tenancy” have the meaning given in the Rent (Northern Ireland) Order 1978.”.

(4) In paragraph (2), the words from “to whom” to “may be,” shall be omitted.

(5) In Schedule 3 to the Housing (Northern Ireland) Order 1992 (provisions with respect to repairs grants), in sub-paragraph (4) of paragraph 2, for the words from “the repairing conditions” to “1978” there shall be substituted “ the works specified in the notice of disrepair served under Article 19 of the Private Tenancies (Northern Ireland) Order 2006 in relation to the dwelling-house ”.

(6) The amendments made by this Article apply to a repairs grant payable under Article 74 of the Housing (Northern Ireland) Order 1992 towards the cost of works specified in a notice of disrepair served under Article 19 after the commencement of this Order.

## PART IV

### CERTIFICATES OF FITNESS AND RENT CONTROL

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

**C3** Pt. IV (arts. 30-55) modified (1.10.2010) by [Registered Rents \(Increase\) Order \(Northern Ireland\) 2010 \(S.R. 2010/285\)](#), **art. 2(1)** (subject to **art. 2(2)**)

### CHAPTER I

#### INTRODUCTORY

### Interpretation: Part IV

**30.**—(1) In this Part—

“certificate of fitness” has the meaning given in Article 36(4);

“notice of disrepair” means a notice under Article 19;

“notice of refusal” has the meaning given in Article 36(5);

“notice of unfitness” means a notice under Article 18;

“prescribed dwelling-house” has the meaning given in Article 31.

(2) Paragraph (3) applies where any question arises whether a dwelling-house was constructed before 6th November 1956 or provided by conversion of a building that was constructed before that date.

(3) It shall be assumed that the dwelling-house or building was constructed before that date unless the contrary is shown.

### **Meaning of “prescribed dwelling-house”**

**31.—**(1) In this Part “prescribed dwelling-house” means a dwelling-house of a class or description prescribed by regulations made under this Article.

(2) In particular, such regulations—

(a) may prescribe a dwelling-house by reference to—

- (i) any grant or payment having been made in respect of it under a statutory provision,
- (ii) its age, or
- (iii) the locality in which it is situated; and

(b) may provide that a dwelling-house is to be a prescribed dwelling-house for such period as may be prescribed.

## CHAPTER II

### CERTIFICATES OF FITNESS

#### **Interpretation: Chapter II**

**32.** In this Chapter “fit for human habitation” shall be construed by reference to Article 17.

#### **Landlord's application to have dwelling-house inspected**

**33.—**(1) This Article applies to any dwelling-house—

- (a) which was constructed before 6th November 1956 or provided by conversion of a building that was constructed before that date,
- (b) which is not a prescribed dwelling-house, and
- (c) in respect of which no certificate of fitness is in effect.

(2) Where, on or after the commencement of this Order, any person intends to let under a private tenancy a dwelling-house to which this Article applies, he may apply to the appropriate district council to have the dwelling-house inspected, in order to determine whether it is fit for human habitation.

(3) Where,—

- (a) a private tenancy of a dwelling-house to which this Article applies is granted on or after the commencement of this Order, and
- (b) no application has been made under paragraph (2) in respect of that dwelling-house,

the landlord shall apply to the appropriate district council to have the dwelling-house inspected, in order to determine whether it is fit for human habitation.

(4) An application under paragraph (3) shall be made within 28 days after the date on which the tenancy is granted.

(5) A landlord under a private tenancy of a dwelling-house to which this Article applies, who fails within the period mentioned in paragraph (4) to comply with paragraph (3), shall be guilty of an offence under this Order.

(6) Where a dwelling-house to which this Article applies is let under a private tenancy, the landlord may apply at any time to the appropriate district council to have the dwelling-house inspected, in order to determine whether it is fit for human habitation.

(7) Paragraph (6) has effect whether the tenancy was granted before or after the commencement of this Order.

#### **Landlord's application: ancillary provisions**

**34.**—(1) An application under Article 33 shall be in such form and contain such information as may be prescribed.

(2) An application under Article 33 must state the name of the tenant under the tenancy to which the application relates.

(3) Before considering an application under Article 33, the appropriate district council shall serve on the tenant a copy of the application and a notice in the prescribed form—

- (a) informing him that he may, within 28 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 is fit for human habitation; and
- (b) containing such other information or explanation of the effect of a certificate of fitness or a notice of refusal as may be prescribed.

(4) Paragraphs (2) and (3) do not apply where a dwelling-house is not let at the date of the application.

#### **Tenant's application to have dwelling-house inspected**

**35.**—(1) This Article applies to any dwelling-house—

- (a) which was constructed before 6th November 1956 or provided by conversion of a building that was constructed before that date,
- (b) which is not a prescribed dwelling-house, and
- (c) in respect of which a certificate of fitness is in effect.

(2) Where a dwelling-house to which this Article applies is let under a private tenancy, the tenant may apply at any time to the appropriate district council to have the dwelling-house inspected.

(3) An application under this Article shall be in such form and contain such information as may be prescribed.

(4) An application under this Article must state the name of the landlord, or his agent, under the tenancy to which the application relates.

(5) Before considering an application under this [F17 Article], the appropriate district council shall serve on the landlord, or his agent, a copy of the application and a notice in the prescribed form—

- (a) informing him that he may, within 28 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 is fit for human habitation; and
- (b) containing such other information or explanation of the effect of a certificate of fitness or a notice of refusal as may be prescribed.

### Textual Amendments

**F17** Word in [art. 35\(5\)](#) substituted (31.7.2010) by [Housing \(Amendment\) Act \(Northern Ireland\) 2010 \(c. 9\)](#), [ss. 15](#), [19\(1\)](#); [S.R. 2010/251](#), [art. 2](#)

### Functions of the appropriate district council

**36.—(1)** On receiving an application under Article 33 or 35, the appropriate district council shall cause the dwelling-house to be inspected with a view to ascertaining whether it is fit for human habitation.

**[<sup>F18</sup>(1A)** A person authorised by the appropriate district council in relation to this Article may, at any reasonable time and having given at least 24 hours' notice to the occupier, and to the owner if known, enter a dwelling-house for the purpose of an inspection under paragraph (1).

**(1B)** An authorisation under paragraph (1A)—

- (a)** shall be in writing; and
- (b)** shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf.]

**(2)** The appropriate district council shall not be obliged to entertain an application under Article 33 or 35 unless the application is accompanied by a fee of such amount as may be prescribed.

**(3)** The appropriate district council shall not be obliged to entertain an application under Article 35 unless the application contains information that is sufficient in the opinion of the council to indicate that the dwelling-house may no longer be fit for human habitation.

**(4)** Where the appropriate district council is satisfied that a dwelling-house is fit for human habitation, the council shall issue and serve on the landlord of the dwelling-house a certificate (a “certificate of fitness”) to that effect.

**(5)** Where the appropriate district council is not satisfied that a dwelling-house is fit for human habitation, the council shall issue and serve on the landlord of the dwelling-house a notice (a “notice of refusal”)—

- (a)** informing him of its refusal [<sup>F19</sup>to issue a certificate of fitness] and the reasons for refusal; and
- (b)** stating (where appropriate) the works which, in its opinion, would be necessary to enable the dwelling-house to be made fit for human habitation.

**(6)** The appropriate district council shall, if a dwelling-house is let at the date of an application, serve on the tenant a copy of any certificate of fitness or notice of refusal issued with respect to it.

**(7)** The appropriate district council shall send to the rent officer and the Executive—

- (a)** a copy of any certificate of fitness or notice of refusal issued by it in respect of a dwelling-house, and
- (b)** such information relating to the dwelling-house and the tenancy thereof as may be prescribed.

**(8)** The powers conferred on a district council by this Article shall not prejudice or affect its powers under Part III of this Order or [<sup>F20</sup>Part 7 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011].

### Textual Amendments

- F18** Art. 36(1A)(1B) inserted (30.6.2011) by [Housing \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 22\)](#), [ss. 4, 25\(1\)](#); S.R. 2011/241, [art. 2\(1\)](#), Sch. 1
- F19** Words in art. 36(5)(a) substituted (31.7.2010) by [Housing \(Amendment\) Act \(Northern Ireland\) 2010 \(c. 9\)](#), [ss. 16, 19\(1\)](#); S.R. 2010/251, [art. 2](#)
- F20** Words in art. 36(8) substituted (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\)](#), s. 78, [Sch. 3 para. 16](#); S.R. 2012/13, art. 2(2), Sch. 2

### Appeal to county court

**37.**—(1) A landlord on whom a notice of refusal is served may, within 21 days after the date of service of the notice, appeal to the county court.

(2) A tenant on whom a copy of a certificate of fitness is served may, within 21 days after the date of service of the copy of the certificate, appeal to the county court.

(3) 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 of the certificate of fitness or of the notice of refusal, as the case may be;
- (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.

(4) If on an appeal under paragraph (1), the court orders the appropriate district council to issue a certificate of fitness—

- (a) that certificate shall be deemed to have been issued on the date of the order, and
- (b) the notice of refusal shall cease to have effect.

(5) If, on an appeal under paragraph (2), the court orders the appropriate district council to issue a notice of refusal—

- (a) that notice shall be deemed to have taken effect on the date on which the certificate of fitness was issued, and
- (b) the certificate of fitness shall be deemed never to have been issued.

(6) Where an appeal by way of case stated is made to the Court of Appeal under Article 61 of the County Courts (Northern Ireland) Order 1980 (NI 3) on any point of law arising from a decision of a county court on an appeal under paragraph (1), paragraph (4) shall apply as if in sub-paragraph (a), for the reference to the date of the order, there were substituted a reference to the date of confirmation of the order by the Court of Appeal.

### Cessation of certificate of fitness

**38.**—(1) Subject to paragraph (2), a certificate of fitness ceases to have effect if—

- (a) a relevant notice is served in respect of a house which is or includes the dwelling-house in relation to which the relevant notice was issued, and
- (b) the period within which an appeal may be brought against the relevant notice has expired.

(2) Where an appeal is brought against a relevant notice, the certificate of fitness—

- (a) shall not cease to have effect until after the final determination of the appeal, and
- (b) shall cease to have effect then only if the relevant notice is confirmed.

(3) In this Article, “relevant notice” means a notice under—



- (a) Article 18 (notice of unfitness);
  - (b) Article 36(5) (notice of refusal); or
  - (c) Article 41 of the Housing (Northern Ireland) Order 1981 (NI 3) (repair notice).
- (4) A certificate of fitness does not cease to have effect because of the termination of the tenancy of the dwelling-house in respect of which the certificate of fitness was issued.

### CHAPTER III

#### TENANCIES SUBJECT TO RENT CONTROL

##### *Introductory*

#### **Interpretation: Chapter III**

**39.** In this Chapter—

- “appropriate rent” means an appropriate rent for a rental period;
- “the appropriate standard of fitness” shall be construed in accordance with Article 40(3);
- “controlled tenancy” has the meaning given in Article 40(4);
- “the register of rents” means the register established under Article 46;
- “registered rent”, in relation to a controlled tenancy of a dwelling-house, means the rent entered in the register of rents as an appropriate rent under that tenancy;
- “rent assessment committee” means a committee constituted under Schedule 1;
- “the rent limit” means the rent limit under Article 48;
- “rental period” means a period in respect of which a payment of rent falls to be made.

#### **Tenancies subject to rent control**

**40.—(1)** A tenancy of a dwelling-house is subject to rent control if the tenancy is for the time being a protected tenancy or a statutory tenancy.

(2) A tenancy of a dwelling-house is subject to rent control if—

- (a) the tenancy—
  - (i) is not a protected tenancy or a statutory tenancy, but
  - (ii) is a private tenancy granted on or after the commencement of this Order; and
- (b) the dwelling-house—
  - (i) was constructed before 6th November 1956 or was provided by conversion of a building that was constructed before that date, and
  - (ii) does not meet the appropriate standard of fitness.

(3) A dwelling-house does not meet the appropriate standard of fitness unless—

- (a) it is a prescribed dwelling-house, or
- (b) a certificate of fitness is in effect in respect of it.

(4) A tenancy which is subject to rent control is referred to in this Chapter as a “controlled tenancy”.

### *Functions of the rent officer and rent assessment committees*

#### **The rent officer and rent assessment committees**

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

#### **Determination of an appropriate rent**

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

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

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

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

(4) For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the controlled tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.

(5) There shall be disregarded—

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

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

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

#### **Procedure after determination**

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

- (a) of the rent that has been determined, and

(b) of the right to have the determination considered by a rent assessment committee under Article 44.

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

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

### Consideration by a rent assessment committee

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

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

(3) Without prejudice to the generality of Article 72, the Department may make regulations with respect to the consideration of a determination by a rent assessment committee. <sup>F21</sup> . . .

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

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

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

#### Textual Amendments

**F21** Words in art. 44(3) repealed (30.6.2011) by [Housing \(Amendment\) Act \(Northern Ireland\) 2011](#) (c. 22), ss. 5(2), 24, 25(1), [Sch.](#); S.R. 2011/241, [art. 2\(1\)](#), [Sch. 1](#)

### Change of circumstances

45.—(1) Where—

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

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

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

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

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

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

**[<sup>F22</sup>Power to amend Articles 42 to 45**

**45A.**—(1) The Department may by regulations modify any provision of Articles 42 to 45 and Schedule 2.

(2) Regulations under this Article may make such consequential modifications of other provisions of this Chapter as appear to the Department to be necessary or appropriate.]

**Textual Amendments**

**F22** Art. 45A inserted (30.6.2011) by [Housing \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 22\), ss. 5\(1\), 25\(1\); S.R. 2011/241, art. 2\(1\), Sch. 1](#)

*The register of rents*

**The register of rents**

**46.**—(1) The rent officer shall prepare and keep up to date a register (“the register of rents”), in which there shall be entered, in accordance with Article 43(3) or 44(6), the rents which are appropriate rents of dwelling-houses let under controlled tenancies.

(2) The rent officer shall make the register of rents available for public inspection without charge at such place and at such times as the rent officer considers appropriate.

(3) The register of rents shall contain, in addition to an appropriate rent, the prescribed particulars with regard to the tenancy and the dwelling-house.

(4) The rent officer may, if at any time it appears appropriate to him to do so, amend any entry in the register of rents.

(5) Subject to paragraph (6), where the rent officer amends any entry in the register of rents, the rent officer shall serve a notice of the alteration on the landlord and tenant under the tenancy in question.

(6) Paragraph (5) does not apply to any alteration made in the register of rents in pursuance of Article 55(7).

(7) A copy of an entry in the register of rents purporting to be certified under the hand of the rent officer 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.

**Removal of tenancies from the register of rents**

**47.**—(1) Subject to the following provisions of this Article, where—

- (a) in relation to a tenancy of a dwelling-house, a rent is registered in the register of rents, and
- (b) the rent officer is satisfied that the dwelling-house is no longer let under that tenancy,

the rent officer shall remove any entry relating to that tenancy of the dwelling-house from the register of rents.

(2) For the purposes of paragraph (1) the rent officer may make such enquiries as he considers appropriate.

(3) The rent officer shall give to any person appearing to him to have an interest in the dwelling-house, 14 days' notice of his intention to remove the entry from the register of rents.

(4) Where—

(a) the rent officer removes an entry relating to a tenancy of a dwelling-house from the register of rents, and

(b) no certificate of fitness is in effect in respect of the dwelling-house,

the rent officer may maintain for the purposes of this Order a record of the information contained in the entry in such form as appears appropriate to him.

#### *The rent limit*

#### **The rent limit**

**48.**—(1) The rent recoverable for a rental period of a controlled tenancy of a dwelling-house shall not exceed the rent limit.

(2) Where a rent is registered in the register of rents in respect of a controlled tenancy of a dwelling-house, the rent limit is the registered rent.

(3) Paragraph (4) applies where no rent is registered in respect of a controlled tenancy of a dwelling-house which is a protected tenancy or a statutory tenancy.

(4) The rent limit is the rent which was payable in accordance with the Rent Order immediately before the commencement of this Order.

#### **Increase of rent**

**49.**—(1) Where the rent for any rental period of a controlled tenancy of a dwelling-house would be less than the rent limit, the amount of the rent may be increased up to the rent limit by a notice of increase served by the landlord on the tenant.

(2) A notice of increase—

(a) shall be in the prescribed form, and

(b) shall specify the date on which the increase is to take effect.

(3) The date specified in the notice of increase shall not be earlier than 4 weeks after service of the notice.

#### **Rent in excess of rent limit to be irrecoverable by landlord**

**50.**—(1) Notwithstanding anything in any agreement, any amount by which the rent payable in respect of a controlled tenancy of a dwelling-house exceeds the rent limit for that tenancy shall be irrecoverable from the tenant.

(2) 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 Article, shall be guilty of an offence under this Order, 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.

(3) If, where any such entry has been made by or on behalf of the 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 7 days, the landlord shall be guilty of an offence under this Order, 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.

[<sup>F23</sup>(4) In paragraph (2) “similar document” does not include a receipt under Article 5(2).]

### Textual Amendments

**F23** Art. 50(4) inserted (1.4.2023) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\), ss. 3\(3\), 14\(7\)](#); S.R. 2023/20, art. 2, Sch.

### Recoupment of sums paid in excess of rent limit

**51.**—(1) This Article applies where a tenant under a controlled tenancy has paid rent in excess of the rent limit for any rental period under that tenancy.

(2) The tenant shall be entitled to recover from the landlord who received the rent, or his personal representatives, any sum by which the amount paid exceeded the rent limit.

(3) Without prejudice to any other method of recovery, the tenant shall be entitled to recoup that sum by deducting it from any rent payable by him to the landlord.

(4) But no sum may be recouped by a tenant under paragraph (3) at any time after the expiry of 2 years from the date of payment.

### Recoupment where landlord in default

**52.**—(1) This Article applies where—

- (a) a rent is registered in the register of rents in respect of a controlled tenancy of a dwelling-house granted on or after the commencement of this Order, but
- (b) the landlord failed within the period mentioned in paragraph (4) of Article 33 to meet any requirement to apply to have the dwelling-house inspected in accordance with paragraph (3) of that Article.

(2) The tenant shall be entitled to recover from the landlord who received the rent, or his personal representatives, any sum by which the rent paid during the period of default exceeded the rent that would have been payable if the rent limit had applied in relation to the tenancy during that period.

(3) In paragraph (2) “the period of default” means the period—

- (a) beginning on the date by which the landlord was required to apply to have the dwelling-house inspected under Article 33(3), and
- (b) ending on the date on which a rent was registered in the register of rents in respect of the tenancy of the dwelling-house.

(4) Without prejudice to any other method of recovery, the tenant shall be entitled to recoup that sum by deducting it from any rent payable by him to the landlord.

(5) But no sum may be recouped by a tenant under paragraph (4) any time after the expiry of 2 years from the date on which a rent is registered in the register of rents in respect of the tenancy.

### Recoupment of rates, etc. from tenants

**53.**—(1) Paragraph (2) applies where any rates in respect of a dwelling-house let under a controlled tenancy which is a protected tenancy or a statutory tenancy are borne by the landlord or a superior landlord.

(2) The amount of rates for any rental period which begins after the expiry or termination of a protected tenancy shall be recoverable, without service of any notice of increase, from the tenant in addition to the sums so recoverable apart from this paragraph.

(3) The amount of rates shall be ascertained in accordance with Schedule 3.

(4) Paragraph (2) applies notwithstanding anything in the contract of tenancy.

(5) 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 in the register of rents may be an amount variable in accordance with the terms as to the variation.

#### **Amounts attributable to services**

**54.** 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 (c. 7), where a rent is registered in the register of rents, there shall be entered in 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 rent officer or, as the case may be, the rent assessment committee.

#### *Rent review*

#### **Review of registered rents**

**55.—**(1) The rent officer shall, if directed to do so by the Department, conduct a review of registered rents, with a view to determining whether those rents should be increased.

(2) A direction under paragraph (1) may require the rent officer to review the registered rent for all controlled tenancies or for controlled tenancies of such class or description as may be specified in the direction.

(3) When conducting a review the rent officer shall—

- (a) take into account the general level of rents for dwelling-houses let by the Executive,
- (b) the cost of repairs, and
- (c) any other matter appearing to him to be relevant.

(4) Where the rent officer determines under paragraph (1) that any registered rents should be increased, he shall make a recommendation to that effect to the Department.

(5) Where the Department accepts a recommendation under paragraph (4), it shall make an order providing for the increase of those rents—

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

(6) The amount of an increase may be expressed as a percentage.

(7) Where the Department makes an order under paragraph (5), the rent officer shall make such alterations in the register of rents as appear to him to be necessary in consequence of the order.

[<sup>F24</sup>(8) An order under paragraph (5) shall be subject to negative resolution.]

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#### **Textual Amendments**

**F24** Art. 55(8) added (31.7.2010) by [Housing \(Amendment\) Act \(Northern Ireland\) 2010 \(c. 9\), ss. 17, 19\(1\); S.R. 2010/251, art. 2](#)

## PART V

### AMENDMENTS OF THE RENT ORDER

#### Tenancies which are protected tenancies

- 56.**—(1) Article 3 of the Rent Order (protected tenancies) shall be amended as follows.
- (2) For paragraph (1) there shall be substituted—
- “(1) A tenancy of a dwelling-house is a protected tenancy for the purposes of this Order if—
- (a) the Rent Restriction Acts applied to the dwelling-house immediately before the commencement of this Order (1st October 1978), and
- (b) the dwelling-house was, immediately after that commencement, let under that tenancy as a separate dwelling.
- (1A) A tenancy of a dwelling-house is a protected tenancy for the purposes of this Order if—
- (a) paragraph (2) applies to the dwelling-house, and
- (b) the dwelling-house was, immediately before the commencement of Article 56 of the Private Tenancies (Northern Ireland) Order 2006, let under that tenancy as a separate dwelling.”.
- (3) After paragraph (2A) there shall be inserted—
- “(2B) A tenancy of a dwelling-house is a protected tenancy for the purposes of this Order if, immediately before the commencement of Article 56 of the Private Tenancies (Northern Ireland) Order 2006, that tenancy was a protected tenancy by virtue of Article 5 of this Order.”.
- (4) After paragraph (3) there shall be inserted—
- “(3A) For the purposes of this Article, a dwelling-house may be a house or part of a house.”.

#### No further protected tenancies

- 57.**—(1) No private tenancy granted on or after the commencement of this Order shall be a protected tenancy under the Rent Order.
- (2) No private tenancy granted on or after the commencement of this Order shall be a protected shorthold tenancy under Article 92 of the Housing (Northern Ireland) Order 1983 (NI 15).
- (3) Article 5 of the Rent Order shall cease to have effect.
- (4) Any tenancy which immediately before the commencement of this Order was a protected tenancy by virtue of Article 5 of the Order of 1978, shall continue to be a protected tenancy notwithstanding the repeal of that Article.

#### Premises with a business use

- 58.** In Article 12 of the Rent Order (premises with a business use), for paragraphs (3) and (4) there shall be substituted—
- “(3) Where it is possible to enter the part of the house used as a dwelling (“the residential part”) without passing through the non-residential part, Articles 3 and 4 shall apply only to the residential part.



(4) Where it is possible to enter the residential part only by passing through the non-residential part, Articles 3 and 4 shall apply to the entire house.”.

### **Assignment and sub-letting**

**59.**—(1) After the commencement of this Order, a protected tenancy or a statutory tenancy of a dwelling-house shall not be capable of being assigned, except in pursuance of an order made under any of the provisions mentioned in paragraph (2).

(2) Those provisions are—

- (a) Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978 (NI 15) (property adjustment orders in connection with divorce proceedings);
- (b) Article 26 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (NI 4) (orders for transfer of certain tenancies);
- (c) Schedule 1 to the Children (Northern Ireland) Order 1995 (NI 2) (orders for financial relief against parents);
- (d) Part II of Schedule 2 to the Family Homes and Domestic Violence (Northern Ireland) Order 1998 (NI 6) (orders for transfer of certain tenancies on divorce etc. or separation of co-habitees);
- (e) Part II of Schedule 15 and paragraph 9 of Schedule 17 to the Civil Partnership Act 2004 (c. 33) (property adjustment orders and orders for financial relief on or after dissolution, nullity or separation).

(3) Articles 17 and 18 of the Rent Order (provisions relating to change of statutory tenant by agreement) shall cease to have effect.

(4) Any person, who immediately before the commencement of this Order was deemed to be a statutory tenant of a dwelling-house by virtue of paragraph (1) of Article 17 of the Rent Order, shall continue as such thereafter notwithstanding the repeal of that Article, if and so long as he occupies the dwelling-house as his residence.

(5) For Article 19 of the Rent Order (effect on sub-tenancies of determination of superior tenancies), there shall be substituted—

#### **“Determination of sub-tenancies**

**19.** Where—

- (a) the whole or part of a dwelling-house—
  - (i) let on a protected tenancy, or
  - (ii) subject to a statutory tenancy,is sub-let; and
- (b) after the commencement of Article 59 of the Private Tenancies (Northern Ireland) Order 2006 the landlord becomes entitled, as against the tenant, to possession of the dwelling-house;

the landlord shall also be entitled to possession against the sub-tenant.”.

### **Unlawful eviction, etc.**

**60.**—(1) Article 54 of the Rent Order (unlawful eviction and harassment of occupier) shall be amended as follows.

(2) With respect to acts done after the commencement of this Order, paragraph (2) shall have effect with the substitution, for the word “calculated”, of the word “likely”.

(3) After that paragraph there shall be inserted—

“(2A) Subject to paragraph (2B), the landlord of a dwelling-house or an agent of the landlord shall be guilty of an offence under this Order if—

- (a) he does acts likely to interfere with the peace and comfort of the tenant of the dwelling-house or members of his household, or
- (b) he persistently withdraws or withholds services reasonably required for the occupation of the dwelling-house as a residence,

and, (in either case) he knows, or has reasonable cause to believe, that the conduct is likely to cause the tenant to give up occupation of the whole or part of the premises or to refrain from exercising any right or pursuing any remedy in respect of the whole or part of the premises.

(2B) A person shall not be guilty of an offence under paragraph (2A) if he proves that he had reasonable grounds for doing the acts or withdrawing or withholding the services in question.”.

### **Restriction of statutory tenancy by succession**

**61.**—(1) In Schedule 1 to the Rent Order (statutory tenants by succession), paragraphs 5 to 7 and 9 to 11, shall cease to have effect.

(2) Any person, who immediately before the commencement of this Order was a statutory tenant of a dwelling-house by virtue of any provision repealed by paragraph (1), shall continue as such thereafter, notwithstanding the repeal of that provision, if and so long as he occupies the dwelling-house as his residence.

## **PART VI**

### **MISCELLANEOUS**

#### *Directions and guidance*

### **Provision of directions and guidance to district councils**

**62.**—(1) The Department may—

- (a) give directions of a general or specific nature, or
- (b) issue guidance,

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

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

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

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

## Information

### Publication of information to assist landlords and tenants

**63.**—(1) The Department and the Executive may publish—

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

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

### Collection of information about tenancies

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

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

### [<sup>F25</sup>Disclosure of information for purposes of Parts 2 to 4

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

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

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

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

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

(4) This Article—

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

(5) In this Article—

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

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

“relevant information” means information as to—

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

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#### **Textual Amendments**

**F25** Arts. 64A, 64B inserted (30.6.2011) by [Housing \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 22\)](#), ss. 6, 25(1); S.R. 2011/241, [art. 2\(1\)](#), Sch. 1

#### **Unauthorised disclosure of information**

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

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

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

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

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

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

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

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

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

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#### **Textual Amendments**

**F25** Arts. 64A, 64B inserted (30.6.2011) by [Housing \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 22\)](#), ss. 6, 25(1); S.R. 2011/241, [art. 2\(1\)](#), Sch. 1

### Information as to ownership of dwelling-houses

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

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

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

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

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

### *[<sup>F26</sup>Registration of landlords*

#### Textual Amendments

**F26** Art. 65A and preceding cross-heading inserted (3.5.2011) by [Housing \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 22\), ss. 7, 25\(2\)](#)

### Registration of landlords

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

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

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

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

(4) A person commits an offence if—

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

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

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

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

(a) a person has been convicted of an offence under paragraph (4)(b), and

(b) that person is continuing after that conviction to contravene paragraph (4)(b),

the court may make an order requiring that person to register under this Article within such period not being less than 28 days from the date of the order) as the court may specify.]

*Notices, etc.*

### Service of notices on landlord's agents

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

(a) on any agent of the landlord named as such in [<sup>F27</sup>a rent book]; or

(b) on the person who receives the rent of the dwelling-house.

(2) If—

(a) the tenant under a private tenancy of a dwelling-house, or

(b) a district council for the purposes of enabling it to perform any of its functions under this Order,

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

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

#### Textual Amendments

**F27** Words in art. 66(1)(a) substituted (1.4.2023) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), ss. 3(4), 14(7); S.R. 2023/20, art. 2, Sch.

### Method of serving certain documents

**67.**

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

(a) a certificate of fitness or notice of refusal under Article 36, or

(b) a notice under Article 46(5), 47(3) or 66(2), or paragraph 1(1) of Schedule 2,

may be served by being sent by ordinary post.

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

## Offences

### Prosecution of offences

**68.**—(1) A person who is guilty of an offence under Article <sup>F28</sup> . . . [<sup>F29</sup>4A(4), 4B(5), 4C(3),]<sup>F30</sup>[<sup>F30</sup>5(7), 5ZA(3)]<sup>F31</sup>[<sup>F31</sup>, 5ZC(4)], [<sup>F32</sup>11B(4),] 24(1), 33(5) or 50(2) or (3) or paragraph 1(2) of Schedule 2 shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

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

(3) Proceedings for any offence under this Order [<sup>F33</sup>(including any offence created by regulations under Article 11G [<sup>F34</sup>or 11I])] may be instituted by the appropriate district council.

#### Textual Amendments

- F28** Words in art. 68(1) repealed (30.6.2011) by [Housing \(Amendment\) Act \(Northern Ireland\) 2011](#) (c. 22), ss. 24, 25(1), [Sch.](#); S.R. 2011/241, [art. 2\(1\)](#), Sch. 1
- F29** Words in art. 68(1) inserted (28.4.2022 for specified purposes, 1.4.2023 in so far as not already in operation) by [Private Tenancies Act \(Northern Ireland\) 2022](#) (c. 20), [ss. 1\(3\)](#), 14(2)(a); S.R. 2023/20, art. 2, Sch.
- F30** Words in art. 68(1) substituted (1.4.2023) by [Private Tenancies Act \(Northern Ireland\) 2022](#) (c. 20), [ss. 3\(5\)](#), 14(7); S.R. 2023/20, art. 2, Sch.
- F31** Words in art. 68(1) inserted (1.4.2023) by [Private Tenancies Act \(Northern Ireland\) 2022](#) (c. 20), [ss. 4\(3\)](#), 14(7); S.R. 2023/20, art. 2, Sch.
- F32** Word in art. 68(1) inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022](#) (c. 20), [ss. 8\(3\)](#), 14(2)(d)
- F33** Words in art. 68(3) inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022](#) (c. 20), s. 14(2)(e), [Sch. 2 para. 3](#)
- F34** Words in art. 68(3) inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022](#) (c. 20), s. 14(2)(f), [Sch. 3 para. 3](#)

### <sup>F35</sup>Fixed penalty for certain offences

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

[ an offence under Article 4A(4) or 4B(5), except one deemed to have been committed by <sup>F36</sup>(za) virtue of Article 4C(1);

(zb) an offence under Article 4C(3);]

[ an offence under Article 5(7), except one deemed to have been committed by virtue of <sup>F37</sup>(zc) Article 5ZA(1);

(zd) an offence under Article 5ZA(3);]

[ an offence under Article 5ZC(4);] <sup>F38</sup>(ze)

(a) an offence under Article 5B(10) or (11); <sup>F39</sup>...

[ an offence under Article 11B(4);] <sup>F40</sup>(aa)

[ an offence created by regulations under Article 11G (but this is subject to paragraph (1A))]

<sup>F41</sup>(ab)

[ an offence created by regulations under Article 11I; or]

<sup>F42</sup>(ac)

(b) an offence under Article 65A(4).

[

<sup>F43</sup>(1A) This Article does not apply where—

- (a) P has been convicted of an offence in respect of the granting of a private tenancy, or the letting out of a dwelling-house under a private tenancy, in breach of a prohibition imposed under Article 11G(1)(a) or (b) (“the initial offence”),
- (b) an authorised officer has reason to believe that, after that conviction, P has committed an offence in respect of a prohibition imposed under Article 11G(1)(b) (“the continuing offence”), and
- (c) it appears to the authorised officer that the continuing offence has been committed by P continuing to let out the dwelling-house under the tenancy in respect of which the initial offence was committed.]

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

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

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

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

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

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

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

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

(8) The fixed penalty payable to a district council under this Article in respect of an offence under Article [<sup>F44</sup>4A(4), 4B(5), 4C(3),][<sup>F45</sup>5(7), 5ZA(3),][<sup>F46</sup>5ZC(4),] 5B(10) [<sup>F47</sup>, 11B(4)] or 65A(4) [<sup>F48</sup>or an offence created by regulations under Article 11I] is an amount determined by the council, being an amount not exceeding one-fifth of the maximum fine payable on summary conviction of that offence.

[

<sup>F49</sup>(8A) The fixed penalty payable to a district council under this Article in respect of an offence created by regulations under Article 11G is an amount determined by the council, being an amount not exceeding one-fifth of the amount prescribed as the maximum fine for that offence; but this is subject to paragraphs (8B) and (8C).



(8B) Paragraph (8C) applies where—

- (a) P grants a private tenancy, or continues to let out a dwelling-house under a private tenancy, in breach of a prohibition imposed under Article 11G(1)(a) or (b) (“the initial breach”),
- (b) P is given a fixed penalty notice under this Article in respect of an offence on the grounds of the initial breach,
- (c) P pays the fixed penalty stated in the notice,
- (d) an authorised officer has reason to believe that, after payment of the fixed penalty, P has committed an offence in respect of a prohibition imposed under Article 11G(1)(b) (“the continuing offence”), and
- (e) it appears to the authorised officer that the continuing offence has been committed by P continuing to let out the dwelling-house under the tenancy in respect of which the initial breach was committed.

(8C) Where this paragraph applies, the penalty payable is an amount determined by the council, being an amount not exceeding one-five-hundredth of the amount prescribed as the maximum fine for that offence for every day or part of a day for which it appears to the officer that the letting has continued after payment (and, accordingly, the penalty payable may exceed one-fifth of the amount prescribed as the maximum fine for that offence).]

(9) In any proceedings a certificate which—

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

is evidence of the facts stated.

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

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

#### **Textual Amendments**

- F35** Art. 68A inserted (30.6.2011) by [Housing \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 22\)](#), **ss. 8**, 25(1); S.R. 2011/241, **art. 2(1)**, Sch. 1
- F36** Art. 68A(1)(za)(zb) inserted (28.4.2022 for specified purposes, 1.4.2023 in so far as not already in operation) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 1(4)(a)**, 14(2)(a); S.R. 2023/20, art. 2, Sch.
- F37** Art. 68A(1)(zc)(zd) inserted (1.4.2023) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 3(6)(a)**, 14(7); S.R. 2023/20, art. 2, Sch.
- F38** Art. 68A(1)(ze) inserted (1.4.2023) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 4(4)(a)**, 14(7); S.R. 2023/20, art. 2, Sch.
- F39** Word in art. 68A(1)(a) omitted (28.4.2022 for specified purposes) by virtue of [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 8(5)(a)**, 14(2)(d)
- F40** Art. 68A(1)(aa) inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), **ss. 8(5)(b)**, 14(2)(d)
- F41** Art. 68A(1)(ab) inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), s. 14(2)(e), **Sch. 2 para. 4(a)**
- F42** Art. 68A(1)(ac) inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), s. 14(2)(f), **Sch. 3 para. 4(a)**
- F43** Art. 68A(1A) inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\)](#), s. 14(2)(e), **Sch. 2 para. 4(b)**

- F44** Words in art. 68A(8) inserted (28.4.2022 for specified purposes, 1.4.2023 in so far as not already in operation) by Private Tenancies Act (Northern Ireland) 2022 (c. 20), **ss. 1(4)(b)**, 14(2)(a); S.R. 2023/20, art. 2, Sch.
- F45** Words in art. 68A(8) inserted (1.4.2023) by Private Tenancies Act (Northern Ireland) 2022 (c. 20), **ss. 3(6)(b)**, 14(7); S.R. 2023/20, art. 2, Sch.
- F46** Word in art. 68A(8) inserted (1.4.2023) by Private Tenancies Act (Northern Ireland) 2022 (c. 20), **ss. 4(4)(b)**, 14(7); S.R. 2023/20, art. 2, Sch.
- F47** Word in art. 68A(8) inserted (28.4.2022 for specified purposes) by Private Tenancies Act (Northern Ireland) 2022 (c. 20), **ss. 8(6)**, 14(2)(d)
- F48** Words in art. 68A(8) inserted (28.4.2022 for specified purposes) by Private Tenancies Act (Northern Ireland) 2022 (c. 20), s. 14(2)(f), **Sch. 3 para. 4(b)**
- F49** Art. 68A(8A)-(8C) inserted (28.4.2022 for specified purposes) by Private Tenancies Act (Northern Ireland) 2022 (c. 20), s. 14(2)(e), **Sch. 2 para. 4(c)**

### *General*

#### **Defective premises**

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

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

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

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

#### **Prohibition of agreements excluding Order**

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

#### **Application to Crown property**

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

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

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

### *Supplemental*

#### **Regulations**

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

- (a) prescribing forms for notices, certificates and other documents required or authorised under this Order;

- (b) requiring such notices, certificates and documents to contain such information as may be specified in the regulations;
- (c) prescribing anything which is required by this Order to be prescribed;
- (d) generally for carrying into effect this Order.

(2) Subject to <sup>F50</sup> paragraphs (3) and (3A)], regulations under this Order shall be subject to negative resolution.

<sup>F51</sup>(3) Regulations under Article 5A, <sup>F52</sup>5C, 5D(3) or (5),<sup>F53</sup>11G,<sup>F54</sup>14, 14A,] 45A or 65A shall not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

<sup>F55</sup>(3A) Regulations under Article 11I(1) that contain provision mentioned in Article 11K(4)(d) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.]

(4) The Department must lay before the Assembly—

- (a) a draft of regulations under Article 5A, and
- (b) a draft of regulations under Article 65A,

not later than 18 months after the date on which the Housing (Amendment) Act (Northern Ireland) 2011 receives Royal Assent.]

<sup>F56</sup>(5) Before laying a draft of regulations under Article 5D(5) <sup>F57</sup>, 14 or 14A] before the Assembly, the Department must consult—

- (a) such persons as appear to it to be representative of landlords,
- (b) such persons as appear to it to be representative of tenants, and
- (c) such persons as the Department considers appropriate (which may include landlords or tenants).]

<sup>F58</sup>(6) Before making regulations under Article 11G, the Department must consult—

- (a) the Department for the Economy and the Department of Finance,
- (b) district councils,
- (c) such persons as appear to the Department to be representative of landlords,
- (d) such persons as appear to the Department to be representative of tenants, and
- (e) such other persons as the Department considers appropriate (which may include landlords or tenants).]

<sup>F59</sup>(7) Before making regulations under Article 11I(1), the Department must consult—

- (a) district councils,
- (b) such persons as appear to the Department to be representative of landlords,
- (c) such persons as appear to the Department to be representative of tenants, and
- (d) such other persons as the Department considers appropriate (which may include landlords or tenants).

(8) In the case of regulations that contain provision mentioned in Article 11K(4)(d), the consultation must take place before the draft of the regulations is laid before the Assembly.]

#### Textual Amendments

**F50** Words in art. 72(2) substituted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\), s. 14\(2\)\(f\), Sch. 3 para. 5\(a\)](#)

- F51** Art. 72(3)(4) substituted (3.5.2011) for art. 72(3) by [Housing \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 22\), ss. 9, 25\(2\)](#)
- F52** Words in art. 72(3) inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\), ss. 7\(3\)\(a\), 14\(2\)\(c\)](#)
- F53** Word in art. 72(3) inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\), s. 14\(2\)\(e\), Sch. 2 para. 5\(a\)](#)
- F54** Words in art. 72(3) inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\), ss. 11\(7\)\(a\), 14\(2\)\(g\)\(3\)-\(5\) \(with s. 11\(11\)\)](#)
- F55** Art. 72(3A) inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\), s. 14\(2\)\(f\), Sch. 3 para. 5\(b\)](#)
- F56** Art. 72(5) inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\), ss. 7\(3\)\(b\), 14\(2\)\(c\)](#)
- F57** Words in art. 72(5) inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\), ss. 11\(7\)\(b\), 14\(2\)\(g\)\(3\)-\(5\) \(with s. 11\(11\)\)](#)
- F58** Art. 72(6) inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\), s. 14\(2\)\(e\), Sch. 2 para. 5\(b\)](#)
- F59** Art. 72(7)(8) inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\), s. 14\(2\)\(f\), Sch. 3 para. 5\(c\)](#)

### Further provision

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

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

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

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

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

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

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

### Minor and consequential amendments

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

### Repeals

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

*A.K. Galloway*  
Clerk of the Privy Council

**Changes to legislation:**

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