

Call for Evidence - Private Tenancies Bill

Overview

Context of the Bill

The private rented sector has grown over the past number of years to become the second largest type of housing tenure. It is now larger than the social housing sector and accounts for over 17% of all housing stock in Northern Ireland. Almost half of those living in the private rented sector receive state financial support via Housing Benefit or Universal Credit to help meet housing costs.

The Committee acknowledges that the private rented sector is helping to meet housing need and provides an important housing option for a range of individuals and families and are pleased to see the increased focus on how the sector is regulated.

Background to the Bill

[Private Tenancies Bill - As Introduced](http://www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/primary-legislation---bills-2017---2022-mandate/private-tenancies-bill/2/bill---as-introduced/) <<http://www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/primary-legislation---bills-2017---2022-mandate/private-tenancies-bill/2/bill---as-introduced/>>

[Explanatory and Financial Memorandum](http://www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/primary-legislation---bills-2017---2022-mandate/private-tenancies-bill/2/efm---as-introduced/) <<http://www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/primary-legislation---bills-2017---2022-mandate/private-tenancies-bill/2/efm---as-introduced/>>

These documents will each open in a new window.

The History of improvements to the regulatory regime for the sector stems from then Department for Social Development's Private Rented Sector Strategy, 'Building Sound Foundations' (2010), which introduced the Tenancy Deposit and Landlord Registration Schemes.

The Housing Strategy Action Plan 2012-2017 then committed the Department to undertaking a review of the private rented sectors to consider the current and potential future role of the sector and assess the effectiveness of current regulation, identifying where improvements could be made to help make the private rented sector a more attractive housing option.

The Department carried out a review of the role and regulation of the private rented sector in two stages.

The first stage of the review was in the form of a discussion paper. The formal consultation on the paper ran from 12 November 2015 until 5 February 2016, followed by face to face engagement with stakeholder groups.

The second stage of the review used the information obtained during the first stage and set out recommendations for enhancing and improving the sector in the context of the housing strategy aim of making the private rented sector a more attractive housing option for a wider range of households.

The Department then established a consultative working group, which met on four occasions and looked in detail at the key issues that had emerged. This resulted in the 'Proposals for Change document'. The formal consultation ran from 10 January 2017 until 3 April 2017 seeking responses to 16 proposals covering: Supply; Affordability; Security of Tenure; Tenancy Management; Property Standards and Dispute Resolution.

The Committee acknowledges that this Bill has a focused remit and does not address all of the issues covered in the proposals but hopes it will assist in making the private rented sector a safer and more secure housing option for a wider range of households.

The Department's approach to the outstanding issues not covered by the Bill (as a number need to dealt with over a longer timescale) can be found at [Departmental Response Consultation on the Review of the Role and Regulation of the Private Rented Sector \(communities-ni.gov.uk\)](https://www.communities-ni.gov.uk/sites/default/files/consultations/communities/private-rented-sector-proposals-for-change-consultation-response.pdf) <<https://www.communities-ni.gov.uk/sites/default/files/consultations/communities/private-rented-sector-proposals-for-change-consultation-response.pdf>> .

Introductory text

The Committee would appreciate your views on as many of the clauses as possible, however, you do not have to respond to all the clauses and there is opportunity at the end to highlight any further issues that you wish to raise in connection with the Bill.

For ease of reference, after the Introduction and questions on the overall Policy Objectives, the remaining questions on the specific clauses of the Bill are divided into four broad themes. After each section you will be returned to this contents page. You can save your input at any stage and return to complete the survey later, or may only choose to complete certain themes.

Please note the Introduction page contains a required question.

Introduction

1 How would you like your response to be published? (Please note this question requires a response)

(Required)

Please select only one item

- I would like my response to be published.
- I would like to request my response not be published, and I understand this will only be accepted in exceptional circumstances.

If my request is turned down I understand that I can choose to withdraw my submission or agree to my response being published in full or as amended by me.

Please note you will not be able to move through the survey until this question has been answered. However you may change your answer before submission if you choose.

2 Are you content that any of your suggestions which have been published to the Committee or the Assembly may inspire the text of an amendment?

Please select only one item

- Yes
 No

3 What is your name?

Name

4 What is your email address?

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

Email

5 Please indicate if you are providing a response:

Please select only one item

- As an individual
 On behalf of an organisation or business

If on behalf of an organisation or business, please state its name:

Policy Objectives of the Bill

Make the private rented sector a safer and more secure housing option for a wider range of households; and
To ensure better regulation of the sector and offer greater protection to private renters?

6 Do you think that the Bill will meet its overall policy objectives as above?

Please select only one item

- Yes
 No
 In Part

Please elaborate

7 If you foresee any unintended consequences of any of the policy objectives of the Bill please describe them here.

Theme 1: Tenancy Management: Clauses 1 and 2

Clause 1 - Tenants to be given notice regarding certain matters

Clause 2 - Tenant to be given notice regarding certain past matters

Clauses 1 and 2 - text

Tenant to be given notice regarding certain matters

Tenant to be given notice regarding certain matters

1.—(1) The 2006 Order is amended in accordance with subsections (2) to (4).

(2) In Part 2, after the italic heading "*Particulars relating to the tenancy, etc.*" insert—

"Tenant to be given notice regarding certain matters: grant of tenancy

4A.—(1) This Article applies where a private tenancy of a dwelling-house is granted on or after the date on which section 1 of the Private Tenancies Act (Northern Ireland) 2021 comes into operation.

(2) The landlord under the tenancy must, within 28 days after the date on which the tenancy is granted, give to the tenant a notice—

- (a) in the prescribed form, and
- (b) containing the prescribed particulars and other prescribed information relating to the tenancy.

(3) A tenant must not be required to make a payment in respect of any notice under paragraph (2).

(4) A landlord who fails to comply with paragraph (2) is guilty of an offence under this Order.

Tenant to be given notice regarding certain matters: variation of certain terms

4B.—(1) This Article applies where, on or after the date on which section 1 of the Private Tenancies Act (Northern Ireland) 2021 comes into operation, a prescribed term of a private tenancy of a dwelling-house is varied; and it applies regardless of the date on which the tenancy was granted.

(2) The landlord under the tenancy must, within 28 days after the date on which the term of the tenancy is varied, give to the tenant a notice—

- (a) in the prescribed form, and
- (b) containing the prescribed information relating to the variation of the term.

(3) In paragraphs (1) and (2) "varied" includes varied by omission.

(4) A tenant must not be required to make a payment in respect of any notice under paragraph (2).

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

Continued failure by landlord to provide notice under Article 4A or 4B after conviction or fixed penalty

4C.—(1) If a landlord is convicted of an offence under Article 4A(4) or 4B(5), and the failure continues for more than 14 days after the conviction, the landlord is deemed to have committed a further offence under that paragraph in respect of that failure.

(2) Paragraph (3) applies where—

- (a) a landlord fails to comply with Article 4A(2) or 4B(2),
- (b) the landlord is given a fixed penalty notice under Article 68A in respect of an offence under Article 4A(4) or 4B(5) on the grounds of that failure, and
- (c) the landlord pays the fixed penalty stated in the notice.

(3) If the failure to comply with Article 4A(2) or 4B(2) continues for more than 14 days after the landlord pays the fixed penalty, the landlord is guilty of an offence under this Order."

(3) In Article 68(1) (prosecution and punishment of offences), after "Article" insert "4A(4), 4B(5), 4C(3),".

(4) In Article 68A (fixed penalty for certain offences)—

- (a) in paragraph (1), after "has committed" insert—

"(za) an offence under Article 4A(4) or 4B(5), except one deemed to have been committed by virtue of Article 4C(1);

(zb) an offence under Article 4C(3);";

- (b) in paragraph (8), after "under Article" insert "4A(4), 4B(5), 4C(3),".

(5) Omit section 1 of the Housing (Amendment) Act (Northern Ireland) 2011.

Tenant to be given notice regarding certain past matters

2. Schedule 1 provides for the giving of notice regarding certain matters to the tenants of dwelling-houses that are let under a private tenancy on the date on which section 1 comes into operation—

- (a) where the tenancy was granted on or after 30 June 2011 but before the date on which section 1 comes into operation;
- (b) where certain terms of the tenancy were varied on or after 30 June 2011 but before the date on which section 1 comes into operation.

8 On Clause 1: Do you think it is suitable for regulation making powers to prescribe the detail required within such a notice or should this detail or certain particulars in it be on the face of the Bill?

Please select only one item

- Yes
 No
 Other

Please elaborate

9 On Clause 1: If you are you aware of details of similar notices or Statements of Tenancy in other jurisdictions that you feel work well, please provide information.

10 On Clause 2: How do you feel this clause, which introduces Schedule 1, is, or is not, sufficient to deal with certain past matters (required due to the accidental repeal of Article 4 of the Private Tenancies (NI) 2006 Order – see EFM for details)? Please include any instances, of which you are aware, in which the accidental repeal of Article 4 has had a negative impact?

11 On Clause 2: Please inform us of any other perceived issues in relation to tenancy management that are not in the Bill, that you wish to highlight to the Committee.

Theme 2: Rental Payments and Rental Deposits: Clauses 3, 4, 5, 6 and 7

Clause 3 - Tenant to be provided with a rent receipt for payment in cash

Clause 4 - Limit on tenancy deposit amount

Clause 5 - Increase in time limits for requirements relating to tenancy deposits

Clause 6 - Certain offences in connection with tenancy deposits to be continuing offences

Clause 7 - Restriction on frequency of rent increases

Clauses 3, 4, 5, 6 and 7**Tenant to be provided with a rent receipt for payment in cash**

3.—(1) The 2006 Order is amended as follows.

(2) For Article 5 substitute—

“Tenant to be provided with a rent receipt for payment in cash

5.—(1) This Article applies where the tenant of a dwelling-house let under a private tenancy makes any payment of rent in cash.

(2) The landlord must provide the tenant with a written receipt for the payment stating—

- (a) the date of payment;
- (b) the amount paid;
- (c) if any amount remains outstanding, that amount;
- (d) if no further amount remains outstanding, that fact.

(3) The receipt must be provided—

- (a) at the time the payment is made, or
- (b) if that is not possible, as soon as reasonably possible after that time.

(4) A tenant must not be required to make a payment in respect of the provision of the receipt.

(5) If the landlord under a private tenancy fails to comply with paragraph (2) or (3), the following are guilty of an offence under this Order—

- (a) the landlord, and
- (b) any person appointed by the landlord to provide the receipt.

(But see Article 5ZB for a defence to this offence.)

Continued failure by landlord to provide rent receipt after conviction or fixed penalty

5ZA.—(1) If a landlord is convicted of an offence under Article 5(5) in respect of a failure to comply with Article 5(2), and the failure continues for more than 14 days after the conviction, the landlord is deemed to have committed a further offence under Article 5(5) in respect of that failure.

(2) Paragraph (3) applies where—

- (a) a landlord fails to comply with Article 5(2),
- (b) the landlord is given a fixed penalty notice under Article 68A in respect of an offence under Article 5(5) on the grounds of that failure, and
- (c) the landlord pays the fixed penalty stated in the notice.

(3) If the failure to comply with Article 5(2) continues for more than 14 days after the landlord pays the fixed penalty, the landlord is guilty of an offence under this Order.

(But see Article 5ZB for a defence to this offence.)

Controlled tenancies: defence to offences under Articles 5 and 5ZA

5ZB.—(1) This Article applies where, in the case of a controlled tenancy (within the meaning given by Article 40(4))—

- (a) a person is charged with an offence under Article 5(5) and a receipt complying with Article 5(2)(a) and (b) was provided in accordance with Article 5(3), or
- (b) a person is charged with an offence under Article 5ZA(3) and a receipt complying with Article 5(2)(a) and (b) was provided at any time before the end of the period of 14 days mentioned in Article 5ZA(3) (including before the fixed penalty notice was given).

(2) Paragraph (5) applies if either condition A or condition B is met.

(3) Condition A is that—

- (a) no further amount in fact remained outstanding,
- (b) the receipt stated that there was an amount outstanding, and
- (c) that amount consists wholly of a sum that is irrecoverable by virtue of Article 50(1).

(4) Condition B is that—

- (a) an amount in fact remained outstanding (“the true arrears”),
- (b) the receipt stated as outstanding an amount that was more than the true arrears, and
- (c) the difference between the stated amount and the true arrears consists wholly of a sum that is irrecoverable by virtue of Article 50(1).

(5) It is a defence for the person charged to prove that the landlord had a bona fide claim that the sum mentioned in paragraph (3)(c) or (4)(c) was recoverable.”.

(3) In Article 50 (tenancies subject to rent control: rent in excess of limit to be irrecoverable), after paragraph (3) insert—

“(4) In paragraph (2) “similar document” does not include a receipt under Article 5(2).”.

(4) In Article 66(1)(a) (service on an agent named in the rent book deemed to be service on the landlord), for “the rent book” substitute “a rent book”.

(5) In Article 68(1) (prosecution and punishment of offences), for “5(4)” substitute “5(5), 5ZA(3)”.

(6) In Article 68A (fixed penalty for certain offences)—

(a) in paragraph (1), after sub-paragraph (zb) (as inserted by section 1), insert—

“(zc) an offence under Article 5(5), except one deemed to have been committed by virtue of Article 5ZA(1);

(zd) an offence under Article 5ZA(3);”;

(b) in paragraph (8), after “4C(3),” (as inserted by section 1) insert “5(5), 5ZA(3),”.

Limit on tenancy deposit amount

4.—(1) The 2006 Order is amended as follows.

(2) After Article 5ZB (as inserted by section 3) insert—

“Limit on tenancy deposit amount

Tenancy deposit limit of 1 month’s rent

5ZC.—(1) A person (A) must not—

(a) require the payment by another person of a tenancy deposit in connection with a private tenancy, or

(b) require that the person to whom a tenancy deposit would otherwise be repaid (B) consent to the retention of the deposit (by A or a third person) in connection with a private tenancy,

that is in excess of the amount of 1 month’s rent payable under the tenancy.

(2) For the purposes of paragraph (1)(b), A requires that B consent to the retention of a deposit if—

(a) a tenancy deposit is paid (at any time) in connection with a private tenancy (“the first tenancy”),

(b) a person proposes to grant, or has granted, a private tenancy of that or another dwelling-house (whether to the tenant of the first tenancy or to another person), and

(c) A requires that B consent to some or all of the deposit continuing to be held, on or after the ending of the first tenancy, in connection with the new tenancy.

(3) “1 month’s rent payable under the tenancy”, where the rent under a private tenancy is not payable monthly, means—

(a) where the rent under the tenancy is payable for periods of whole months, the rent for a period divided by the number of months in the period;

(b) where the rent is payable for periods determined otherwise than by reference to whole months, the rent attributable to 1 day’s letting under the tenancy multiplied by 30.

(4) A person who contravenes paragraph (1) is guilty of an offence under this Order.

(5) Where a person—

(a) is convicted of an offence under paragraph (4), and

(b) has received or, as the case may be, retained a tenancy deposit in excess of the amount of 1 month’s rent payable under the tenancy,

the court may order the excess to be repaid to the person who paid it.

(6) In this Article—

“tenancy deposit”, in relation to a private tenancy, means any money intended to be held (by the landlord or otherwise) as security for—

(a) the performance of any obligations of the tenant arising under or in connection with the tenancy, or

(b) the discharge of any liability of the tenant so arising;

“money” means money in the form of cash or otherwise.

Breach of tenancy deposit limit: recoverability of excess

5ZD.—(1) A tenancy deposit in relation to a private tenancy that has not been paid is irrecoverable to the extent that it exceeds the amount of 1 month’s rent payable under the tenancy (and this is so despite anything in any agreement).

(2) Where, in connection with a private tenancy—

(a) a tenancy deposit has been paid or retained (as defined in paragraph (3)), and

(b) at the time of payment or retention, or at any time thereafter, the deposit exceeds the amount of 1 month’s rent payable under the tenancy,

the excess is recoverable by the person who paid it.

(3) For the purposes of paragraph (2), if—

(a) a tenancy deposit is paid (at any time) in connection with a private tenancy (“the first tenancy”),

(b) a private tenancy is granted of that or another dwelling-house (whether to the tenant of the first tenancy or to another person) or (where the first tenancy is a protected tenancy) a statutory tenancy comes into existence, and

(c) on or after the ending of the first tenancy, some or all of the deposit continues to be held in connection with the new tenancy,

the deposit is retained in connection with the new tenancy.

(4) In this Article “1 month’s rent payable under the tenancy” and “tenancy deposit” have the same meaning as in Article 5ZC.”.

(3) In Article 68(1) (prosecution and punishment of offences), after “5ZA(3)” (as inserted by section 3) insert “, 5ZC(4)”.

(4) In Article 68A (fixed penalty for certain offences)—

(a) in paragraph (1), after sub-paragraph (zd) (as inserted by section 3) insert—

“(ze) an offence under Article 5ZC(4);”;

(b) in paragraph (8), after “5ZA(3),” (as inserted by section 3) insert “5ZC(4),”.

(5) The following provisions (inserted by subsection (2)) have effect as follows—

(a) Article 5ZC(1)(a) prohibits the making of a requirement within that sub-paragraph on or after the commencement date;

(b) Article 5ZC(1)(b) prohibits the making of a requirement within that sub-paragraph on or after the commencement date, regardless of the date on which the deposit was paid or the date on which the first tenancy ends;

(c) Article 5ZD(1) does not prevent the recovery of a tenancy deposit under a legal obligation that existed before the commencement date (whether that obligation accrues before or after that date);

(d) Article 5ZD(2) has effect in relation to tenancy deposits that are paid on or after the commencement date except where the deposit was required to be paid under or in connection with a legal obligation that existed before the commencement date (whether that obligation accrues before or after that date);

(e) Article 5ZD(2) has effect in relation to tenancy deposits that are retained on or after the commencement date except where the deposit was liable to be retained under or in connection with a legal right that existed before the commencement date (whether that right accrues before or after that date).

(6) In subsection (5) “commencement date” means the date on which this section comes into operation.

Increase in time limits for requirements relating to tenancy deposits

5. In Article 5B of the 2006 Order (requirements relating to tenancy deposits)—

(a) in paragraph (3), for “14 days” substitute “28 days”;

(b) in paragraph (6)(b), for “28 days” substitute “35 days”.

Certain offences in connection with tenancy deposits to be continuing offences

6. In Article 5B of the 2006 Order (requirements relating to tenancy deposits), after paragraph (11) insert—

“(11A) A person who commits an offence by failing to comply with the requirements of paragraph (3) or (6) continues to commit the offence throughout any period during which the failure continues.”.

Restriction on rent increases

7.—(1) The 2006 Order is amended as follows.

(2) After Article 5B insert—

“Rent increases

Restriction on frequency of rent increases

5C.—(1) This Article applies to any private tenancy except a controlled tenancy (within the meaning given by Article 40(4)).

(2) The rent payable under a tenancy to which this Article applies may not be increased—

(a) within the period of 12 months beginning with the date on which the tenancy is granted, or

(b) within the period of 12 months beginning with the date on which the last increase took effect;

but this is subject to regulations under paragraph (3).

(3) The Department may by regulations specify circumstances in which paragraph (2) does not apply.

(4) Circumstances specified under paragraph (3) may include, in particular, circumstances in which the dwelling-house let under the tenancy is renovated, refurbished, altered or extended.

(5) The Department may by regulations amend paragraph (2)(a) or (b) so as to substitute, for the period that is for the time being specified there, a period that is 12 months or more but not more than 2 years.

Requirement to give written notice of increase

5D.—(1) This Article applies to any private tenancy except a controlled tenancy (within the meaning given by Article 40(4)).

(2) The rent payable under a tenancy to which this Article applies may not be increased unless the landlord gives written notice complying with paragraphs (3) to (5).

(3) The notice must specify—

(a) the date on which the increase in the rent will take effect, and

(b) the rent that will be payable after the increase.

(4) The date specified under paragraph (3)(a) must be not less than 2 months after the date on which the notice is given to the tenant.

(5) The notice must—

(a) contain such other information, and

(b) be in such form,

as may be prescribed.”.

(3) In Article 72 (provisions concerning regulations)—

(a) in paragraph (3), after “5A,” insert “5C(3) or (5),”;

(b) after paragraph (4) insert—

“(5) Before laying a draft of regulations under Article 5C(5) before the Assembly, the Department must consult—

(a) such persons as appear to it to be representative of landlords,

(b) such persons as appear to it to be representative of tenants, and

(c) such persons as the Department considers appropriate (which may include landlords or tenants).”.

12 On Clause 3: Do you feel that the clause offers sufficient protection to tenants with regard to the provision of receipts for cash payments?

Please select only one item

Yes

No

Other

Please elaborate

13 On Clause 3: In your experience what, if any, particular types of tenants pay their rent in cash?

14 On Clause 3: Please provide any suggestions in respect of how tenants can be made aware of their right to be provided with a rent receipt for payments in cash.

15 On Clause 3: Please tell us how robust you consider the mechanisms currently in place for tenants to complain, should their landlord or agent refuse to issue a receipt for a cash payment.

16 On Clause 4: How appropriate do you consider the limit of no more than 1 month's rent on the amount of deposit that is required in connection with a private tenancy?

17 On Clause 4: Please provide any further comment on the affordability of tenancy deposits.

18 On Clause 4: The Bill restricts Deposits to one month's rent. There is no specified restriction to limit the amount of rent in advance required. Please express any views you may hold in that regard.

19 On Clause 5: Do you feel that extending the time limits outlined in this clause are sufficient and necessary?

Please select only one item

- Yes
 No
 Other

Please elaborate

20 On Clause 6: Are you in favour of there being no time barrier on prosecuting a person who fails to comply with the set requirements of the amended Article?

Please select only one item

- Yes
 No
 Other

Please elaborate

21 On Clause 7: The Bill provides for restrictions on the frequency of rent increases (to any private tenancy except a controlled tenancy). What is your view on these restrictions?

22 On Clause 7: What are your views on a rent increase only taking effect if a landlord gives the tenant a written notice that complies with certain requirements?

23 On Clause 7: Do you feel it is appropriate that the Department will be given the power to specify circumstances in which the restrictions on rent increases will not apply (for example, if house is renovated/extended)?

Please select only one item

- Yes
 No
 Other

Please Elaborate

24 On Clause 7: Are there any other comments you wish to make in respect of rent, rent deposits and affordability?

Theme 3: Property Management Standards: Clauses 8, 9 and 10

Clause 8 - Fire, smoke and carbon monoxide alarms, etc.

Clause 9 - Energy efficiency regulations

Clause 10 - Electrical safety standards regulations

Clauses 8, 9 and 10

Fire, smoke and carbon monoxide alarms, etc.

8.—(1) The 2006 Order is amended as follows.

(2) After Article 11 insert—

“Application of Articles 11B to 11F

11A.—(1) The provisions set out in Articles 11B to 11F apply in relation to—

(a) any private tenancy of a dwelling-house granted on or after the date on which section 8 of the Private Tenancies Act (Northern Ireland) 2021 comes into operation, and

(b) any private tenancy of a dwelling-house granted before the date on which section 8 of the Private Tenancies Act (Northern Ireland) 2021 comes into operation (but only from the prescribed date).

(2) For the purposes of paragraph (1)(b), a statutory tenancy is to be treated as if it were a private tenancy granted before the commencement of section 8 of the Private Tenancies Act (Northern Ireland) 2021 (regardless of when the dwelling-house in question became subject to the statutory tenancy).

Landlord’s duties: fire, smoke and carbon monoxide alarms

11B.—(1) The landlord under a private tenancy must keep in repair and in proper working order—

(a) sufficient appliances for detecting fire or smoke, and for giving warning in the event that they are detected, and

(b) sufficient appliances for detecting whether carbon monoxide is present at levels that are harmful to people, and for giving warning if it is.

(2) The Department may by regulations set minimum standards for the purpose of determining whether the duties under paragraph (1) have been complied with.

(3) The standards that may be set under paragraph (2) include standards as to the number, type and condition of appliances that should be installed in circumstances specified in the regulations.

(4) A landlord who fails to comply with a duty under paragraph (1) is guilty of an offence under this Order.

Tenant’s duties: fire, smoke and carbon monoxide alarms

11C. The tenant under a private tenancy—

(a) must take proper care of the appliances installed for the purposes of Article 11B as a good tenant;

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

Landlord’s duties: private tenancy of part of a building

11D. Where a dwelling-house let under a private tenancy consists of a part of a building, the duties imposed on the landlord by Article 11B may require the landlord to position appliances in a part or parts of the building not comprised in the tenancy.

General qualification on landlord’s duties

11E. The duties imposed on the landlord by Article 11B do not require the landlord to carry out works or repairs for which the tenant is liable by virtue of Article 11C.

Knowledge of disrepair

11F. A landlord is not under a duty to carry out works by virtue of Article 11B unless the landlord has actual knowledge (whether because of notice given by the tenant or otherwise) of the need for those works.”.

(3) In Article 68(1) (prosecution and punishment of offences), after “5ZC(4),” (as inserted by section 4) insert “11B(4),”.

(4) Article 68A (fixed penalty for certain offences) is amended as follows.

(5) In paragraph (1)—

(a) at the end of sub-paragraph (a), omit “or”;

(b) after that sub-paragraph insert—

“(aa) an offence under Article 11B(4);”.

(6) In paragraph (8), after “5B(10)” insert “, 11B(4)”.

Energy efficiency regulations

9. Schedule 2 contains amendments to the 2006 Order enabling the Department for Communities to make regulations concerning the energy efficiency of dwelling-houses let under a private tenancy.

Electrical safety standards regulations

10. Schedule 3 contains amendments to the 2006 Order enabling the Department for Communities to make regulations concerning electrical safety standards in dwelling-houses let under a private tenancy.

25 On Clause 8: In your view will this clause meet its stated aim of reducing the risk of injury or death caused by fire, smoke and carbon monoxide in private tenancies?

Please select only one item

- Yes
- No
- Other

Please elaborate

26 Clause 8 gives the Department the power to set minimum standards for the purpose of determining whether the duties of this clause have been complied with. What is your view on this?

Please elaborate

27 On Clause 8: The clause refers to the landlord's 'knowledge of disrepair'. What is your view of this provision?

28 On Clause 8: In respect of tenancies granted before this clause comes into operation – the requirements and duties of the clause only apply from a date in the future to be prescribed by the Department in regulations. What is your view on this provision?

29 Are there any other comments you wish to make on Clause 8? (For example, good practice from other jurisdictions; need for support for tenants and landlords to understand their duties; mechanisms to allow tenants to complain if the duties are not fulfilled).

30 What is your view on Clause 9, which introduces Schedule 2 and will enable the Department to make regulations concerning the energy efficiency of dwelling houses let under a private tenancy?

31 On Clause 9: In your view does this clause and related schedule future-proof the legislation sufficiently with regard to energy performance certificates (EPC)?

Please select only one item

- Yes
 No
 Other

Please elaborate

32 On Clause 9: Please share any thoughts you have on what minimum EPC banding should be applied. Are there any examples of good practice from other jurisdictions you would wish to highlight?

33 On Clause 10: Please give us your views on this clause which introduces Schedule 3 and enables the Department to make regulations concerning electrical safety standards in private tenancies.

34 On Clause 10: Please give us any thoughts you may have on how compliance with the standards should be monitored and enforced.

35 On Clause 10: Please share any further comments on property standards/property fitness in the private rented sector.

Theme 4: Security of Tenure; Clause 11

Clause 11 - Validity requirements for notices to quit given by landlords and tenants

Clause 11

11.—(1) The 2006 Order is amended in accordance with subsections (2) to (8).

(2) Article 14 (length of notice to quit) is amended in accordance with subsections (3) to (6).

(3) For paragraph (1) substitute—

“(1) A notice by a landlord to quit a dwelling-house let under a private tenancy is not valid unless—

- (a) it is in the prescribed form and contains the prescribed information, and
- (b) it is given not less than the relevant period before the date on which it is to take effect.”.

(4) In paragraph (1A)(a) and (b), for “5 years” substitute “12 months”.

(5) After paragraph (2) insert—

“(3) The Department may by regulations amend paragraph (1A) so as to provide that—

- (a) in relation to a tenancy in existence for more than 12 months but not more than 10 years, the relevant period is a period that is more than 8 weeks but not more than 6 months;
- (b) in relation to a tenancy in existence for more than 10 years, the relevant period is a period that is more than 12 weeks but not more than 6 months.

(4) Regulations under sub-paragraph (a) or (b) of paragraph (3) may—

- (a) provide that any amendments do not apply in relation to cases specified in the regulations;
- (b) provide that the relevant period is different in different cases within that sub-paragraph described by reference to the period for which the tenancy has been in existence.

(But this is without prejudice to the application of section 17(5) of the Interpretation Act (Northern Ireland) 1954.)

(5) Any amendment made by virtue of regulations under paragraph (3) does not apply in relation to a notice to quit given before the date on which the amendment comes into operation.”.

(6) At the end of the heading to the Article add “: by landlords”.

(7) After Article 14 insert—

“Length of notice to quit: by tenants

14A.—(1) A notice by a tenant to quit a dwelling-house let under a private tenancy is not valid unless—

- (a) it is given in writing, and
- (b) it is given not less than the relevant period before the date on which it is to take effect.

(2) For the purposes of paragraph (1) the relevant period is—

- (a) 4 weeks, if the tenancy has not been in existence for more than 10 years;
- (b) 12 weeks, if the tenancy has been in existence for more than 10 years.

(3) Paragraph (1) applies regardless of the date on which the private tenancy was granted.

(4) The Department may by regulations amend paragraph (2) so as to provide that, in relation to a tenancy in existence for more than 12 months but not more than 10 years, the relevant period is a period that is more than 4 weeks but not more than 12 weeks.

(5) Regulations under paragraph (4) may provide that the relevant period is different in different cases within that paragraph described by reference to the period for which the tenancy has been in existence.

(But this is without prejudice to the application of section 17(5) of the Interpretation Act (Northern Ireland) 1954.)

(6) Any amendment made by virtue of regulations under paragraph (4) does not apply in relation to a notice to quit given before the date on which the amendment comes into operation.”.

(8) In Article 72 (provisions concerning regulations)—

- (a) in paragraph (3), after “5C(3) or (5),” (as inserted by section 7) insert “14, 14A,”;
- (b) in paragraph (5) (as inserted by section 7), after “Article 5C(5)” insert “, 14 or 14A”.

(9) In consequence of subsection (3), omit section 3(2) of the Housing (Amendment) Act (Northern Ireland) 2011.

(10) The amendments made by this section do not apply in relation to a notice to quit given before the date on which this section comes into operation.

36 Clause 11 amends Article 14 of the 2006 Order so that the Article will only deal with notices to quit given by landlords and that they must be in a certain form and contain certain information. What is your view on this?

37 On Clause 11: What is your view on the range of time periods regarding notices to quit depending on how long the tenant has been in the house?

38 Clause 11 gives the Department power, by regulations, to alter notice to quit periods in some tenancies. What is your view on this?

39 On Clause 11: Are there any wider issues relating to security of tenure that are not contained with the Bill that you would wish to bring to the Committee's attention?

Clauses 12-14

Clause 12 - Interpretation

Clause 13 - Commencement

Clause 14 - Short title

Clauses 12, 13 and 14 text

Interpretation

12. In this Act "the 2006 Order" means the Private Tenancies (Northern Ireland) Order 2006.

Commencement

13.—(1) The following provisions come into operation on the day after the day on which this Act receives Royal Assent—

- (a) section 12;
- (b) this section; and
- (c) section 14.

(2) The following provisions come into operation on the day after the day on which this Act receives Royal Assent insofar as they confer power to make regulations—

- (a) section 1;
- (b) section 2 and Schedule 1;
- (c) section 7;
- (d) section 8;
- (e) section 9 and Schedule 2;
- (f) section 10 and Schedule 3; and
- (g) section 11.

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

(4) An order under this section may make such transitory or transitional provision, or savings, as the Department for Communities considers appropriate.

Short title

14. This Act may be cited as the Private Tenancies Act (Northern Ireland) 2021.

40 Please give us any views or comments you wish to make on Clauses 12 (Interpretation), 13 (Commencement) or 14 (Short title).

Views on Offences. Any other Comments

The Bill creates a number of offences and penalties.

41 Do you have any views or comments on the offences and penalties created by the Bill?.

42 Please share with us any other views or comments you wish to make in connection with the Bill.