

# The Private Tenancies (N.I) Order 2006

March 2008



The Private Tenancies (Northern Ireland) Order 2006 ("the Order") came into operation on 1 April 2007 and makes provisions regarding privately rented dwelling houses in Northern Ireland.

Summarised below are the main provisions of the Order.

## Landlord's obligations

- After 1 April 2007, the tenant should receive a written statement of the tenancy terms from the landlord (free of charge) within 28 days of the tenancy being granted. This requirement also applies if a prescribed term of the new or an existing tenancy is varied

Failure to comply with this obligation constitutes an offence.

- To provide tenants with a rent book free of charge within 28 days of the commencement of a tenancy.

Failure to comply with this obligation constitutes an offence.

- To keep the structure and exterior of the dwelling house in good repair and to keep the interior of the dwelling house and fixtures, fittings or furnishings which the landlord has provided and installations for the supply and use of water, gas and electricity, sanitation and heating water in repair and good working order.

The default repairing obligations set out in the Order for landlords and tenants apply to any private tenancy granted on or after 1 April 2007 but are subject to any express terms there may be in the tenancy agreement itself.

The standard of repair applied is determined having regard to the age, character and prospective life of the property. The landlord does not have to repair unless he has actual knowledge of the need for the works. The landlord is not required under the Order 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.

Landlords also have an obligation to comply with regulations separate from the Private Tenancies Order dealing with health and safety issues including the obligation under the Gas Safety (Installation and Use) (NI) Regulations 2004 for a landlord to ensure gas appliances and pipe work are well maintained and safe to use. A safety check must be undertaken on appliances and flues once a year and a copy of safety records must be issued to the tenant.

## Tenant's obligations

- To take proper care of the dwelling house as a good tenant
- To make good any wilful or negligent damage to the property
- To keep the interior of the dwelling house in reasonable decorative order
- Not to make any alterations without the Landlord's consent which is not to be unreasonably withheld

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- To allow the landlord, or anyone authorised by the landlord, to inspect the state of repair or to carry out the repairs which the landlord is legally obliged to do, at a reasonable time and upon reasonable notice.

## **Terms of Tenancy and Notice to Quit**

If the tenancy agreement does not specify a term the Order provides that the term will be 6 months from the date on which the tenant is entitled to take possession. A Notice to Quit shall not be valid unless given in writing not less than 4 weeks before the date on which it is to take effect.

## **Fitness and state of disrepair of the dwelling house;**

- The Order empowers the appropriate district council to issue either a Notice of Unfitness or a Notice of Disrepair to the owner of the dwelling house where it is unfit for human habitation and the owner will have to comply with such notice. These provisions introduce procedures for determining whether a property is fit for habitation.

Failure to comply with either notice is an offence. There are rights to appeal under the Order.

- To meet the fitness standard the dwelling house must be structurally stable, free from serious disrepair, free from dampness prejudicial to health, have adequate provision for lighting, heating and ventilation and supply of water, have sufficient facilities for the preparation and cooking of food, have a water closet and bath/shower and wash hand basin for the exclusive use of occupiers and have an effective system for drainage of foul, water and surface water.
- Even if the dwelling house is fit for human habitation, where substantial repairs are required to bring it up to a reasonable standard (having regard to its age, character and prospective life) or where its condition materially interferes with the personal comfort of the tenants, the district council may issue a Notice of Disrepair.
- The Order also empowers district councils to inspect particular dwelling houses in order to issue a certificate of fitness. If a dwelling house does not receive a Certificate of Fitness it will be subject to rent control. A property that does receive a Certificate of Fitness will only be subject to rent control if it is presently a protected or statutory tenancy.
- A landlord must apply for a Certificate of Fitness within 28 days of granting the tenancy in respect of dwellings constructed or converted prior to 6 November 1956 unless the dwelling is a prescribed dwelling house i.e. constructed after 1 January 1945 and before 6 November 1956; where a Renovation Grant or HMO Grant has been paid by the Housing Executive within the last 10 years; the dwelling is currently registered as an HMO or a regulated rent certificate has issued in the last 10 years. Failure to comply constitutes an offence.

It is an offence to obstruct the district council in carrying out its functions under the Order.

## **General amendments to the Rent (Northern Ireland) Order 1978 (“the Rent Order”)**

- Protected tenancies under the Rent Order cannot be created on or after 1 April 2007.
- A spouse, civil partner or other family member can continue to succeed to a protected tenancy upon the tenant’s death. This security of tenure is limited to one succession rather than two, as the case used to be under the Rent Order. The family member must have been living in the property at the date of death and for six months immediately prior to the death.
- It is not possible now to assign a protected or statutory tenancy except under a court order.

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## **Tenancies subject to Rent Control after 1 April 2007**

- Existing protected tenancies
- Existing statutory tenancies
- A private tenancy
  - granted on or after 1 April 2007 **and**
  - the dwelling house was constructed before 6 November 1956 (or was provided by conversion of a building that was constructed before that date) **and**
  - does not meet the appropriate standard of fitness

A tenancy subject to rent control is “a controlled tenancy”. If the district council is satisfied that a dwelling house is fit for human habitation it will issue a certificate of fitness.

## **Unlawful Eviction and Harassment.**

- Tenants under a private tenancy have been afforded greater protection from harassment. It is an offence for a Landlord or anyone acting on his behalf to harass the tenant or household or illegally evict the tenant. It is an offence to interfere with the peace and comfort of the tenant and persistently to withdraw or withhold services reasonably required for the occupation of the dwelling house as a residence.

## **Protected Shorthold Tenancies**

- These may no longer be created and the legislation permitting them is repealed.

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