

PRIVATE TENANCIES (NORTHERN IRELAND) ORDER 2006

S.I. 2006 1459

EXPLANATORY MEMORANDUM

COMMENTARY ON PROVISIONS

Part V Amendments of the Rent Order

This Part deals with amendments to the Rent Order. Current protected and statutory tenants will retain their security of tenure and rent control will apply to both fit and unfit tenancies. No new tenancy of a dwelling-house will be subject to Rent Order control and will thus not be a protected or statutory tenancy. The assignment of protected and statutory tenancies will only be possible in certain limited circumstances.

Article 56 clarifies which tenancies are protected under the Rent Order. Tenancies of dwelling-houses that were protected under the old Rent Restriction Acts continue to be protected, as do tenancies of unregistered housing associations that were brought within the scope of the Rent Order by the Housing (Northern Ireland) Order 1983. Tenancies protected under Article 5 of the Rent Order between 1978 and the introduction of the new Order will also retain their status.

Article 57 states that no new tenancy of any dwelling-house is to be a protected or statutory tenancy. This does not affect the legitimate successor to a protected or statutory tenancy.

Article 58 clarifies the wording of Article 12 of the Rent Order in relation to dwelling-houses used for both residential and non-residential purposes.

Article 59 prevents the assignment of a protected or statutory tenancy, except where a court order is made under a number of provisions pertaining to marriage and partnership breakdowns. It will no longer be possible to assign a protected or statutory tenancy by agreement.

Article 60 amends Article 54 of the Rent Order. The present definition of harassment states that the acts involved must have been calculated to interfere with the tenant's peace or comfort. The amended definition instead refers to actions likely to interfere with the peace or comfort of the tenant. This amendment is in line with the Protection from Eviction Act 1977 which applies in England and Wales. The maximum fine on summary conviction is the statutory maximum, currently £5,000.

Article 61 amends the succession rights of family members in relation to protected or statutory tenancies. Under the new provisions, a spouse, civil partner or other resident family member will be able to succeed to a protected or statutory tenancy, but only on one occasion, rather than on two occasions as at present. Any existing tenant who succeeded to their tenancy under the current provisions will continue to be a statutory tenant while they remain resident in the dwelling-house.