1983 No. 357

HOUSING

Secure Tenancies (Abandoned Dwelling-House Notice) Regulations (Northern Ireland) 1983

Made . . . . . *8th November 1983*

Coming into operation . . . *12th December 1983*

The Department of the Environment in exercise of the powers conferred on it by Articles 41(3) and 106(1) of the Housing (Northern Ireland) Order 1983(**a**) and of every other power enabling it in that behalf hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Secure Tenancies (Abandoned Dwelling-House Notice) Regulations (Northern Ireland) 1983 and shall come into operation on 12th December 1983.

Form of notice

2. The notice referred to in Article 41(3) of the Housing (Northern Ireland) Order 1983 shall be in the form set out in the Schedule.

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 8th November 1983.

(L.S.) *J. McCormick*
Assistant Secretary

(a) S.I. 1983/1118 (N.I. 15)

SCHEDULE

HOUSING (NORTHERN IRELAND) ORDER 1983, ARTICLE 41(3)

NOTICE TO BE SERVED BY A LANDLORD WHERE A DWELLING-HOUSE HELD UNDER A SECURE TENANCY APPEARS TO HAVE BEEN ABANDONED

To. Name and address of secure Tenant

The [name of landlord] [having its District Office at .....] [having its registered Office at .....] being the landlord of [address of dwelling-house] which you hold as a secure tenant, hereby gives you notice, in accordance with Article 41(3) of the Housing (Northern Ireland) Order 1983, that it has reason to believe that the dwelling-house is unoccupied and that you do not intend to occupy it as your home.

If you do intend to occupy the dwelling-house as your home you are required to inform the landlord in writing at the above address within 4 weeks of the service of this notice.

If it appears to [name of landlord] at the end of the said period of 4 weeks that you do not intend to occupy the dwelling-house as your home the secure tenancy will be terminated forthwith.

Signed .....
on behalf of .....
Address .....
.....
.....
Telephone No. .....
Date .....

NOTES

ABANDONED DWELLING-HOUSE

1. If you have a secure tenancy under the Housing (Northern Ireland) Order 1983 a landlord may not normally require you to leave your dwelling without an order of the Court. However, where a dwelling-house is let under a secure tenancy and a landlord has reasonable grounds to believe that the dwelling-house is unoccupied and that a tenant does not intend to occupy it as his home it is entitled under Article 41 to enter the dwelling-house at any time to make it and its contents safe and thereafter to recover possession of the dwelling-house without the need for an order of the Court.

UNDER WHAT CIRCUMSTANCES CAN A LANDLORD ENTER A DWELLING-HOUSE?

2. It must have reasonable grounds for believing that the dwelling-house is unoccupied and that the tenant no longer intends to occupy it as his home. "Reasonable grounds" would normally include circumstances where the tenant had removed his furniture and had failed to pay the rent. The landlord or any agent acting on its behalf may force open any door or window of a dwelling-house in order to gain access. It may then take steps to make the dwelling-house and its contents safe. This would include the fastening of doors, windows, etc., against illegal entry.

WHAT HAPPENS NEXT?

3. Once a landlord has taken steps to secure a dwelling-house against illegal entry and then wishes to terminate the secure tenancy it must serve a copy of this Notice on the secure tenant. This Notice must inform the tenant of the landlord's belief that the dwelling-house is unoccupied and that the tenant no longer intends to occupy it as his home and require the tenant to inform the landlord in writing within four weeks of his intention with regard to the dwelling-house. It must also inform the tenant that if at the end of the four-week period it appears to the landlord that the tenant does not in fact intend to occupy the dwelling-house as his home the landlord will terminate the secure tenancy forthwith. This will be done by the service of a further notice.

CAN A TENANT APPEAL AGAINST A TENANCY BEING TERMINATED IN THIS WAY?

4. Yes. If a landlord terminates a secure tenancy and the tenant does not agree that it should have done so, he may, within six months of the termination of the secure tenancy, appeal to the County Court or High Court. If appeal is to the latter he will not recover costs. The Court will consider whether the landlord complied with the procedures laid down and whether it had reasonable grounds to believe that the tenancy had been abandoned. A tenant will be given the chance to put his case to the Court. If the Court finds that a landlord acted unreasonably it shall order the secure tenancy to continue if the dwelling-house has not been relet or direct the landlord to provide suitable alternative accommodation.

FURTHER ADVICE

5. If you need advice about this Notice and what you should do about it, take it as quickly as possible to a Citizen's Advice Bureau, a Housing Aid Centre, Law Centre or to a Solicitor. You may be able to receive Legal Aid but this will depend on your personal circumstances.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations prescribe the form of notice to be served on a secure tenant by a landlord where it has reasonable grounds for believing that a dwelling-house is unoccupied and the tenant does not intend to occupy it as his home. It requires the tenant to inform the landlord in writing within four weeks if he intends to occupy the dwelling-house as his home. The landlord is required to inform the tenant that if at the end of that period it appears to the landlord that the tenant does not intend to occupy the dwelling-house as his home the secure tenancy will be terminated forthwith.