Draft Order in Council laid before Parliament under paragraph 2(1)(a) of the Schedule to the Northern Ireland Act 2000, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2006 No. (N.I.)

NORTHERN IRELAND

The Private Tenancies (Northern Ireland) Order 2006

Made - - - - 2006
Coming into operation in accordance with Article 1(2) and (3)

At the Court at Buckingham Palace, the day of 2006

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:-

PART I

INTRODUCTORY

Title and commencement

1. –

(1) This Order may be cited as the Private Tenancies (Northern Ireland) Order 2006.

(2) This Article and Article 2 shall come into operation on the expiration of 7 days from the day on which this Order is made.

(3) The other provisions of this Order shall come into operation on such day or days as the Department may by order appoint.

General interpretation

2. –

(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) shall apply to Article 1 and the following provisions of this Order as it applies to an Act of the Assembly.

(2) In this Order–

"the appropriate district council", in relation to a dwelling-house, means the district council in whose district the dwelling-house is situated;

"commencement of this Order" means the date on which the provision of this Order in which that expression occurs comes into operation;

"the Department" means the Department for Social Development;

"dwelling-house" includes part of a house;

"the Executive" means the Northern Ireland Housing Executive;

"final determination", in relation to an appeal, shall be construed in accordance with Article 23(3) and (4);

"the landlord" includes any person from time to time deriving title under the original landlord and also includes, in relation to any dwelling-house, any person other than the tenant who is, or but for Part III of the Rent Order would be, entitled to possession of the dwelling-house;

"let" includes sub-let;

"modify" includes amend or repeal;

"prescribed" means prescribed by regulations made by the Department;

"private tenancy" has the meaning given in Article 3;

"protected tenancy" shall be construed in accordance with Article 3 of the Rent Order;

"rates" means the regional rate and the district rate;

"rent" does not include any sum payable on account of rates;

"the rent officer" means the person appointed under Schedule 1 to act as rent officer;

"the Rent Order" means the Rent (Northern Ireland) Order 1978 (NI 20);

"statutory provision" has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954;

"statutory tenancy" shall be construed in accordance with Article 4(5) of the Rent Order;

"tenancy" includes, except where the context otherwise requires, a statutory tenancy;

"tenant" includes, except where the context otherwise requires, a statutory tenant and also includes a sub-tenant and any person deriving title under the original tenant or sub-tenant.

Meaning of "private tenancy"

3. –

(1) In this Order "private tenancy"–

(a) means any tenancy of a dwelling-house except–

(i) a fee farm grant, or

(ii) any of the tenancies described in paragraph (2); and

(b) includes, except where the context otherwise requires, a protected tenancy and a statutory tenancy.

(2) Those tenancies are–

(a) a tenancy for a term certain exceeding 99 years, unless that tenancy is, or may become, terminable before the end of that term by notice given to the tenant;

(b) a tenancy under which the estate of the landlord belongs to–

(i) the Crown (whether in right of Her Majesty's Government in the United Kingdom or in Northern Ireland);

(ii) a government department;

(iii) the Executive;

(iv) a registered housing association;

or is held in trust for Her Majesty for the purposes of a government department; and

(c) a tenancy the purpose of which is to confer on the tenant the right to occupy a dwelling-house for a holiday.

(3) In paragraph (2)(b)–

(a) "government department" includes a department of the government of the United Kingdom; and

(b) "registered", in relation to a housing association, means registered in the register maintained under Part II of the Housing (Northern Ireland) Order 1992 (NI 15).

PART II

OBLIGATIONS OF LANDLORDS AND TENANTS

Particulars relating to the tenancy, etc.

Tenant to be given notice regarding certain matters

4. –

(1) Where, on or after the commencement of this Order, a private tenancy of a dwelling-house is granted, the landlord under the tenancy shall, within 28 days after the date on which the tenancy is granted, give to the tenant a notice in such form, and containing such particulars and other information relating to the tenancy, as may be prescribed.

(2) Where, on or after the commencement of this Order, a prescribed term of a private tenancy of a dwelling-house is varied, the landlord under the tenancy shall, within 28 days after the date on which the term of the tenancy is varied, give to the tenant a notice in such form, and containing such information relating to the variation of the term, as may be prescribed.

(3) Paragraph (2) applies whether the private tenancy was granted before or after the commencement of this Order, and in that paragraph "varied" includes varied by omission.

(4) A tenant shall not be required to make a payment in respect of any notice under this Article.

(5) A landlord who fails to comply with paragraph (1) or (2) shall be guilty of an offence under this Order.

Tenant to be provided with a rent book

5. –

(1) The landlord of a dwelling-house let under a private tenancy shall, within 28 days after the date on which the tenancy is granted, provide the tenant with a rent book for use in respect of the dwelling-house.

(2) A rent book–

(a) shall be used to maintain a written record of rent and other payments made in respect of a tenancy, and

(b) shall contain such particulars and information relating to the tenancy as may be prescribed.

(3) A tenant shall not be required to make a payment in respect of the provision of a rent book.

(4) If the landlord under a private tenancy fails to comply with paragraph (1), he and, subject to paragraph (6), any person who on his behalf demands or receives rent in respect of the dwelling-house held under that tenancy while the failure continues, shall be guilty of an offence under this Order.

(5) If any default in respect of which a landlord is convicted of an offence under paragraph (4) continues for more than 14 days after that conviction, that landlord shall be deemed to have committed a further offence under that paragraph in respect of that default.

(6) If any person other than the landlord is charged with an offence under paragraph (4), it shall be a defence for him to prove that he neither knew nor had reasonable cause to believe this Article had not been complied with.

Repair and maintenance

Application of Articles 7 to 11

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

(a) any private tenancy of a dwelling-house granted on or after the commencement of this Order, and

(b) any protected or statutory tenancy which immediately before the commencement of this Order was a regulated tenancy under the Rent Order;

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

Landlord's duties to repair

7. –

(1) The landlord under a private tenancy–

(a) shall keep in repair the structure and exterior of the dwelling-house comprised in that tenancy;

(b) shall, subject to Article 8, keep in repair the interior of the dwelling-house;

(c) shall keep in repair and in proper working order–

(i) the installations in the dwelling-house for the supply and use of water, gas and electricity and for sanitation (including basins, sinks, baths and sanitary conveniences),

(ii) the installations in the dwelling-house for space heating or heating water,

(iii) any appliances for making use of the supply of water, gas or electricity which the landlord has provided under the terms of the tenancy, and

(iv) any fixtures, fittings or furnishings which the landlord has provided under the terms of the tenancy.

(2) The duty imposed by paragraph (1)(a) includes a duty to keep exterior paintwork in reasonable order.

(3) In this Article "structure and exterior" includes drains, gutters and external pipes.

Care of premises by tenant

8. The tenant under a private tenancy–

(a) shall take proper care of the premises comprised in that tenancy as a good tenant;

(b) shall make good any damage to those premises wilfully or negligently done or caused to the premises by the tenant, by any tenant of his or by any other person lawfully living in or lawfully visiting the premises;

(c) shall keep the interior of the dwelling-house in reasonable decorative order; and

(d) shall not carry out any alterations to those premises without the consent of the landlord, but that consent shall not be unreasonably withheld.

Landlord's obligations under private tenancy of parts of building

9. Where a dwelling-house let under a private tenancy consists of a part of a building and the tenant under the private tenancy is entitled to the use (whether with others or not) for access or other purposes of other parts of the building or its curtilage, the landlord shall–

(a) keep in good order and condition any part of the building or curtilage which the tenant is entitled to use as mentioned above;

(b) ensure that any part of the building or curtilage which the tenant is entitled to use as mentioned above for access is adequately lit and safe to use.

General qualifications on landlord's duties

10. The duties imposed on the landlord by Articles 7 and 9 do not require the landlord–

(a) to carry out works or repairs for which the tenant is liable by virtue of Article 8;

(b) to keep in repair or maintain anything–

(i) which was not constructed or provided by the landlord or any person from whom he derives title, or

(ii) which the tenant is entitled to remove from the dwelling-house;

(c) to rebuild or re-instate the dwelling-house in the case of destruction or damage by fire, or by tempest, flood or other inevitable accident.

Standard of repair and knowledge of disrepair

11. –

(1) In determining the standard of repair required by virtue of Articles 7 to 9, regard is to be had to the age, character and prospective life of the premises.

(2) A landlord is not under a duty to carry out works by virtue of Articles 7 and 9 unless he has actual knowledge (whether because of notice given by the tenant or otherwise) of the need for those works.

Inspection, etc. of premises

Entry and inspection of premises

12. –