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STATUTORY INSTRUMENTS

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**2003 No. 412**

**The Housing (Northern Ireland) Order 2003**

**PART IV**

**MISCELLANEOUS AMENDMENTS**

**CHAPTER III**

**AMENDMENTS OF THE ORDER OF 1983**

**House sales by registered housing associations**

**131.** After Article 3 of the Order of 1983 (house sales scheme) there shall be inserted—

**“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.”

**Tenant's improvements**

**132.**—(1) After Article 34 of the Order of 1983 (tenant's improvements) there shall be inserted —

**“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

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- (c) at the time when the tenancy comes to an end the landlord is the Executive and the tenancy is a secure tenancy.
- (2) The Executive shall prepare and submit to the Department a scheme for entitling a secure tenant whose landlord is the Executive—
- (a) at the time when the tenancy comes to an end; and
  - (b) subject to and in accordance with the scheme,
- to be paid compensation by the Executive in respect of the improvement.
- (3) A scheme submitted under paragraph (2) may contain such provision as the Executive thinks appropriate and, without prejudice to the generality of the foregoing, shall include provision with respect to—
- (a) the types of improvement to which the scheme applies;
  - (b) the manner in which and the period within which claims for compensation under the scheme are to be made, and the procedure to be followed in determining such claims;
  - (c) the conditions under which compensation shall not be payable;
  - (d) the method by which sums of compensation payable under the scheme are to be calculated;
  - (e) the minimum and maximum amounts of compensation payable in respect of any claim for compensation; and
  - (f) the circumstances in which the Executive may set off against any compensation payable under the scheme any sums owed to it by the tenant to whom compensation is payable.
- (4) The Department may approve a scheme submitted under paragraph (2) with or without modifications.
- (5) The Executive shall comply with a scheme approved by the Department under paragraph (4).
- (6) The Executive may at any time, and if the Department so directs shall, submit to the Department proposals amending a scheme approved under paragraph (4) or a scheme replacing any such scheme; and paragraphs (4) and (5) shall have effect in relation to those proposals or a scheme replacing an existing scheme as they have effect in relation to a scheme.
- (7) For the purposes of this Article a tenancy shall be treated as coming to an end if—
- (a) it ceases to be a secure tenancy by reason of the landlord condition no longer being satisfied, or
  - (b) it is assigned, with the consent of the landlord, to a person to whom Article 32A(1) applies.”.
- (2) In Article 35(2) of the Order of 1983 (reimbursement of cost of tenant's improvements)—
- (a) for the word “shall” there shall be substituted “ may ”;
  - (b) after the word “power” there shall be inserted “ or duty ”.
- (3) The amendments made by paragraph (2) do not apply where a secure tenant has made an improvement and work on the improvement was begun before the date of the coming into operation of this Article.
- (4) In paragraph (3) “improvement” has the meaning given in Article 34(3) of the Order of 1983.

#### **Right of secure tenants of the Executive to have repairs carried out**

- 133.** For Article 38A of the Order of 1983 (right to carry out repairs) there shall be substituted—

**“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.”.

**Tenancies which are not secure tenancies**

**134.**—(1) Schedule 2 to the Order of 1983 (tenancies which are not secure tenancies) shall be amended as follows.

(2) In paragraph 2 (premises occupied under contract of employment)—

- (a) in sub-paragraph (1), at the beginning there shall be inserted “Subject to sub-paragraph (3)”, and
- (b) after sub-paragraph (2), there shall be added—

“(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.”.

(3) For paragraph 3A, as inserted by paragraph 8 of Schedule 2 to the Order of 1988, there shall be substituted—

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*“Accommodation for homeless persons*

**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.”.

(4) After paragraph 9 there shall be added the following paragraph—

*“Qualifying shorthold tenancies*

**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.”.

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