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## STATUTORY INSTRUMENTS

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# 1983 No. 1118 (N.I. 15)

## The Housing (Northern Ireland) Order 1983 <sup>F1</sup>

- - - - - 27th July 1983

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

### PART I INTRODUCTORY

#### **Title and commencement**

1. This Order may be cited as the Housing (Northern Ireland) Order 1983 and shall come into operation on the expiration of the period of two months from the date on which it is made.

#### **Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954<sup>F2</sup> shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the Department” means the Department of the Environment;

“the Executive” means the Northern Ireland Housing Executive;

“fee simple” includes a fee farm grant;

“mortgage” includes a charge;

“prescribe” means prescribe by regulations;

“the principal Order” means the Housing (Northern Ireland) Order 1981<sup>F3</sup>.

**F2** 1954 c. 33 (N.I.).

**F3** 1981 NI 3

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**PART II**  
**SECURE TENANTS**  
[<sup>F4</sup>CHAPTER I

**SALE OF DWELLING-HOUSES BY THE EXECUTIVE**

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

[<sup>F5</sup>**House sales scheme**

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

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

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

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

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

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

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

**F5** Chapter 1 (arts. 3, 4) substituted for Chapter 1 (arts. 3-23) by 1992/1725 (NI 15), art. 96(1)(2).

[<sup>F6</sup>**House sales by registered housing associations**

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

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

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

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

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

F6 2003 NI 2

#### [<sup>F7</sup>House sales scheme: supplemental provision

4.—(1) In this Chapter—

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

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

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

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

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

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

F7 Chapter 1 (arts. 3, 4) substituted for Chapter 1 (arts. 3-23) by 1992/1725 (NI 15), art. 96(1)(2).

## CHAPTER II

### SECURITY OF TENURE AND RIGHTS OF SECURE TENANTS

#### Interpretation of Chapter II

24.—(1) In this Chapter—

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

[<sup>F8</sup>“introductory tenancy” has the same meaning as in Chapter II of Part II of the Housing (Northern Ireland) Order 2003;]

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

“registered housing association” does not include any such association whose rules—

(a) restrict membership to persons who are tenants or prospective tenants of the association, and

(b) preclude the granting or assignment of tenancies to persons other than [<sup>F9</sup> members];

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

“secure tenant” means the tenant under a secure tenancy, and

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- “secure tenancy” has the meaning given in Article 25;  
 “successor” has the meaning given by paragraphs (4) and (5) of Article 26;  
 “term”, in relation to a secure tenancy, includes a condition of the tenancy.

(2) For the purposes of this Chapter—

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

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

(3) A person is a member of another's family within the meaning of this Chapter if he is his spouse<sup>[F10]</sup>, civil partner], parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece; treating—

- (a) any relationship by marriage<sup>[F10]</sup> or civil partnership] as a relationship by blood, any relationship of the half blood as a relationship of the whole blood and the stepchild of any person as his child; and  
 (b) an illegitimate person as the legitimate child of his mother and reputed father;

or if they live together as husband and wife<sup>[F10]</sup> or as if they were civil partners].

**F8** 2003 NI 2  
**F9** 1986 NI 13  
**F10** 2004 c.33

### *Secure tenancies*

#### **Secure tenancies**

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

- (2) The landlord condition is that the estate of the landlord belongs to—  
 (a) the Executive; or  
 (b) a registered housing association;

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

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

#### **Succession on death of tenant**

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

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

- (a) he is the tenant's spouse<sup>[F11]</sup> or civil partner]; or

- (b) he is another member of the tenant's family and has resided with the tenant throughout the period of twelve months ending with the tenant's death.
- (3) Where there is more than one person qualified to succeed the tenant—
  - (a) the tenant's spouse<sup>[F11]</sup> or civil partner] is to be preferred to another member of the tenant's family; and
  - (b) of two or more other members of the tenant's family such of them is to be preferred as may be agreed between them or as may, where there is no such agreement, be selected by the landlord.
- (4) <sup>[F12]</sup>Subject to<sup>[F11]</sup> paragraphs (4A) and (4B)]] the tenant under a secure tenancy is a successor if—
  - (a) the tenancy vested in him by virtue of paragraph (1); or
  - (b) he was a joint tenant and has become the sole tenant; or
  - (c) he became the tenant on the tenancy being assigned to him or on its being vested in him on the death of the previous tenant;<sup>[F13]</sup> or
  - (d) the tenancy was previously an introductory tenancy and he was a successor to the introductory tenancy.]

<sup>F12</sup> . . .

<sup>[F12]</sup>(4A) A tenant to whom the tenancy was assigned in pursuance of an order under Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978 is a successor only if the other party to the marriage was himself a successor; and a tenant to whom the tenancy was assigned by virtue of Article 32A is a successor only if he was a successor in relation to the tenancy which he himself assigned by virtue of that Article.]

<sup>[F11]</sup>(4B) A tenant to whom the tenancy was assigned in pursuance of an order under any of the following provisions of the Civil Partnership Act 2004—

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

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

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

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

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

**F11** 2004 c.33  
**F12** 1986 NI 13  
**F13** 2003 NI 2

## Security of tenure

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

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

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

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

#### **[<sup>F14</sup>Proceedings for possession: notice requirements**

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

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

(2) A notice under this Article shall—

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

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

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

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

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

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

**F14** 2003 NI 2

#### **[<sup>F15</sup>Additional requirements in relation to certain proceedings for possession**

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

(2) Where—

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

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

(3) Where—

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

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

This paragraph has effect subject to paragraph (5).

(4) Where—

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

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

This paragraph has effect subject to paragraph (5).

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

(6) A notice under this paragraph shall—

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

**F15** 2003 NI 2

## Grounds and orders for possession

**29.**—(1) The court shall not make an order for the possession of a dwelling-house let under a secure tenancy except on one or more of the grounds set out in Part I of Schedule 3<sup>F16</sup>. . . .

(2) The court shall not make the order—

- (a) on any of grounds 1 to 6, unless the condition in paragraph (3)(a) is satisfied;
- (b) on ground 7, unless the condition in paragraph (3)(b) is satisfied; and
- (c) on any of grounds 8 to 11, unless both those conditions are satisfied.

(3) The conditions are—

- (a) that the court considers it reasonable to make the order; and
- (b) that the court is satisfied that suitable accommodation will be available for the tenant when the order takes effect.

[<sup>F17</sup>(3ZA) The matters to be taken into account by the court in determining whether it is reasonable to make an order on ground 2(a) shall include—

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- (a) the effect that the nuisance or annoyance has had on persons other than the person against whom the order is sought;
- (b) any continuing effect the nuisance or annoyance is likely to have on such persons;
- (c) the effect that the nuisance or annoyance would be likely to have on such persons if the conduct is repeated;
- (d) the circumstances of the tenant and the likely effect of a possession order on the tenant and any person residing with the tenant.]

[<sup>F18</sup>(3A) The matters to be taken into account by the court in determining whether it is reasonable to make an order on ground 11 shall include—

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

[<sup>F16</sup>(3B) Where a notice under Article 28 has been served on the tenant, the court shall not make such an order on any of the grounds set out in Part I of Schedule 3 unless the ground is specified in the notice; but the grounds so specified may be altered or added to with the leave of the court.

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

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

**F16** 2003 NI 2

**F17** Art. 29(3ZA) inserted (30.6.2011) by Housing (Amendment) Act (Northern Ireland) 2011 (c. 22), ss. 14, 25(1); S.R. 2011/241, art. 2(1), Sch. 1

**F18** 1986 NI 13

### *Terms of a secure tenancy*

#### **Subletting and lodgers**

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

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

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

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

#### **Provisions as to consents required by Article 30**

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

- (a) that the consent would lead to overcrowding of the dwelling-house; and



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- (b) that the landlord proposes to carry out works on the dwelling-house or on the building of which it forms part and that the proposed works will affect the accommodation likely to be used by the sub-tenant who would reside in the dwelling-house as a result of the consent.
- (2) A consent may be validly given notwithstanding that it follows, rather than precedes, the action requiring it.
- (3) A consent cannot be given subject to a condition, and if purporting to be given subject to a condition shall be treated as given unconditionally.
- (4) Where the tenant has applied for a consent then—
  - (a) if the landlord refuses to give the consent it shall give to the tenant a written statement of the reasons why the consent was refused; and
  - (b) if the landlord neither gives nor refuses to give the consent within a reasonable time the consent shall be taken to have been withheld.
- (5) In this Article a “consent” means a consent which is required by virtue of Article 30.

### Assignments

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

- (a) the assignment is made in pursuance of an order made under Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978; or
- [<sup>F19</sup>(aa) the assignment is made in pursuance of an order made under Part 2 of Schedule 15, or paragraph 9(2) or (3) of Schedule 17, to the Civil Partnership Act 2004; or]
- (b) the assignment is to a person in whom the tenancy would or might have been vested by virtue of Article 26 had the tenant died immediately before the assignment[<sup>F20</sup> or]
- [<sup>F20</sup>(c) the assignment is made in pursuance of Article 32A.]

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

**F19** 2004 c.33  
**F20** 1986 NI 13

### [<sup>F21</sup>Assignments by way of exchange

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

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

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

(4) Where any rent lawfully due from the tenant has not been paid or any obligation of the tenancy has been broken or not performed, the consent required by virtue of this Article may be given subject

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to a condition requiring the tenant to pay the outstanding rent, remedy the breach or perform the obligation.

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

**F21** 1986 NI 13

### Other disposals

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

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

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

[<sup>F22</sup>(aa) the vesting or other disposal is in pursuance of an order made under Part 2 of Schedule 15, or paragraph 9(2) or (3) of Schedule 17, to the Civil Partnership Act 2004; or]

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

(3) Where—

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

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

the tenancy cannot become a secure tenancy.

**F22** 2004 c.33

### Tenant's improvements

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

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

(a) is not to be unreasonably withheld; and

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

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

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

(b) the carrying out of external decoration.

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

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- (a) to make the dwelling-house, or any other premises, less safe for occupiers;
  - (b) to cause the landlord to incur expenditure which it would be unlikely to incur if the improvement were not made; or
  - (c) to reduce the price which the dwelling-house would fetch if sold on the open market or the rent which the landlord would be able to charge on letting the dwelling-house.
- (5) A consent required by virtue of paragraph (1) may be validly given notwithstanding that it follows, rather than precedes, the action requiring it and may be given subject to a condition.
- (6) Where the tenant has applied for a consent which is required by paragraph (1) then—
- (a) if the landlord refuses to give the consent it shall give to the tenant a written statement of the reasons why the consent was refused; and
  - (b) if the landlord neither gives nor refuses to give the consent within a reasonable time, the consent shall be taken to have been withheld, and if the landlord gives the consent but subject to an unreasonable condition, the consent shall be taken to have been unreasonably withheld.
- (7) If any question arises whether a condition attached to a consent was reasonable, it is for the landlord to show that it was.
- (8) Any failure by the tenant to satisfy any reasonable condition imposed by the landlord in giving consent to an improvement which the tenant proposes to make, or has made, shall be treated for the purposes of this Chapter as a breach by the tenant of an obligation of his tenancy.

### **[<sup>F23</sup>Right to compensation for improvements**

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

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

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

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

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

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

- (a) the types of improvement to which the scheme applies;
- (b) the manner in which and the period within which claims for compensation under the scheme are to be made, and the procedure to be followed in determining such claims;
- (c) the conditions under which compensation shall not be payable;
- (d) the method by which sums of compensation payable under the scheme are to be calculated;
- (e) the minimum and maximum amounts of compensation payable in respect of any claim for compensation; and

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- (f) the circumstances in which the Executive may set off against any compensation payable under the scheme any sums owed to it by the tenant to whom compensation is payable.
- (4) The Department may approve a scheme submitted under paragraph (2) with or without modifications.
- (5) The Executive shall comply with a scheme approved by the Department under paragraph (4).
- (6) The Executive may at any time, and if the Department so directs shall, submit to the Department proposals amending a scheme approved under paragraph (4) or a scheme replacing any such scheme; and paragraphs (4) and (5) shall have effect in relation to those proposals or a scheme replacing an existing scheme as they have effect in relation to a scheme.
- (7) For the purposes of this Article a tenancy shall be treated as coming to an end if—
  - (a) it ceases to be a secure tenancy by reason of the landlord condition no longer being satisfied, or
  - (b) it is assigned, with the consent of the landlord, to a person to whom Article 32A(1) applies.]

F23 2003 NI 2

### Reimbursement of costs of tenant's improvements

- 35.**—(1) This Article applies where a secure tenant has made an improvement and—
- (a) the landlord, or a predecessor in title of the landlord, has given its written consent to the improvement or is treated as having given its consent; and
  - (b) work on the improvement was begun not earlier than the date of coming into operation of this Order; and
  - (c) the improvement has materially added to the price which the dwelling-house may be expected to fetch if sold on the open market or the rent which the landlord may be expected to be able to charge on letting the dwelling-house.
- (2) Where this Article applies, the landlord<sup>[F24]</sup> may] (in addition to any other power<sup>[F24]</sup> or duty] to make such payments) make, at or after the end of the tenancy, such payment to the tenant (or his personal representatives) in respect of the improvement as the landlord considers to be appropriate.
- (3) The amount of any payment under paragraph (2) in respect of an improvement must not exceed the cost, or likely cost, of the improvement after deducting the amount of any grant in respect of that improvement under Part III.

F24 2003 NI 2

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

- 36.**—(1) Where a person who is or was the secure tenant of a dwelling-house has lawfully made an improvement and has borne or would, but for a grant under Part III, have borne, the whole or part of its cost, then in determining—
- (a) at any time whilst he is a secure tenant of that dwelling-house; or
  - (b) if he has died and on his death the tenancy vested in a person qualified to succeed him under Article 26, at any time whilst that person or his spouse is a secure tenant of the dwelling-house;<sup>[F25]</sup> or]
  - <sup>[F25]</sup>(c) if he has assigned the tenancy and the assignment was made as mentioned in sub# paragraph (a) or (b) of Article 32(1), at any time whilst the assignee is a secure tenant of that dwelling#house; or

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[ if the tenancy has been transferred to a spouse, former spouse,]<sup>F27</sup> civil partner, former  
<sup>F26</sup>(d) civil partner,] cohabitee or former cohabitee of his by an order made under Schedule 1 to the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 or Schedule 2 to the Family Homes and Domestic Violence (Northern Ireland) Order 1998, at any time whilst the transferee is a secure tenant of that dwelling#house;]]

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

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

**F25** 1986 NI 13  
**F26** 1998 NI 6  
**F27** 2004 c.33

### Variation of terms of secure tenancy

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

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

(3) The variation may be effected—

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

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

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

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

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

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

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

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

**Status:** Point in time view as at 13/02/2015.

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

### Provision of information about tenancies

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

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

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

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

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

(4) The statement required by paragraph (3)(b) shall be supplied—  
[<sup>F28</sup>when the tenancy arises or as soon as practicable afterwards]

**F28** 2003 NI 2

[<sup>F29</sup>Other rights of secure tenants

**F29** 1986 NI 13

### [<sup>F30</sup>Right to have repairs carried out

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

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

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

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

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

(5) The Executive may at any time, and if the Department so directs shall, submit to the Department proposals amending a scheme approved under paragraph (3) or a scheme replacing any

such scheme; and paragraphs (3) and (4) shall have effect in relation to those proposals or a scheme replacing an existing scheme as they have effect in relation to a scheme.

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

(7) In this Article—

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

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

F30 2003 NI 2

### *Housing management*

#### **Provision of information about housing allocation**

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

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

(2) The landlord shall—

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

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

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

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

#### **Consultation with secure tenants**

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

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

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

#### **Rights of landlord where secure tenancy appears to have been abandoned**

- 41.**—(1) Where the landlord under a secure tenancy has reasonable grounds for believing that—
- (a) the dwelling-house is unoccupied, and
  - (b) the tenant does not intend to occupy it as his home,
- the landlord shall be entitled to enter the dwelling-house at any time, for the purpose of making safe the dwelling-house, and any fittings, fixtures or furniture.
- (2) For the purposes of paragraph (1) the landlord and its servants or agents may open, by force if necessary, any door or window of the dwelling-house.
- (3) Where the, landlord—
- [<sup>F31</sup>(a) has reasonable grounds for believing the matters mentioned in paragraph (1)(a) and (b); and]
  - (b) wishes to take possession of the dwelling-house,
- the landlord shall serve on the tenant a notice in the prescribed form—
- (i) stating that it has reason to believe that the dwelling-house is unoccupied and that the tenant does not intend to occupy it as his home;
  - (ii) requiring the tenant to inform it in writing within four weeks of service of the notice if he intends to occupy the dwelling-house as his home; and
  - (iii) informing the tenant that, if it appears to the landlord at the end of the said period of four weeks that the tenant does not intend so to occupy the dwelling-house, the secure tenancy will be terminated forthwith.
- (4) Where the landlord has—
- (a) served on the tenant a notice which complies with paragraph (3); and
  - (b) made such inquiries as may be necessary to satisfy the landlord that the dwelling-house is unoccupied and that the tenant does not intend to occupy it as his home,
- and at the end of the period of four weeks mentioned in paragraph (3) is so satisfied, it may serve a further notice on the tenant which shall bring the tenancy to an end forthwith.
- (5) Where a tenancy has been terminated under paragraph (4) the landlord shall be entitled to take possession of the dwelling-house forthwith without any further proceedings.



(6) The Department may by order make provision for the landlord to ensure the safe custody and delivery to the tenant of any property which is found in a dwelling house to which this Article applies; and in particular—

- (a) for requiring charges to be paid in respect of such property before it is delivered to the tenant; and
- (b) for authorising the disposal of such property, if the tenant has not arranged for its delivery to him before the expiry of such period as the order may specify and the application of any proceeds towards any costs incurred by the landlord and any rent due but unpaid by the tenant to the landlord.

**F31** Art. 41(3)(a) substituted (30.6.2011) by Housing (Amendment) Act (Northern Ireland) 2011 (c. 22), ss. 15(1), 25(1); S.R. 2011/241, art. 2(1), Sch. 1

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

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

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

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

the court shall—

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

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

*Article 43 rep. by 1989 NI 4*

### *Miscellaneous*

#### **Application to existing tenancies**

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

#### **Application to licences**

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

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

## CHAPTER III JURISDICTION

### Jurisdiction of county court

**46.**—(1) <sup>F32</sup> . . . , a county court has jurisdiction to determine any question arising under Chapter<sup>F32</sup> . . . II of this Part and to entertain any proceedings brought thereunder and any claim (for whatever amount) in connection with a secure tenancy.

(2) The jurisdiction conferred by this Article includes jurisdiction to entertain proceedings on<sup>F32</sup> . . . any question—

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

[<sup>F33</sup>(aa) whether any consent required by Article 32A was withheld otherwise than on one or more of the grounds set out in Schedule 3A;]

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

notwithstanding that no other relief is sought than a declaration.

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

**F32** Chapter 1 (arts. 3, 4) substituted for Chapter 1 (arts. 3-23) by 1992/1725 (NI 15), art. 96(1)(2).

**F33** 1986 NI 13

### Extended discretion of court in certain proceedings for possession

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

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

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

(b) postpone the date of the possession,

for such period or periods as the court thinks fit.

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

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

[<sup>F34</sup>(5) Paragraph (6) applies in any case where—

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

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(b) the<sup>F35</sup> tenant's spouse or former spouse, or civil partner or former civil partner, having home rights<sup>F36</sup> under the Family Homes and Domestic Violence (Northern Ireland) Order 1998], is then in occupation of the dwelling house; and

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

(6) In any case to which this paragraph applies, the spouse or former spouse<sup>F35</sup>, or the civil partner or former civil partner] shall, so long as he or she remains in occupation, have the same rights in relation to, or in connection with, any such adjournment as is referred to in paragraph (1) or any such stay, suspension or postponement as is referred to in paragraph 2, as he or she would have if<sup>F35</sup> those home rights] were not affected by the termination of the tenancy.]

<sup>F36</sup>(7) Paragraph (8) applies in any case where—

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

(b) an order is in force under Article 13 of the Family Homes and Domestic Violence (Northern Ireland) Order 1998 conferring rights on the<sup>F35</sup> former spouse or former civil partner of the tenant] or an order is in force under Article 14 of that Order conferring rights on a cohabitee or former cohabitee (within the meaning of that Order) of the tenant;

(c) that former spouse<sup>F35</sup> former civil partner], cohabitee or former cohabitee is then in occupation of the dwelling-house; and

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

(8) In any case to which this paragraph applies, the former spouse,<sup>F35</sup> former civil partner,] cohabitee or former cohabitee shall, so long as he or she remains in occupation, have the same rights in relation to, or in connection with, any such adjournment as is referred to in paragraph (1) or any such stay, suspension or adjournment as is referred to in paragraph (2), as he or she would have if the rights conferred by the order referred to in paragraph (7)(b) were not affected by the termination of the tenancy.]

**F34** 1984 NI 14

**F35** 2004 c.33

**F36** 1998 NI 6

*PART III (Arts. 48#73) rep. by 1992 NI 15*

## PART IV

### AMENDMENTS OF THE PRINCIPAL ORDER

*CHAPTERS I, II (Arts. 74#84) rep. by 1992 NI 15*

#### CHAPTER III

#### MISCELLANEOUS

#### **Advances by the Executive**

**85.** The following Article shall be substituted for Article 9 of the principal Order—

#### **“Advances by the Executive**

**9.—**(1) Subject to such conditions as the Department may specify, the Executive may—

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- (a) advance money by way of loan to any person for any of the purposes mentioned in paragraph (2);
  - (b) on the disposal of any house, allow any sum to be left outstanding on the security of the house; or
  - (c) take a transfer of a mortgage in pursuance of Article 156.
- (2) The purposes referred to in paragraph (1) are—
- (a) acquiring or constructing a house;
  - (b) converting a building into a house or acquiring buildings for that purpose;
  - (c) altering, enlarging, repairing or improving a house;
  - (d) facilitating the repayment of an amount outstanding on a previous loan made for any of the purposes specified in sub-paragraphs (a) to (c).”.

*Article 86 rep. by 1992 NI 15*

### **Indemnity agreements with building societies**

**87.** The following Article shall be substituted for Article 156 or the principal Order—

#### **“Power of the Executive to enter into indemnity agreements with building societies**

**156.**—(1) The Executive may, with the approval of the Department, enter into agreements with building societies lending on the security of house property in Northern Ireland whereby, in the event of default by the mortgagor, and in circumstances and subject to conditions specified in the agreements, the Executive binds itself to indemnify the building society in respect of—

- (a) the whole or part of the mortgagor's outstanding indebtedness; and
- (b) any loss or expense falling on the building society in consequence of the mortgagor's default.

(2) In paragraph (1) “house property” means any property which is a house within the meaning of Article 2(2).

(3) The agreement may also, where the mortgagor is made party to it, enable or require the Executive in specified circumstances to take a transfer of the mortgage and assume rights and liabilities under it, the building society being then discharged in respect of them.

(4) The transfer may be made to take effect—

- (a) on any term provided for by the agreement (including terms involving substitution of a new mortgage agreement or modification of the existing one); and
- (b) so that the Executive is treated as acquiring (for and in relation to the purposes of the mortgage) the benefit and burden of all preceding acts, omissions and events.

(5) The Department may under paragraph (1) approve particular agreements or give notice that particular forms of agreement have its approval; and—

- (a) may in either case make the approval subject to conditions;
- (b) shall, before giving notice that a particular form has its approval, consult the Registrar of Friendly Societies for Northern Ireland, the Executive and such organisations representative of building societies as the Department thinks expedient.

(6) In this Article “building society” means a society within the meaning of the Building Societies Act 1962 or the Building Societies Act (Northern Ireland) 1967.”.

## **Financial assistance for voluntary organisations concerned with housing**

**88.** After Article 156 of the principal Order there shall be inserted the following Article—

### **“Financial assistance for voluntary organisations concerned with housing**

**156A.**—(1) Subject to such terms and conditions as it may determine, the Department may, with the consent of the Department of Finance and Personnel, give to a voluntary organisation assistance by way of grant or by way of loan, or partly in the one way and partly in the other, for the purpose of enabling or assisting the organisation to provide training or advice, or to undertake research, or for other similar purposes relating to housing.

(2) In paragraph (1) “voluntary organisation” means a body the activities of which are carried on otherwise than for profit, but does not include any district council or other public body, within the meaning of section 146(2) of the Local Government Act (Northern Ireland) 1972, or a registered housing association with the meaning of Article 114.”.

## **Increase of membership of the Executive**

**89.** In paragraph 1 (1) of Schedule 1 to the principal Order for the word “nine” there shall be substituted the word “ ten ”.

# **PART V**

## **PRIVATE SECTOR TENANTS**

### **Interpretation of Part V**

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

### *Protected shorthold tenancies*

### **Preliminary**

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

### **Protected shorthold tenancies**

**92.**—(1) A protected shorthold tenancy is a protected tenancy granted after the coming into operation of this Order [<sup>F37</sup>and before the coming into operation of Article 57 of the Private Tenancies (Northern Ireland) Order 2006] which is granted for a term certain of not less than one year nor more than five years and satisfies the following conditions, that is to say,—

- (a) it cannot be brought to an end by the landlord before the expiry of the term, except in pursuance of a provision for re-entry for forfeiture for non-payment of rent or breach of any other obligation of the tenancy; and
- (b) before the grant the landlord has given the tenant a valid notice stating that the tenancy is to be a protected shorthold tenancy; and
- (c) either—

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- (i) a rent for the dwelling-house is registered by<sup>F38</sup> the Executive] under Article 26 of the 1978 Order at the time the tenancy is granted, or
- (ii) an application for the registration of a rent for the dwelling-house is made under Article 26 of the 1978 Order not later than 28 days after the beginning of the term and is not withdrawn.

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

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

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

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

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

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

**F37** Words in art. 92(1) inserted (1.4.2007) by Private Tenancies (Northern Ireland) Order 2006 (S.I. 2006/1459 (N.I. 10)), arts. 1(3), 74, Sch. 4 para. 9; S.R. 2006/428, art. 3

**F38** 2003 NI 2

### Right of tenant to terminate protected shorthold tenancy

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

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

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

### Subletting or assignment

**94.**—(1) Where the whole or part of a dwelling-house let under a protected shorthold tenancy has been sublet at any time during the continuous period specified in paragraph (3), and, during that period, the landlord becomes entitled, as against the tenant, to possess of the dwelling-house, he shall also be entitled to possession against the sub-tenant<sup>F39</sup> . . . .

(2) A protected shorthold tenancy of a dwelling-house and any protected tenancy of the same dwelling-house granted during the continuous period specified in paragraph (3) shall not be capable of being assigned, except in pursuance of an order under Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978<sup>F40</sup> or Part 2 of Schedule 15, or paragraph 9(2) or (3) of Schedule 17, to the Civil Partnership Act 2004].

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(3) The continuous period mentioned in paragraph (1) and (2) is the period beginning with the grant of the protected shorthold tenancy and continuing until<sup>F41</sup> no person is in possession of the dwelling-house as a protected or statutory tenant.]

- F39** Words in art. 94(1) repealed (1.4.2007) by Private Tenancies (Northern Ireland) Order 2006 (S.I. 2006/1459 (N.I. 10)), arts. 1(3), 74, 75, Sch. 4 para. 10(a), **Sch. 5**; S.R. 2006/428, **art. 3**
- F40** 2004 c.33
- F41** Words in art. 94(3) substituted (1.4.2007) by Private Tenancies (Northern Ireland) Order 2006 (S.I. 2006/1459 (N.I. 10)), arts. 1(3), 74, **Sch. 4 para. 10(b)**; S.R. 2006/428, **art. 3**

### Orders for possession

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

“Case 17

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

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

A notice is appropriate for this Case if—

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

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

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*Amendments of 1978 Order*

**Protected tenancies**

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

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

(2A) In paragraph (2) “unregistered housing association” means a housing association, as defined in Article 114 of the Housing (Northern Ireland) Order 1981, which is not registered under Article 124 of that Order.” .

- (2) <sup>F42</sup> .....
- (3) <sup>F42</sup> .....
- (4) <sup>F42</sup> .....

**F42** Art. 96(2)-(4) repealed (1.4.2007) by [Private Tenancies \(Northern Ireland\) Order 2006 \(S.I. 2006/1459 \(N.I. 10\)\)](#), arts. 1(3), 75, [Sch. 5](#); S.R. 2006/428, [art. 3](#)

**Proceedings for possession of certain dwelling-houses**

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

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

**Change in condition of dwelling-houses, etc.**

- 98.** <sup>F43</sup> .....

**F43** Art. 98 repealed (1.4.2007) by [Private Tenancies \(Northern Ireland\) Order 2006 \(S.I. 2006/1459 \(N.I. 10\)\)](#), arts. 1(3), 75, [Sch. 5](#); S.R. 2006/428, [art. 3](#)

**Enforcement of certificates of disrepair**

- 99.** <sup>F44</sup> .....

**F44** Art. 99 repealed (1.4.2007) by [Private Tenancies \(Northern Ireland\) Order 2006 \(S.I. 2006/1459 \(N.I. 10\)\)](#), arts. 1(3), 75, [Sch. 5](#); S.R. 2006/428, [art. 3](#)



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

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

““premium” includes—

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

### Entry to carry out works to certain premises

101. <sup>F45</sup> .....

**F45** Art. 101 repealed (1.4.2007) by [Private Tenancies \(Northern Ireland\) Order 2006 \(S.I. 2006/1459 \(N.I. 10\)\)](#), arts. 1(3), 75, [Sch. 5](#); S.R. 2006/428, [art. 3](#)

### Ascertainment of landlord's identity by district council

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

“If—

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

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

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

“(c) the court is of the opinion that the conditions set out in Part V of this Schedule one of those in sub-paragraphs (a) and (c) to (f) of paragraph (2) is satisfied.”

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

“Case 12

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

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

If the court is of the opinion that, notwithstanding that the conditions in paragraph (a) and (b) are not complied with, it is just and equitable to make an order for possession of the dwelling-house,

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

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

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

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

### Lettings by servicemen

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

“Case 18

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

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

If the court is of the opinion that, notwithstanding that the condition in paragraph (c) or (d) above is not complied with, it is just and equitable to make an order for possession of the dwelling-house, the court may dispense with the requirements of either or both of these paragraphs, as the case may require.

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

### Article 105—Amendments

## PART VI

### SUPPLEMENTAL

#### Regulations and order

**106.**—(1) The Department may make regulations prescribing anything which is to be prescribed and providing for any matter in regard to which regulations may be made under the provisions of this Order.

(2) Regulations, other than those made under<sup>F46</sup> Article 28(2)(a) or 92 (3)], and orders other than those mentioned in paragraph (3), shall be subject to negative resolution.

(3) Orders under<sup>F47</sup> Article 9(2A)]<sup>F46</sup> . . . and under Article 92 (4) shall be subject to affirmative resolution.

*Para. (4) rep. by 1992 NI 15*

**F46** Chapter 1 (arts. 3, 4) substituted for Chapter 1 (arts. 3-23) by 1992/1725 (NI 15), art. 96(1)(2).

**F47** 1988 NI 23

#### *Article 107—Amendments*

#### Savings, transitional provisions and revocations

**108.** Subject to the savings and transitional provisions set out in Schedule 11, the statutory provisions mentioned in Schedule 12 are revoked to the extent shown in the third column of that Schedule.

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## SCHEDULES

*Schedules 1, 1A rep. by 1992 NI 15*

### SCHEDULE 2

Article 25 (1).

#### TENANCIES WHICH ARE NOT SECURE TENANCIES

##### Long leases

1. <sup>F48</sup>

(1) A tenancy is not a secure tenancy if—

- (a) it is a tenancy granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture; or
- (b) it is a tenancy created by an equity-sharing lease within the meaning of Article 31 (6) of the principal Order.

<sup>F49</sup>

<sup>F48</sup>(2)] For the purposes of this paragraph a tenancy granted in pursuance of Chapter 1 of Part II of this Order is a long lease notwithstanding that it is granted for a term not exceeding 21 years.]

**F48** 2003 NI 2  
**F49** 1986 NI 13

##### <sup>F50</sup>*Introductory tenancies*

**F50** 2003 NI 2

<sup>F51</sup>**1A.** A tenancy is not a secure tenancy if it is an introductory tenancy or a tenancy which has ceased to be an introductory tenancy—

- (a) by virtue of Article 15(3) of the Housing (Northern Ireland) Order 2003 (disposal on death to non-qualifying person), or
- (b) by virtue of the tenant, or in the case of a joint tenancy every tenant, ceasing to occupy the dwelling-house as his only or principal home.]]

**F51** 2003 NI 2

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## Premises occupied under contract of employment

2.—(1) [<sup>F52</sup>Subject to sub-paragraph (3)] a tenancy is not a secure tenancy if the tenant is an employee of the landlord and his contract of service requires him to occupy the dwelling-house for the better performance of his duties.

(2) In sub-paragraph (1) “contract of service” means a contract of service or apprenticeship, whether express or implied and (if express) whether oral or in writing.

[<sup>F52</sup>(3) A tenancy under sub-paragraph (1) shall become a secure tenancy if the landlord notifies the tenant that the tenancy is to be regarded as a secure tenancy.]

F52 2003 NI 2

## Land acquired for development

3. A tenancy is not a secure tenancy if the dwelling-house is on land which has been acquired for development (within the meaning of [<sup>F53</sup>section 23 of the Planning Act (Northern Ireland) 2011]) and the dwelling-house is used by the landlord, pending development of the land, as temporary housing accommodation.

F53 Words in Sch. 2 para. 3 substituted (13.2.2015 for specified purposes) by Planning Act (Northern-Ireland) 2011 (c. 25), s. 254(1)(2), Sch. 6 para. 46 (with s. 211); S.R. 2015/49, art. 2

## [<sup>F54</sup>Accommodation for homeless persons

F54 2003 NI 2

3A. A tenancy granted by the landlord in pursuance of any function of the Executive under Part II of the Housing (Northern Ireland) Order 1988 (housing the homeless) is not a secure tenancy unless the landlord has notified the tenant that the tenancy is to be regarded as a secure tenancy.]

## [<sup>F55</sup>Accommodation for asylum#seekers

F55 1999 c.33

3A.—(1) A tenancy is not a secure tenancy if it is granted in order to provide accommodation [<sup>F56</sup>under section 4 or Part VI of the Immigration and Asylum Act 1999].

(2) A tenancy mentioned in sub#paragraph (1) becomes a secure tenancy if the landlord notifies the tenant that it is to be regarded as a secure tenancy.]

F56 Words in Sch. 2 para. 3A(1) substituted (16.6.2006) by Immigration, Asylum and Nationality Act 2006 (c. 13), ss. 43(4)(b), 62; S.I. 2006/1497, art. 3, Sch.

## [<sup>F57</sup>Accommodation for persons with Temporary Protection

F57 S.I. 2005/1379

3B. A tenancy is not a secure tenancy if it is granted in order to provide accommodation under the Displaced Persons (Temporary Protection) Regulations 2005.]

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### Temporary letting to person seeking accommodation

4. A tenancy is not a secure tenancy if the dwelling-house is let by the landlord expressly on a temporary basis to a person moving into an area to take up employment there, and for the purpose of enabling him to seek accommodation in the area.

### Short-term arrangements

5. A tenancy is not a secure tenancy if—
- (a) the dwelling-house has been leased to the landlord with vacant possession for use as temporary housing accommodation;
  - (b) the terms on which it has been leased include provision for the lessor to obtain vacant possession from the landlord on the expiry of a specified period or when required by the lessor;
  - (c) the lessor is not a body which is capable of granting secure tenancies; and
  - (d) the landlord has no interest in the dwelling-house other than under the lease in question or as mortgagee.

### Temporary accommodation during works

6. A tenancy is not a secure tenancy if—
- (a) the dwelling-house has been made available for occupation by the tenant<sup>[F58]</sup> (or a predecessor in title of his)] while works are carried out on the dwelling-house which he previously occupied as his home; and
  - (b) the tenant<sup>[F58]</sup> or predecessor] was not a secure tenant of that other dwelling-house at the time when he ceased to occupy it as his home.

**F58** 1986 NI 13

### Licensed premises

7. A tenancy is not a secure tenancy if the dwelling-house consists of or comprises premises licensed for the sale of intoxicating liquor for consumption on the premises.

### Business tenancies

8. A tenancy is not a secure tenancy if it is one to which<sup>[F59]</sup> the Business Tenancies (Northern Ireland) Order 1996] applies.

**F59** 1996 NI 5

### <sup>[F60]</sup>Defective dwelling#houses

**F60** 1986 NI 13

9. A tenancy is not a secure tenancy if—
- (a) the tenant became a tenant of the landlord by virtue of the landlord's acquisition of an interest in the dwelling#house under Part II of the Housing (Northern Ireland) Order 1986; and
  - (b) the tenant is not entitled to be granted a secure tenancy under paragraph (2) or (3) of Article 11 of that Order.]

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## *[<sup>F61</sup>Qualifying shorthold tenancies*

**F61** 2003 NI 2

**10.**—(1) A tenancy is not a secure tenancy if it is a qualifying shorthold tenancy within the meaning of sub-paragraph (2).

(2) A tenancy which is granted—

(a) after the coming into operation of Article 134 of the Housing (Northern Ireland) Order 2003; and

(b) for a term certain of not less than one year and not more than 5 years,

is a qualifying shorthold tenancy if and so long as—

(i) the estate of the landlord belongs to a registered housing association; and

(ii) the tenancy satisfies such other requirements or conditions as may be prescribed.]

### SCHEDULE 3

Articles 29, 42(3) and 47.

## GROUPS FOR POSSESSION OF DWELLING- HOUSES LET UNDER SECURE TENANCIES

### PART I

#### GROUPS ON WHICH COURT MAY ORDER POSSESSION

##### *Ground 1*

Any rent lawfully due from the tenant has not been paid or any obligation of the tenancy has been broken or not performed.

##### *[<sup>F62</sup>Ground 2*

**F62** 2003 NI 2

The tenant or a person residing in or visiting the dwelling-house—

(a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or

(b) has been convicted of—

(i) [<sup>F63</sup>an offence involving] using the dwelling-house or allowing it to be used for immoral or illegal purposes, or

(ii) an [<sup>F64</sup>indictable] offence committed in, or in the locality of, the dwelling-house.]

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- F63** Words in Sch. 3 Pt. I inserted (31.7.2010) by [Housing \(Amendment\) Act \(Northern Ireland\) 2010 \(c. 9\), ss. 11, 19\(1\); S.R. 2010/251, art. 2](#)
- F64** Word in Sch. 3 Pt. I substituted (1.3.2007) by [Police and Criminal Evidence \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/288 \(N.I. 2\)\), arts. 1\(2\), 15\(4\), Sch. 1 para. 21](#)

- F63** Words in Sch. 3 Pt. I inserted (31.7.2010) by [Housing \(Amendment\) Act \(Northern Ireland\) 2010 \(c. 9\), ss. 11, 19\(1\); S.R. 2010/251, art. 2](#)
- F64** Word in Sch. 3 Pt. I substituted (1.3.2007) by [Police and Criminal Evidence \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/288 \(N.I. 2\)\), arts. 1\(2\), 15\(4\), Sch. 1 para. 21](#)

### *[<sup>F65</sup>Ground 2A*

**F65** [2003 NI 2](#)

[<sup>F66</sup>The dwelling-house was occupied (whether alone or with others) by [<sup>F67</sup>a married couple, a couple who are civil partners of each other] a couple living together as husband and wife [<sup>F67</sup> or a couple living together as if they were civil partners] and—

- (a) one or both of the partners is a tenant of the dwelling-house,
- (b) one partner has left because of violence or threats of violence by the other towards—
  - (i) that partner, or
  - (ii) a member of the family of that partner who was residing with that partner immediately before the partner left, and
- (c) the court is satisfied that the partner who has left is unlikely to return while the other continues to occupy the dwelling-house.]]

**F66** [2003 NI 2](#)  
**F67** [2004 c.33](#)

**F66** [2003 NI 2](#)  
**F67** [2004 c.33](#)

### *Ground 3*

The condition of the dwelling-house or of any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant or any person residing in the dwelling-house and, in the case of any act of waste by, or the neglect or default of, a person lodging with the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

In this paragraph, “the common parts” means any part of a building comprising the dwelling-house, and any other premises which the tenant is entitled under the terms of the tenancy to use in common with the occupiers of other dwelling-houses let by the landlord.



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#### Ground 4

The condition of any relevant furniture has deteriorated owing to ill-treatment by the tenant or any person residing in the dwelling-house and, in the case of any ill-treatment by a person lodging with the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

In this paragraph “relevant furniture” means any furniture provided by the landlord for use under the tenancy or for use in any of the common parts (within the meaning given in Ground 3).

#### Ground 5

The tenant is the person, or one of the persons, to whom the tenancy was granted and the landlord was induced to grant the tenancy by a false statement made knowingly or recklessly by—

- [<sup>F68</sup>(a) the tenant, or
- (b) a person acting at the tenant's instigation.]

**F68** 2003 NI 2

**F68** 2003 NI 2

#### [<sup>F69</sup>Ground 5A

**F69** 1986 NI 13

The tenancy was assigned to the tenant, or to a predecessor in title of his who is a member of his family and is residing in the dwelling#house, by an assignment made by virtue of Article 32A and a premium was paid either in connection with that assignment or the assignment which the tenant or predecessor himself made by virtue of that Article.

In this paragraph “premium” means any fine or other like sum and any other pecuniary consideration in addition to rent.]

#### Ground 6

The dwelling-house was made available for occupation by the tenant[<sup>F70</sup> (or a predecessor in title of his)] while works were carried out on the dwelling-house which he previously occupied as his only or principal home and—

- (a) [<sup>F70</sup>the tenant or predecessor] was a secure tenant of that other dwelling-house at the time when he ceased to occupy it as his home;
- (b) [<sup>F70</sup>the tenant or predecessor] accepted the tenancy of the dwelling-house of which possession is sought on the understanding that he would give up occupation when, on

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completion of the works, the other dwelling-house was again available for occupation by him under a secure tenancy; and

- (c) the works have been completed and the other dwelling-house is so available.

**F70** 1986 NI 13

**F70** 1986 NI 13

#### *Ground 7*

The landlord intends, within a reasonable time of obtaining possession of the dwelling-house—

- (a) to demolish or reconstruct the building or part of the building comprising the dwelling-house; or
- (b) to carry out work on that building or on land let together with, and thus treated as part of, the dwelling-house;

and cannot reasonably do so without obtaining possession of the dwelling-house.

#### *Ground 8*

The dwelling-house has features which are substantially different from those of ordinary dwelling-houses and which are designed to make it suitable for occupation by a physically disabled person who requires accommodation of a kind provided by the dwelling-house and—

- (a) there is no longer such a person residing in the dwelling-house; and
- (b) the landlord requires it for occupation (whether alone or with other members of his family) by such a person.

#### *Ground 9*

The dwelling-house is let by a registered housing association which lets dwelling-houses only for occupation (alone or with others) by persons whose circumstances (other than merely financial circumstances) make it especially difficult for them to satisfy their need for housing; and—

- (a) either there is no longer such a person residing in the dwelling-house or the tenant has received from the Executive an offer of accommodation in premises which are to be let as a separate dwelling under a secure tenancy; and
- (b) the association requires the dwelling-house for occupation (whether alone or with other members of his family) by such a person.

#### *Ground 10*

The dwelling-house is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by persons with special needs and—

- (a) a social service or special facility is provided in close proximity to the group of dwelling-houses in order to assist persons with those special needs;

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- (b) there is no longer a person with those special needs residing in the dwelling-house; and
- (c) the landlord requires the dwelling-house for occupation (whether alone or with other members of his family) by a person who has those special needs.

### Ground 11

The accommodation afforded by the dwelling-house is more extensive than is reasonably required by the tenant and—

- (a) the tenancy vested in the tenant, by virtue of Article 26, on the death of the previous tenant;
- (b) the tenant was qualified to succeed by virtue of paragraph (2) (b) of that Article; and
- (c) notice of the proceedings for possession was served under Article 28<sup>F71</sup> (or, where no such notice was served, the proceedings for possession were begun)] more than six months, but less than twelve months, after the date of the previous tenant's death.

F71 2003 NI 2

F71 2003 NI 2

## PART II

### SUITABILITY OF ACCOMMODATION

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

C1 Sch. 3 Pt. II (paras. 1-3) applied by [Housing \(Northern Ireland\) Order 2003 \(S.I. 2003/412 \(N.I. 2\)\)](#), art. 19B(5) (as inserted (31.7.2010) by [Housing \(Amendment\) Act \(Northern Ireland\) 2010 \(c. 9\)](#), ss. 9(3), 19(1); S.R. 2010/251, art. 2)

1.—(1) For the purposes of Chapter II of Part II of this Order, accommodation is suitable if it consists of premises—

- (a) which are to be let as a separate dwelling under a secure tenancy, or
- (b) which are to be let as a separate dwelling under a protected tenancy (other than one of a kind mentioned in sub-paragraph (2)) within the meaning of the Rent (Northern Ireland) Order 1978.

and, in the opinion of the court, the accommodation is reasonably suitable to the needs of the tenant and his family.

(2) The kind of protected tenancy referred to in sub-paragraph (1) is one under which the landlord might recover possession of the dwelling-house under one of the Cases in Part II of Schedule 4 to the said Order of 1978 (cases where court must order possession).

<sup>F72</sup>1A For the purposes of Article 19B of the Housing (Northern Ireland) Order 2003, accommodation is suitable if it consists of premises which are to be let as a separate dwelling under an introductory tenancy (within the meaning of Article 6 of that Order) and, in the opinion of the court, the accommodation is reasonably suitable to the needs of the tenant and the tenant's family.]

**Status:** Point in time view as at 13/02/2015.

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**F72** Sch. 3 Pt. II para. 1A inserted (31.7.2010) by [Housing \(Amendment\) Act \(Northern Ireland\) 2010 \(c. 9\)](#), [ss. 9\(5\)\(a\)](#), 19(1); S.R. 2010/251, [art. 2](#)

2. In determining whether it is reasonably suitable to those needs regard shall be had to—
- (a) the nature of the accommodation which it is the practice of the landlord to allocate to persons with similar needs;
  - (b) the distance of the accommodation available from the place of work or education of the tenant and of any members of his family;
  - (c) its distance from the home of any member of the tenant's family if proximity to it is essential to that member's or the tenant's well-being;
  - (d) the needs (as regards extent of accommodation) and means of the tenant and his family;
  - (e) the terms on which the accommodation is available and the terms of the <sup>F73</sup> . . . tenancy;
  - (f) if any furniture was provided by the landlord for use under the <sup>F74</sup> . . . tenancy, whether furniture is to be provided for use in the other accommodation and, if it is, the nature of that furniture.

**F73** Word in [Sch. 3 Pt. II para. 2\(e\)](#) omitted (31.7.2010) by virtue of [Housing \(Amendment\) Act \(Northern Ireland\) 2010 \(c. 9\)](#), [ss. 9\(5\)\(b\)](#), 19(1); S.R. 2010/251, [art. 2](#)

**F74** Word in [Sch. 3 Pt. II para. 2\(f\)](#) omitted (31.7.2010) by virtue of [Housing \(Amendment\) Act \(Northern Ireland\) 2010 \(c. 9\)](#), [ss. 9\(5\)\(b\)](#), 19(1); S.R. 2010/251, [art. 2](#)

3. Where the dwelling-house is let by a registered housing association, a certificate of the Executive certifying that it will provide suitable accommodation for the tenant by a date specified in the certificate shall be conclusive evidence that suitable accommodation will be available for him by that date.

## [<sup>F75</sup>SCHEDULE 3A

### GROUNDS FOR WITHHOLDING CONSENT TO ASSIGNMENT BY WAY OF EXCHANGE

**F75** 1986 NI 13

#### Ground 1

The tenant or the proposed assignee is obliged to give up possession of the dwelling#house of which he is the secure tenant in pursuance of an order of the court, or will be so obliged at a date specified in such an order.

#### Ground 2

Proceedings have been begun for possession of the dwelling#house of which the tenant or the proposed assignee is the secure tenant on one or more of grounds 1 to 5A as set out in Part I of Schedule 3 or there has been served on the tenant or the proposed assignee a notice under Article 28 which specifies one or more of those grounds and that notice is still in force.

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## <sup>F76</sup>Ground 2A

**F76** Sch. 3A: Grounds 2A, 2B inserted (1.9.2011) by Housing (Amendment) Act (Northern Ireland) 2011 (c. 22), ss. 12(1), 25(1) (with s. 12(2)); S.R. 2011/241, art. 2(2), Sch. 2

Either—

- (a) a relevant order or suspended Ground 2 possession order is in force, or
- (b) an application is pending before any court for a relevant order or a Ground 2 possession order to be made,

in respect of the tenant or the proposed assignee or a person who is residing with either of them.

A “relevant order” means—

- (a) an injunction under Chapter 4 of Part 2 of the Housing (Northern Ireland) Order 2003 (injunctions against anti-social behaviour);
- (b) an injunction against breach of a tenancy agreement granted or sought on the grounds that the tenant—
  - (i) is engaging in, or threatening to engage in, conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality;
  - (ii) is using or threatening to use the premises for immoral or illegal purposes; or
  - (iii) is allowing, inciting or encouraging any other person to engage or threaten to engage in such conduct or use or threaten to use the premises for such purposes;
- (c) an anti-social behaviour order under Article 3 or 6 of the Antisocial Behaviour (Northern Ireland) Order 2004;
- (d) an interim anti-social behaviour order under Article 4 or 6A of that Order.

A “Ground 2 possession order” means an order for possession under Ground 2 in Schedule 3.

Where the tenancy of the tenant or the proposed assignee is a joint tenancy, any reference to that person includes (where the context permits) a reference to any of the joint tenants.

## Ground 2B

The tenant or the proposed assignee or a person who is residing with either of them has been convicted of—

- (a) an offence involving using the dwelling house of which the tenant or the proposed assignee is the secure tenant, or allowing it to be used, for immoral or illegal purposes, or
- (b) an indictable offence.]

## Ground 3

The accommodation afforded by the dwelling#house is substantially more extensive than is reasonably required by the proposed assignee.

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#### Ground 4

The extent of the accommodation afforded by the dwelling#house is not reasonably suitable to the needs of the proposed assignee and his family.

#### Ground 5

The dwelling#house has features which are substantially different from those of ordinary dwelling#houses and which are designed to make it suitable for occupation by a physically disabled person who requires accommodation of the kind provided by the dwelling#house and, if the assignment were made, there would no longer be such a person residing in the dwelling#house.

#### Ground 6

The landlord is a registered housing association which lets dwelling#houses only for occupation (alone or with others) by persons whose circumstances (other than merely financial circumstances) make it especially difficult for them to satisfy their need for housing and, if the assignment were made, there would no longer be such a person residing in the dwelling#house.

#### Ground 7

The dwelling#house is one of a group of dwelling#houses which it is the practice of the landlord to let for occupation by persons with special needs and a social service or special facility is provided in close proximity to the group of dwelling#houses in order to assist persons with those special needs and, if the assignment were made, there would no longer be a person with those special needs residing in the dwelling#house.]

*Schedules 4#8 rep. by 1992 NI 15*

*Schedules 9, 10—Amendments*

### SCHEDULE 11

Article 108.

#### SAVINGS AND TRANSITIONAL PROVISIONS

1. —The repeal by this Order of any statutory provision relating to any grant or contribution shall not affect any power or duty to act on any application or arrangements made or proposals approved before the date of the coming into operation of this Order, any power to reduce the rate at which any such grant or contribution is paid, any obligation to observe any condition falling to be observed in pursuance of any such statutory provision, any liability attaching to the breach of such a condition or any obligation to make a payment in consequence thereof, any power to vary the rate of interest on

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such a payment or the imposition of such a condition by such a statutory provision where a standard grant or improvement grant or reconditioning grant is paid by virtue of this paragraph.

2. Notwithstanding the repeal by this Order of Chapter I of Part IV of the principal Order—
  - (a) where, before the date of the coming into operation of this Order, the Executive received an application for a repairs grant in respect of a house erected on or after 31st December 1956, nothing in Article 67 (2) shall operate to prohibit the approval of such application;
  - (b) where, before the date of the coming into operation of this Order, the Executive—
    - (i) received an application for an intermediate or a repairs grant relating to a house the net annual value of which is less than £60 and in respect of which a district council has issued a regulated rent certificate under Article 9 of the Rent (Northern Ireland) Order 1978,
    - (ii) but approves the application after that date, the percentage specified in Article 68 (3) of the principal Order shall apply in relation to such a grant.

3. In sub-paragraph (1) “reconditioning grant” means a grant under section 7 of the Housing on Farms Act (Northern Ireland) 1972.

#### *SCHEDULE 12—Revocations*

**Status:**

Point in time view as at 13/02/2015.

**Changes to legislation:**

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