STATUTORY INSTRUMENTS

1978 No. 1050 (N.I. 20)

Rent (Northern Ireland) Order 1978 [F1]

\- - - - - - *[25th July 1978]*

F1 functions transf. by SR 1999/481

PART I

INTRODUCTORY

Title and commencement

1. This Order[F2] may be cited as the Rent (Northern Ireland) Order 1978 … *Commencement* …

F2 1981 NI 3

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 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—

"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 of the Environment;

"dwelling-house" includes part of a house;

"the Executive" means the Northern Ireland Housing Executive;

"government department" includes a department of the Government of the United Kingdom;

"the Housing Acts" means the Housing Acts (Northern Ireland) 1890 to 1977;

"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 would be, entitled to possession of the dwelling-house;

"let" includes sub-let;

"net annual value" means the net annual value under the Rates (Northern Ireland) Order 1977 ;

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

"private tenancy" means any tenancy except—

(a) 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;

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

"protected tenancy" has the meaning assigned by Article 3(1);

"Public Health Acts" means the Public Health Acts (Northern Ireland) 1878 to 1967;

Definition rep. by 1985 NI 15

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

"registered", in relation to a housing association, means registered in the register maintained under**[**[F3] Part VII of the Housing (Northern Ireland) Order 1981**]**;

F4 . . . . . .

F5 . . . . . .

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

"Rent Restriction Acts" means the Rent and Mortgage Interest (Restriction) Acts (Northern Ireland) 1920 to 1932 or Part II of the Rent and Mortgage Interest (Restrictions) Act (Northern Ireland) 1940 ;

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

F6 . . . . . .

F7 . . . . . .

"statutory tenant" shall be construed in accordance with Article 4(5);

"tenancy" includes a statutory tenancy;

"tenant" includes a statutory tenant and also includes a sub-tenant and any person deriving title under the original tenant or sub-tenant.

F3 1983 NI 15

F4 Definition of "regulated rent certificate" in art. 2(2) 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(b)(c)**

F5 Definition of "regulated tenancy" in art. 2(2) 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(b)(c)**

F6 Definition of "restricted rent certificate" in art. 2(2) 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(b)(c)**

F7 Definition of "restricted tenancy" in art. 2(2) 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(b)(c)**

PART II

[F8 PROTECTED AND STATUTORY TENANCIES]

F8 Heading of Pt. II 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. 2**; S.R. 2006/428, **art. 3(b)(c)**

Protected tenancies

3.—[F9(1) A tenancy of a dwelling-house is a protected tenancy for the purposes of this Order if–

(a) the Rent Restriction Acts applied to the dwelling-house immediately before the commencement of this Order (1st October 1978), and

(b) the dwelling-house was, immediately after that commencement, let under that tenancy as a separate dwelling.

(1A) A tenancy of a dwelling-house is a protected tenancy for the purposes of this Order if–

(a) paragraph (2) applies to the dwelling-house, and

(b) the dwelling-house was, immediately before the commencement of Article 56 of the Private Tenancies (Northern Ireland) Order 2006, let under that tenancy as a separate dwelling.]

[F10(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[F11 Article 3 of the Housing (Northern Ireland) Order 1992 which is not registered under Article 14 of that Order].]

[F12(2B) A tenancy of a dwelling-house is a protected tenancy for the purposes of this Order if, immediately before the commencement of Article 56 of the Private Tenancies (Northern Ireland) Order 2006, that tenancy was a protected tenancy by virtue of Article 5 of this Order.]

(3) If any question arises in any proceedings whether the Rent Restriction Acts applied to a dwelling-house immediately before the commencement of this Order, it shall be deemed to be a dwelling-house to which those Acts applied unless the contrary is shown.

[F13(3A) For the purposes of this Article, a dwelling-house may be a house or part of a house.]

(4) In this Order "protected tenancy" does not include a fee farm grant or a tenancy granted for a term certain exceeding ninety-nine years, unless that tenancy is, or may become, terminable before the end of that term by notice given to the tenant.

F9 Art. 3(1)(1A) substituted (1.4.2007) for art. 3(1) by Private Tenancies (Northern Ireland) Order 2006 (S.I. 2006/1459 (N.I. 10)), arts. 1(3), **56(2)**; S.R. 2006/428, **art. 3(b)**

F10 1983 NI 15

F11 1992 NI 15

F12 Art. 3(2B) inserted (1.4.2007) by Private Tenancies (Northern Ireland) Order 2006 (S.I. 2006/1459 (N.I. 10)), arts. 1(3), **56(3)**; S.R. 2006/428, **art. 3(b)**

F13 Art. 3(3A) inserted (1.4.2007) by Private Tenancies (Northern Ireland) Order 2006 (S.I. 2006/1459 (N.I. 10)), arts. 1(3), **56(4)**; S.R. 2006/428, **art. 3(b)**

Statutory tenants and tenancies

4.—(1) After the termination of a protected tenancy of a dwelling-house the person who, immediately before that termination, was the protected tenant of the dwelling-house shall, if and so long as he occupies the dwelling-house as his residence, be the statutory tenant of it.

(2) Schedule 1 shall have effect for determining what person (if any) is the statutory tenant of a dwelling-house [F14]. . . after the death of a person who, immediately before his death, was either a protected tenant of the dwelling-house or the statutory tenant of it by virtue of paragraph (1) or (5).

(3) In paragraph (1) and in Schedule 1, the phrase "if and so long as he occupies the dwelling-house as his residence" shall be construed as requiring the fulfilment of the same, and only the same, qualifications (whether as to residence or otherwise) as had to be fulfilled before the commencement of this Order to entitle a tenant, within the meaning of the Rent Restriction Acts, to retain possession, by virtue of those Acts and not by virtue of a tenancy, of a dwelling-house to which those Acts applied.

(4) A person who becomes a statutory tenant of a dwelling-house as mentioned in paragraph (1) is, in this Order, referred to as a statutory tenant by virtue of his previous protected tenancy, and a person who becomes a statutory tenant as mentioned in paragraph (2) is, in this Order, referred to as a statutory tenant by succession.

(5) In this Order—

(a) any reference to a statutory tenant by virtue of his previous protected tenancy shall be deemed to include a reference to a person—

(i) who has been the tenant under a tenancy of a dwelling-house to which the Rent Restriction Acts applied immediately before the commencement of this Order; and

(ii) who has retained possession of that dwelling-house by virtue of those Acts and is in possession of that dwelling-house immediately before that commencement;

(b) any reference to a statutory tenant by succession shall be deemed to include a reference to a tenant of a dwelling-house to which the Rent Restriction Acts applied immediately before the commencement of this Order whose right to retain possession of that dwelling-house by virtue of the Acts arose on the death of either—

(i) a person who had been the tenant under a tenancy of the dwelling-house and had retained possession of that dwelling-house by virtue of the Rent Restriction Acts; or

(ii) a person who became the tenant of the dwelling-house after the death of such a person as is mentioned in head (i),

and "statutory tenant" shall be construed accordingly.

(6) In this Order a dwelling-house is referred to as subject to a statutory tenancy when there is a statutory tenant of it.

F14 Words in art. 4(2) 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. 3, **Sch. 5**; S.R. 2006/428, **art. 3(b)(c)**

Application to new tenancies

5. [F15] . . . . . .

F15 Art. 5 repealed (1.4.2007) by Private Tenancies (Northern Ireland) Order 2006 (S.I. 2006/1459 (N.I. 10)), arts. 1(3), 57(3), 75, **Sch. 5** (with art. 57(4)); S.R. 2006/428, **art. 3(b)(c)**

Art. 6 rep. by 1989 NI 4

Restricted and regulated tenancies

7. [F16] . . . . . .

F16 Arts. 7-11 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(b)(c)**

Restricted and regulated rent certificates

8. [F17] . . . . . .

F17 Arts. 7-11 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(b)(c)**

Conversion of restricted tenancies

9. [F18] . . . . . .

F18 Arts. 7-11 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(b)(c)**

Ancillary provisions as to applications under Articles 8 and 9

10. [F19] . . . . . .

F19 Arts. 7-11 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(b)(c)**

Appeal to county court

11. [F20] . . . . . .

F20 Arts. 7-11 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(b)(c)**

Premises with a business use

12.—(1) Subject to paragraph (2), the fact that part of the premises comprised in a dwelling-house is used as a shop or office or for business, trade or professional purposes shall not prevent the dwelling-house from being let on a protected tenancy or subject to a statutory tenancy.

(2) Paragraphs (3) to (5) apply, subject to paragraph (6), where, immediately before the commencement of this Order, part ("the non-residential part") of a house to which the Rent Restriction Acts applied was used as a shop or office or for business, trade or professional purposes.

[[F21](3) Where it is possible to enter the part of the house used as a dwelling ("the residential part") without passing through the non-residential part, Articles 3 and 4 shall apply only to the residential part.

(4) Where it is possible to enter the residential part only by passing through the non-residential part, Articles 3 and 4 shall apply to the entire house.**]**