1978 No. 407

COUNTY COURTS

County Court (Rent Order) Rules (Northern Ireland) 1978

Made . . . . . *29th December* 1978

Coming into operation . . . *1st February* 1979

To be laid before Parliament

The Secretary of State in pursuance of section 146 of the County Courts Act (Northern Ireland) 1959(a) hereby, on the recommendation of the County Court Rules Committee and after consultation with the Lord Chief Justice, makes the following rules:

PART I

GENERAL

Citation and commencement

1. These rules may be cited as the County Court (Rent Order) Rules (Northern Ireland) 1978 and shall come into operation on 1st February 1979.

Interpretation

2. In these rules—

"the Order" means the Rent (Northern Ireland) Order 1978(b);

"the County Court Rules" means the County Court Rules (Northern Ireland) 1976(c);

and any reference to a Form by number is a reference to the Form as numbered in the Schedule to these rules.

PART II

APPEALS UNDER ARTICLE 11 OF THE ORDER

Appeals to the county court against restricted rent certificates, regulated rent certificates and against refusal of application for regulated rent certificate

3.—(1) An appeal under article 11 of the Order shall be by notice in such one of Forms 1 to 4 as may be appropriate and an order made by the court on such appeal may be in one of the Forms 5 to 12.

(2) The District Council shall be the respondent to the appeal and the appellant shall serve the notice on the respondent in accordance with rule 10 and shall lodge the notice with the clerk of the Crown and peace together with a copy of the restricted rent certificate or regulated rent certificate served on the appellant by the respondent or, where the appeal is against the refusal of an application under article 9 of the Order, of the notice of refusal of the application.

(a) 1959 c. 25 (N.I.) as modified by S.I. 1973/2163 (1973 III, p. 7541)
(b) S.I. 1978/1050 (N.I. 20)
(c) S.R. 1976 No. 374 (II, p. 1774)

(3) The appellant shall, in addition to complying with paragraph (2), serve in accordance with rule 10 a copy of the notice of appeal upon the landlord or, as the case may be, the tenant who shall thereupon become a party to the appeal and may appear and be heard.

PART III

APPLICATIONS UNDER ARTICLE 20 OF THE ORDER

Applications by tenant for compensation under article 20 of the Order

4.—(1) An application by a tenant for compensation under article 20 of the Order shall be by notice in Form 13.

(2) The landlord shall be the respondent to the application and the applicant shall serve the notice on the respondent in accordance with rule 10 and shall lodge a copy with the clerk of the Crown and peace.

(3) An order awarding compensation under article 20 of the Order may be in Form 14.

PART IV

APPEALS UNDER ARTICLE 47 OF THE ORDER

Appeals by landlord or tenant under article 47 against issue by district council of certificate of disrepair, etc.

5.—(1) An appeal under article 47 of the Order shall be by notice in such one of Forms 15 to 18 as may be appropriate and an order made by the court may be in one of the Forms 19 to 22.

(2) The District Council shall be respondent to the appeal and the appellant shall serve the notice on the respondent in accordance with rule 10 and shall lodge a copy of the notice of appeal with the clerk of the Crown and peace together with the certificate of disrepair issued under article 46 of the Order by the District Council or, where the District Council has issued a notice stating that it does not intend to issue such a certificate, a copy of that notice.

(3) The appellant shall, in addition to complying with paragraph (2), serve in accordance with rule 10 a copy of the notice of appeal upon the landlord or, as the case may be, the tenant who shall thereupon become a party to that appeal and may appear and be heard.

PART V

APPLICATIONS UNDER ARTICLE 69 OF THE ORDER

Applications under article 69 of the Order for determination of certain questions in relation to tenancy

6.—(1) An application under article 69 of the Order made for the purpose of determining any question—

(*a*) as to whether a tenancy is a protected tenancy or whether any person is a statutory tenant of a dwelling-house; or

(*b*) as to the rent recoverable under a regulated or restricted tenancy; or

(*c*) as to whether a tenancy is a restricted or regulated tenancy;

shall be by notice in such one of the Forms 23 to 26 as may be appropriate and a determination made by the Court on any such application may be in one of the Forms 27 to 30.

(2) The landlord or, as the case may be, the tenant shall be the respondent to the application and the applicant shall serve the notice on the respondent in accordance with rule 10 and shall lodge a copy of the notice with the clerk of the Crown and peace together with a copy of any tenancy agreement referred to in the notice.

(3) The particulars of the tenancy in the notice shall state whether a protected tenancy purports to have been determined and the date of such termination and where it is alleged by the applicant that a statutory tenancy has arisen by succession or otherwise shall state the manner in which the tenancy has arisen.

(4) The particulars of any protected tenancy shall state the valuation of the dwelling-house at the grant of the tenancy, the permitted rent under the Rent Restriction Acts and how it is calculated by reference to the standard rent and any permitted increase under those Acts and whether the rates are payable by the landlord or tenant.

(5) Where the application is for the determination of any such question as is referred to in paragraph (*b*) of article 69(1) of the Order, the particulars in the notice shall in addition to those required under paragraph (4) include—

(*a*) whether or not a regulated rent certificate or restricted rent certificate has been issued by a District Council with respect to the dwelling-house;

(*b*) the net annual value of the dwelling-house as ascertained for the purposes of the Order under article 71 thereof;

(*c*) details of any determination by a rent assessment committee under article 27 of the Order.

PART VI

APPLICATIONS UNDER SCHEDULE 1 OR 2 TO THE ORDER

Applications for decision under paragraph 4 or 9 of Schedule 1 to the Order

7.—(1) An application under paragraph 4 of Schedule 1 to the Order shall be by notice in Form 31 and an order made on such decision as is referred to in that paragraph shall be in Form 32.

(2) Such person or persons who are members of the original tenant's family referred to in paragraph 4 of Schedule 1 to the Order and who is not an applicant or who are not applicants for a decision of the court under that paragraph shall be the respondent or respondents to such an application.

(3) An application under paragraph 9 of Schedule 1 to the Order shall be by notice in Form 33 and an order made on such decision as is referred to in that paragraph shall be in Form 34.

(4) Such person or persons who are members of the first successor's family referred to in paragraph 9 of Schedule 1 to the Order and who is not an applicant for a decision of the court under that paragraph shall be the respondent or respondents to such an application.

(5) The applicant shall serve notice of the application on the respondent or respondents in accordance with rule 10 and shall lodge a copy of the notice with the clerk of the Crown and peace.

Applications for an order under paragraph 2(1) *of Schedule* 2 *to the Order*

8.—(1) An application under paragraph 2(1) of Schedule 2 to the Order shall be on notice in Form 35 and an order under paragraph 2(2) of this Schedule made on such application may be in Form 36.

(2) An order made under paragraph 2(3) of Schedule 2 to the Order may be in Form 37.

(3) The spouse entitled to occupy the dwelling-house by virtue of the protected or statutory tenancy shall be the respondent to the application and the applicant shall serve the notice on the respondent and on the landlord of the house subject to the tenancy in accordance with rule 10 and shall lodge a copy with the clerk of the Crown and peace.

(4) Before hearing such an application as is referred to in paragraph (1) of this rule the Court shall ascertain that notice has been served on the landlord under paragraph (3) in accordance with paragraph 2(7) of Schedule 2 to the Order and shall, before making an order upon such application, give the landlord an opportunity of being heard.

PART VII

SUPPLEMENTARY

Court to which appeals and applications under the Order to be made

9. An appeal or application under the Order shall be brought or made to the county court for the division in which the dwelling-house to which the appeal or application relates is situated and shall be heard at such times as the judge for that division may appoint in accordance with section 2(2) of the County Courts Act (Northern Ireland) 1959 or, in lieu of such appointment, at the sitting of the Court for equity matters.

Service of notice and entry of appeals or applications

10.—(1) Notice of an appeal or an application to be served on any party under these rules shall be served in accordance with Order 6 of the County Court Rules not less than twenty-eight days before the entry day for the sitting at which the application or appeal is to be heard.

(2) The appellant or applicant shall lodge a copy of the notice with the clerk of the Crown and peace at his office duly endorsed as to service and shall, where notice was served on the respondent by post in accordance with the said Order 6, attach to the copy any certificate of posting.

(3) Upon receipt of the copy of the notice the clerk of the Crown and peace shall enter the appeal or application for hearing at the appropriate sitting without requiring the production of an entry sheet.

Roy Mason
One of Her Majesty's Principal Secretaries of State

Northern Ireland Office
29th December 1978

LIST OF FORMS IN THE SCHEDULE

1. Notice of appeal to county court under article 11 of the Rent (Northern Ireland) Order 1978 by landlord where restricted rent certificate has been issued by District Council under article 8(2)(*a*).

2. Notice of appeal by county court under article 11 of the Rent (Northern Ireland) Order 1978 by tenant where regulated rent certificate has been issued by District Council under article 8(2)(*b*).

3. Notice of appeal to county court under article 11 of the Rent (Northern Ireland) Order 1978 by landlord where application for regulated rent certificate has been refused under article 9(2).

4. Notice of appeal to county court under article 11 of the Rent (Northern Ireland) Order 1978 by tenant where regulated rent certificate has been issued under article 9(2).

5. Order by county court allowing appeal by landlord under article 11 of the Rent (Northern Ireland) Order 1978 where restricted rent certificate has been issued under article 8(2)(*a*).

6. Order by county court dismissing appeal by landlord under article 11 of the Rent (Northern Ireland) Order 1978 where restricted rent certificate has been issued under article 8(2)(*a*).

7. Order by county court allowing appeal by tenant under article 11 of the Rent (Northern Ireland) Order 1978 where regulated rent certificate has been issued under article 8(2)(*b*).

8. Order by county court dismissing appeal by tenant under article 11 of the Rent (Northern Ireland) Order 1978 where regulated rent certificate has been issued under article 8(2)(*b*).

9. Order by county court allowing appeal by landlord under article 11 of the Rent (Northern Ireland) Order 1978 where application for regulated rent certificate has been refused by District Council under article 9(2).

10. Order by county court dismissing appeal by landlord under article 11 of the Rent (Northern Ireland) Order 1978 where application for regulated rent certificate has been refused by District Council under article 9(2).

11. Order by county court allowing appeal by tenant under article 11 of the Rent (Northern Ireland) Order 1978 where regulated rent certificate has been issued under article 9(2).

12. Order by county court dismissing appeal under article 11 of the Rent (Northern Ireland) Order 1978 by tenant where regulated rent certificate has been issued under article 9(2).

13. Notice of application to county court by tenant for compensation under article 20 of the Rent (Northern Ireland) Order 1978.

14. Order by county court awarding compensation under article 20 of the Rent (Northern Ireland) Order 1978.

15. Notice of appeal to the county court under article 47 of the Rent (Northern Ireland) Order 1978 by landlord where certificate of disrepair has not been issued under article 46 on application of landlord.

16. Notice of appeal to the county court under article 47 of the Rent (Northern Ireland) Order 1978 by tenant where certificate of disrepair has been issued under article 46 on application of landlord.

17. Notice of appeal to the county court under article 47 of the Rent (Northern Ireland) Order 1978 by landlord where certificate of disrepair has been issued under article 46 on application of tenant.

18. Notice of appeal to the county court under article 47 of the Rent (Northern Ireland) Order 1978 by tenant where certificate of disrepair has not been issued under article 46 on application of tenant.