



Departmental Response

Consultation on the Review of the Role and Regulation of the Private Rented Sector

Ministerial Foreword



As Minister for the Department for Communities I am delighted to welcome the publication of the Departmental response to the 2017 consultation on proposals for change for the Private Rented Sector (PRS).

These proposals demonstrate the value of collaborative working between the Department and its stakeholders with a co-design approach front and centre.

Organisations representative of Section 75 groups, private individuals including landlords and tenants, and a range of housing professionals submitted a total of 52 responses to the proposals document.

Delivering an ambitious reform of the PRS in this mandate, accompanied by primary legislation was always going to be challenging. However it is clear reform is urgently needed to improve protections in the PRS particularly for the most vulnerable in our communities. This need has been brought into sharper focus in dealing with the uncertainty of how the pandemic is affecting those living in the sector.

I want to future proof the PRS and will do this by ensuring that people and families who live in this sector have a safe and secure home. I will ask the Executive to bring legislation to the Assembly to build on my Department's 2017 review of the PRS. Officials are working with the Office of Legislative Council on new legislative proposals which will include measures to improve the safety, security and quality of the PRS. It's not as far reaching as I might like, but it needs to be achievable in the 11 months left in the mandate.

This will include a longer notice to quit period. For me, 4 weeks is too short a time for anyone to be asked to leave their home, find a suitable new house they can afford, maybe find a new school and childcare for their kids, and pack up their belongings. It's not enough. My Department consulted on 8 weeks (after the first 12 months in a tenancy), but I think it needs to be longer. Ideally 6 months and I've asked my officials to explore what is possible.

The legislation will also look to implement a number of other proposals including, for example, ensuring all private tenants are issued with a written agreement of tenancy terms, making it a mandatory requirement for private landlords to provide smoke and carbon monoxide detectors and to carry out periodic electrical checks and restricting rent increases to once in any 12 month period.

Outside of this, work is already underway to improve the PRS through a proposal to transfer the registration of landlords to local councils. This would see councils being provided with additional powers to strengthen and provide local enforcement of the PRS, funded by registration fees.

There are other things we need to look at over a longer timescale. Issues such as Letting Agent Regulation, the introduction of Grounds for Eviction and Fitness Standards.

I don't underestimate the challenges ahead – none of us do. However it is refreshing to see that there is a lot of common ground across stakeholders to deliver the changes needed to improve protections for renters into the future. I look forward to continuing to work closely with you all in overcoming the challenges ahead.

Deirdre Hargey



Minister for Communities

Background

The latest consultation on firm proposals for change ended on 3 April 2017 and the detail provided in this document gives a succinct summary of the proposal along with the departmental response to each proposal in turn.

The consultation document sought responses firstly to a total of 16 proposals covering:

- Supply
- Affordability
- Security of Tenure
- Tenancy Management
- Property Standards
- Dispute Resolution

Secondly responses were also sought to 20 proposals for amendments to the Private Tenancies (Northern Ireland) Order 2006, the Landlord Registration and the Tenancy Deposit Scheme Regulations.

Responses to Consultation

The Department received 52 responses to the consultation on firm proposals for change before the closing date of 3 April 2017. The breakdown of those who responded is shown below:

- 11 Landlords/Landlord Reps
- 8 Council Reps

- 7 Public Bodies
- 6 Housing Professionals
- 6 Charities
- 5 Letting Agents
- 3 Consultants
- 2 Housing Associations
- 2 Other Government Departments
- 2 Tenant Representatives

In addition a tenant survey was conducted on the general proposals. Responses from tenants mirror those of the 52 responses above however 2 proposals attracted greater support from tenants namely the proposal for 5 yearly electrical checks and the proposal to introduce a fitness declaration at the point of registration.

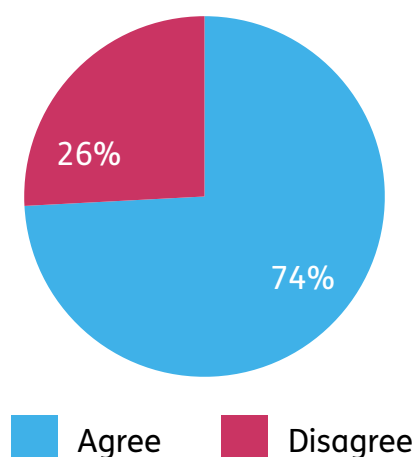
The Department also hosted 4 public events in Belfast, Craigavon, Coleraine and Cookstown where around 60 people attended. The Department also presented at the Chartered Institute of Housing's 'First to Know' event, Housing Rights 'Housing Practitioners' meeting and at Tenancy Deposit Scheme Northern Ireland Advisory Group.

PROPOSAL 1 – Commission work to gauge the appetite of institutional investors with existing portfolios of Private Rented Sector (PRS) properties in Great Britain to invest in Northern Ireland and the conditions needed to support such investment.

Responses to Consultation

There were 23 responses to this proposal of which 17 (74%) supported the proposal and 6 (26%) were not in favour of the proposal.

Proposal 1 - Institutional Investors



Some of those who disagreed felt that as most landlords (84%) in Northern Ireland own 1 or 2 properties it is better to ensure these landlords provide safe, decent accommodation and are aware of their legal obligations rather than encouraging institutional investors. Others do not believe that large scale, institutional investors represent a viable option to tackling the housing supply shortage, as they are unlikely to meet the needs of renters particularly around affordability issues. However, all means of investment should be encouraged to increase supply.

Conclusion/Departmental Response

The Department and council, working with colleagues in Strategic Investment Board, commissioned research on establishing the need for Build to Rent (BtR) in Northern Ireland. The purpose of the research was to provide sound evidence on whether BtR is suitable for the housing market here and can increase housing supply. The final version of the report has been received and shared with relevant bodies and its findings are under consideration. The Department continues to work closely with key stakeholders through the jointly chaired 'Joint Regeneration Group' which has a focus on Belfast city centre. This group is exploring ways to implement the key strategic actions which flowed from the City Centre Taskforce and was chaired by the Head of the Civil Service and the CEO of Belfast City Council. One such action is to increase the residential population of the city centre.

Research completed and shared with relevant bodies so this recommendation is completed.

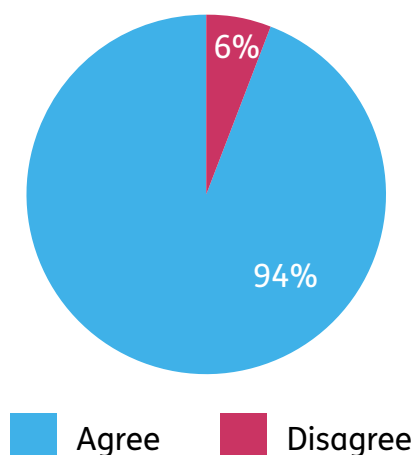
The Department will take forward discussions with other Departments and bodies as necessary, however the focus of the Department's work will be on the protection of tenants in the PRS and increasing social and intermediate housing supply.

PROPOSAL 2 – Explore opportunities to use money available for shared housing through the Fresh Start agreement to incentivise the development of more mixed-tenure housing areas, including private rented accommodation, underpinned by a shared ethos.

Responses to Consultation

There were 18 responses to this proposal of which 17 (94%) supported the proposal and 1 (6%) was not in favour of the proposal.

Proposal 2 - Mixed Tenure



The respondent who disagreed with the proposal suggested that money from the Fresh Start agreement should be invested in public sector housing options which are most likely to provide affordable, purpose-built accommodation which meets the needs of its tenants.

Conclusion/Departmental Response

The Department is using Fresh Start funding to deliver additional shared housing; the Fresh Start funding will increase delivery (in 2020/21) from 200 units to approximately

400 units (design and planning for the additional schemes will determine the final number of units developed).

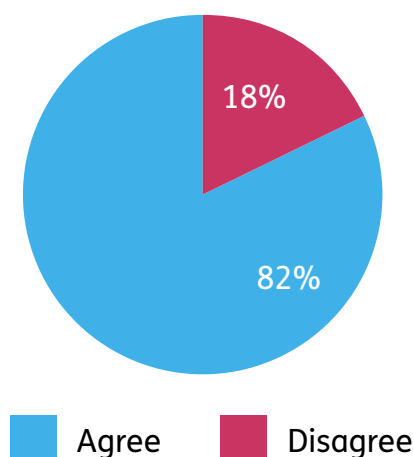
Although not through Fresh Start funding, the Department intends to deliver shared / mixed tenure housing on the St Patrick's Barracks site in Ballymena.

PROPOSAL 3 – Scope the opportunities with Housing Associations for greater involvement in the PRS.

Responses to Consultation

There were 22 responses to this proposal of which 18 (82%) supported the proposal and 4 (18%) were not in favour of the proposal.

Proposal 3 - Housing Associations



Some of those who disagreed suggested that rather than Housing Associations investing in the PRS they could instead offer their experience in a tenancy management role in dealing with vulnerable client groups to PRS landlords. Others considered that with such a large social housing waiting list Housing

Associations should be concentrating on social housing.

Conclusion/Departmental Response

The Department held preliminary discussions with some Housing Associations and the Northern Ireland Federation of Housing Associations (NIFHA) to discuss the potential of their involvement in the PRS. The Department is clear that increasing the supply of social housing is a priority for Housing Associations.

Private Sector Leasing (PSL) schemes can create an opportunity to expand the availability of good quality, longer-term, affordable homes within the PRS. The Department has begun to explore the opportunities to establish a PSL scheme here. It is intended that further focussed engagement with landlords and housing providers will take place to progress this issue.

PSL schemes operate in England, Scotland, Wales and the South of Ireland, whereby private rented stock is leased from the private rented property owner/landlord for periods of up to 20 years. These properties must meet a high quality standard, and can be offered by the leasing authority for general needs use, or for temporary accommodation for those awaiting a social rented allocation. Tenancies are normally set for a period of up to five years, with the potential for extension.

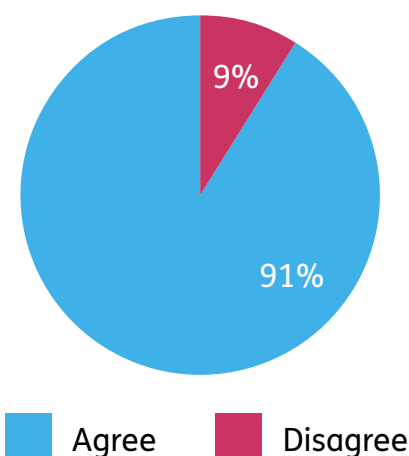
The intention of a long-term leasing scheme of this kind is to further increase the volume of well managed and well maintained housing stock within the PRS. This can be of benefit to the tenant, and those landlords who experience issues in effectively managing and maintaining properties, particularly “accidental” landlords. The Department is now exploring what a long-term leasing scheme of this kind would look like in the Northern Ireland market context, and will seek views in developing and delivering a PSL scheme.

PROPOSAL 4 – To introduce legislation to stipulate that rents can only be increased once in any 12 month period.

Responses to Consultation

There were 34 responses to this proposal of which 31 (91%) supported the proposal and 3 (9%) were against the proposal. Of the 91% that supported the proposal, 35% said the proposal didn't go far enough.

Proposal 4 - Rent Increase



Of the 9% who disagreed with the proposal some felt it was too rigid and needed to be more flexible to enable landlords to respond if changing circumstances meant that their costs became volatile (rises to interest rates or inflation).

Conclusion/Departmental Response

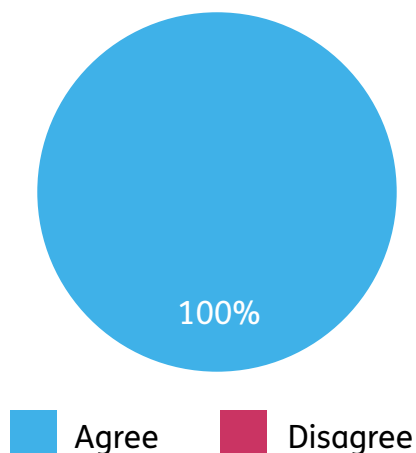
The Department will introduce legislation to restrict the number of times a landlord can increase the rent to once in any 12 month period. This will be part of a PRS Bill which the Department aims to deliver in this mandate.

PROPOSAL 5 – The Department will seek to bring forward legislation to ensure all private tenants are issued with a written agreement which must contain mandatory terms regardless of the type or length of the tenancy.

Responses to Consultation

There were 32 responses to this proposal with all 32 supporting the proposal.

Proposal 5 - Tenancy Agreements



Conclusion/Departmental Response

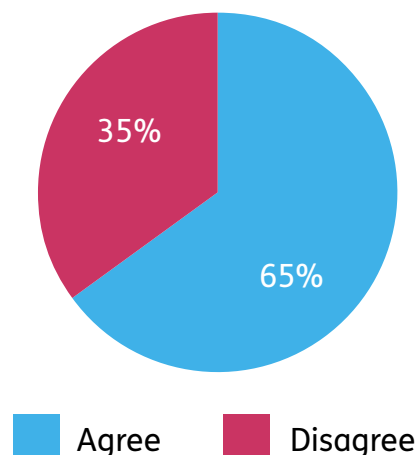
The Department will make it mandatory that landlords will provide their tenants with a written statement of tenancy terms which will include prescribed information. We will also repeal the requirement for a rent book and introduce a requirement for receipts where rent payment is made in cash.

PROPOSAL 6 – Amend the notice to quit period from 4 weeks to 2 months for tenancies lasting longer than 12 months.

Responses to Consultation

There were 34 responses to this proposal of which 22 (65%) supported the proposal and 12 (35%) were not in favour of the proposal.

Proposal 6 - Notice to Quit



There were mixed responses to this proposal with those in support saying that this would give a more adequate period for tenants to find alternative accommodation and those against concerned that landlords may then ask for 2 months' rent in advance making

accessibility to the PRS even harder for tenants.

Conclusion/Departmental Response

The Department considers that the notice to quit period landlords have to give tenants should be extended.

The Minister in a statement to the Assembly in November 2020 expressed her intention to extend the notice to quit, and to consider if it was possible to extend it to 6 months.

We have commenced a consultation process to gauge the implications of this and views of the sector around this proposal.

Until this has been completed the Department will proceed with the proposal extending the notice to quit period a landlord is required to give to 8 weeks. A provision for the Department to change the NTQ period to 6 months or a period less than that will also be provided in legislation to allow time for further policy development and a public consultation process around the 6 months NTQ to gauge the implications of this and views of the sector around this proposal

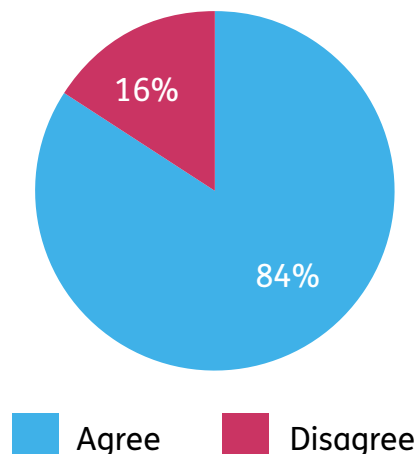
Given the concerns around affordability and in order to mitigate against landlords charging 8 weeks deposit which would make access to the PRS even more difficult for those on low income the Bill will introduce an offence for a landlord to charge a deposit of more than 1 months' rent.

PROPOSAL 7 – The Department will seek to introduce legislation for a Fast Track Eviction Scheme which may include mandatory grounds for possession and provide appropriate safeguards to ensure fairness.

Responses to Consultation

There were 32 responses to this proposal of which 27 (84%) supported the proposal and 5 (16%) were not in favour of the proposal.

Proposal 7 - Fast Track Eviction



There was a high level of support for a Fast Track Eviction Scheme. However those who were opposed to the proposal believed it would be more appropriate that the Department invested in mediation services which could be used to ensure vulnerable people are not put at risk of homelessness. Others felt that in order to develop policy in this area there would need to be an objective evidence base to substantiate the argument largely put forward by landlords that the current eviction process is both too expensive and lengthy. It was also thought that this proposal would be best supported by the introduction of a housing panel.

Conclusion/Departmental Response

The Department has been gathering more evidence on this proposal. Firstly, from landlords on their experience of taking a possession order case through the court and secondly from statistics available from the Department of Justice. Further research has also been carried out on the Fast Track Eviction process in England and Wales. In light of:

- Lack of statistics on PRS evictions in N.I.
- Lack of evidence that a new process is required; and
- Lack of evidence that fast track eviction actually works

The Department will therefore put a fast track eviction scheme on hold for now as evidence is difficult to obtain. As a long term aspiration we will seek to explore ways to get the necessary evidence. The Department will also consider the outcomes of the mediation pilot and work with Department of Justice to explore the potential to use the mediation service to resolve disputes thus preventing the need for cases to progress to court

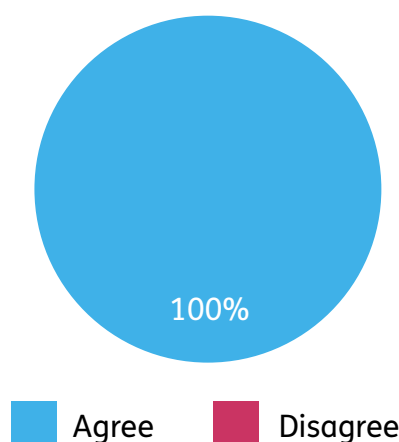
As part of a programme of longer term work the Department will consider the possibility of creating grounds for eviction and stakeholders will be consulted on this. However this will not be part of a PRS Bill delivered in this mandate.

PROPOSAL 8 – To review the impact of the Chartered Institute of Housing (CIH) training course and explore the funding options for an extension of the course.

Responses to Consultation

There were 29 responses to this proposal with all 29 supporting the proposal.

Proposal 8 - Landlord CIH Training



Conclusion/Departmental Response

CIH delivered a 'Learning to Let' training course to registered private landlords from April 2016-March 2019, partly subsidised by the Department. Training was provided to 335 registered landlords/letting agents.

An evaluation of the training showed that the impact was limited and the training has been discontinued.

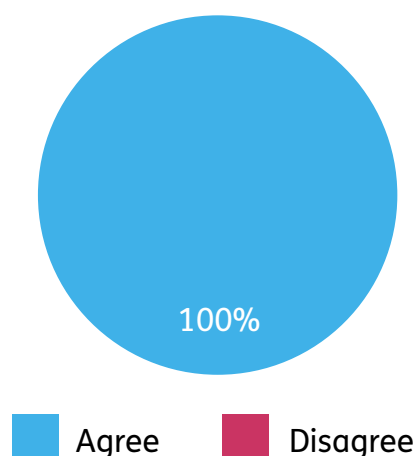
The Department will continue to work with CIH to consider further options.

PROPOSAL 9 – The Department will fund a pilot dedicated landlord advice line.

Responses to Consultation

There were 29 responses to this proposal with all 29 supporting the proposal.

Proposal 9 - Landlord Helpline



Conclusion/Departmental Response

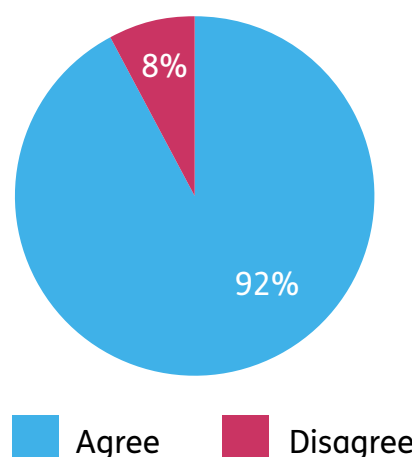
In the interim period from the completion of the review to the restoration of the Northern Ireland Executive the Department conducted a pilot landlord helpline service with Housing Rights as our delivery partner. Following an evaluation of the pilot the service was procured and a contract awarded for delivery of the scheme on a permanent basis.

PROPOSAL 10 – To develop a tenant information pack which a landlord must provide to the tenant at the commencement of the tenancy.

Responses to Consultation

There were 37 responses to this proposal of which 34 (92%) supported the proposal and 3 (8%) were not in favour of the proposal.

Proposal 10 - Tenant Information Pack



Those who disagreed stated that tenants already receive information at the commencement of a tenancy and there is no evidence to suggest whether it is read or not.

Conclusion/Departmental Response

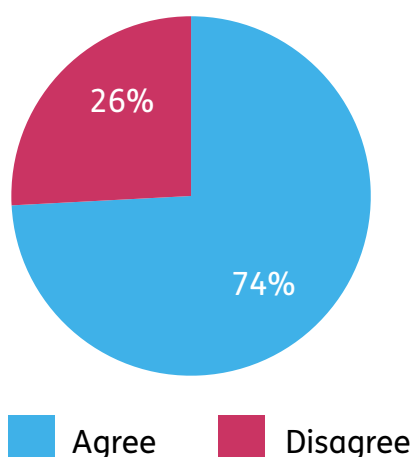
While working on and developing a written statement of tenancy terms this highlighted duplication in the information that would also be provided in a tenant information pack. Therefore this is being subsumed into the written statement of tenancy terms proposal and we will signpost tenants to the Smart Renter website. This will therefore not be part of a PRS Bill delivered in this mandate.

PROPOSAL 11 – Amend the Landlord Registration Regulations to incorporate a fitness declaration at the point of registration.

Responses to Consultation

There were 31 responses to this proposal of which 23 (74%) supported the proposal and 8 (26%) were not in favour of the proposal.

Proposal 11 - Fitness Declaration



Those who disagreed typically felt this proposal was too light touch and reaffirmed their support for a mandatory licensing scheme for the PRS while private landlords see licensing as an unnecessary heavy regulatory burden.

Conclusion/Departmental Response

This recommendation from the 2017 review has somewhat been overtaken by recent developments. A project group has been established with representatives from all eleven councils to explore the potential to transfer the landlord registrar function from the Department to them. This would involve a reform of the system to include inspections

and would be closely linked to a review of the current fitness standard.

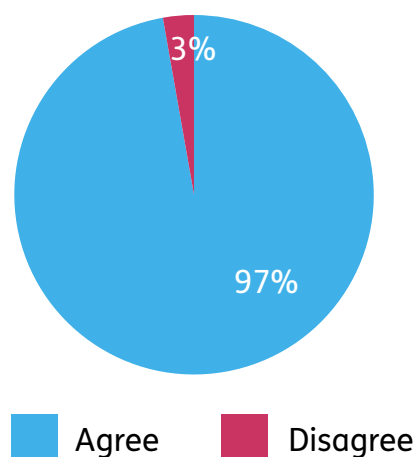
Therefore in order to achieve this aim we will take it forward as part of this current project.

PROPOSAL 12 – To introduce a regulatory framework for all letting agents including bringing forward legislation to ban letting agent fees.

Responses to Consultation

There were 34 responses to this proposal of which 33 (97%) supported the proposal and 1 (3%) was not in favour of the proposal.

Proposal 12 - Letting Agent Regulation



There was significant support for this proposal as currently there is no form of letting agent regulation. However not everyone thought that all fees should be banned. Instead they supported a ban on fees for tenants subject to exemptions for expenses reasonably incurred by agents e.g. replacing lost keys, repairing damage to property caused by tenant.

Conclusion/Departmental Response

While the consultation was underway the Department became aware of ongoing legal proceedings involving an existing piece of legislation ('The Commission on Disposal of Lands NI Order 1986') introduced by the then Department of Finance and Personnel which bans fees for services delivered for the benefit of the landlord.

The Department issued guidance to landlords and tenants on the findings of the court case.

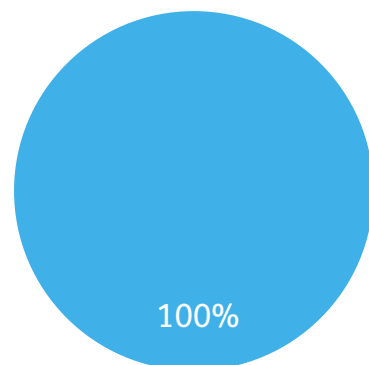
The 2017 review stated that the Department would not only look at banning letting agent fees but would also introduce a regulatory framework for all letting agents. However the cross cutting nature of this issue necessitates further detailed work with colleagues in other Departments and therefore while this is not part of the current Bill the Department will pursue in the long term.

PROPOSAL 13 – To introduce legislation as soon as practicable to make it a mandatory requirement for private landlords to provide smoke and carbon monoxide detectors and to carry out periodic electrical checks.

Responses to Consultation

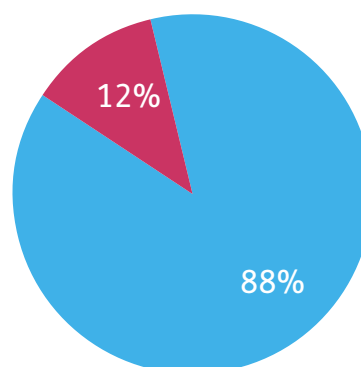
Responses to this Proposal came in two parts – There were 32 responses to the smoke and carbon monoxide detectors proposal with all 32 supporting the proposal whereas there were 33 responses to the introduction of periodic electrical checks with 29 (88%) supporting the proposal and 4 (12%) were not in favour of it.

Proposal 13 - Smoke & Carbon Monoxide Alarms



■ Agree ■ Disagree

Proposal 13 - Electrical Safety Checks



■ Agree ■ Disagree

The main objection to the electrical checks is that 5 years is too frequent. It was also said that it was unfair because it would only be a requirement for the PRS and not for owner occupied or social rented sectors and also it could prove costly for private landlords.

Conclusion/Departmental Response

It is proposed to make an enabling power in primary legislation which will make it obligatory for any domestic private rented property to be subject to periodic electrical

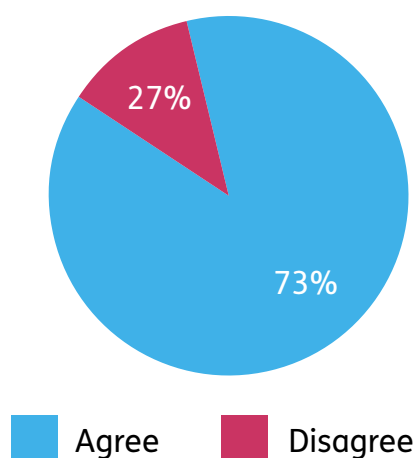
checks. This will impose duties on landlords to carry out a periodic electrical check for any domestic private rented property. As a result landlords will be prevented from commencing a new lease where an electrical check has not been certified. The certification process will confirm that such checks have been carried out. The enabling power will be part of a PRS Bill delivered in this mandate and will be followed by a set of regulations.

PROPOSAL 14 – To introduce legislation around Energy Performance Certificate (EPC) ratings similar to that in England & Wales where landlords will be prevented from commencing a new lease where the EPC of that dwelling is below the minimum permitted energy efficiency level of a band/rating level (ratings still under consideration).

Responses to Consultation

There were 30 responses to this proposal of which 22 (73%) supported the proposal and 8 (27%) were not in favour of the proposal.

Proposal 14 - EPC Ratings



Of those that disagreed with the proposal the main concern was that the cost of making relevant improvements to properties will be prohibitive for landlords. They stated that government funding in the form of grant or loan funding should be made available.

Conclusion/Departmental Response

As the rates of fuel poverty are highest in the PRS the Department proposes to make an enabling power in primary legislation which will make it obligatory for any domestic private rented property in NI to have a minimum EPC rating. This will also be an important element of work to improve energy efficiency across all tenures of our housing stock and enable us to meet our commitments to achieve net zero carbon by 2050.

The Department will work with experts in the area of energy efficiency and colleagues in the Department for the Economy who are developing the Energy Strategy to bring forward proposals on appropriate EPC standard setting, the timeframes for delivery and consideration around exemptions for particular properties.

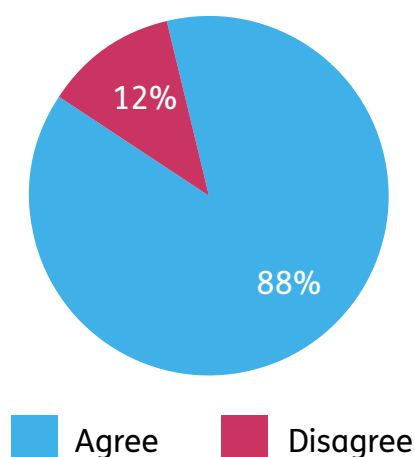
The Department will include an enabling power as part of a PRS Bill delivered in this mandate and this will be followed by a set of Regulations.

PROPOSAL 15 – Amend legislation so that all unfit properties built before 1956 are subject to rent control.

Responses to Consultation

There were 25 responses to this proposal of which 22 (88%) supported the proposal and 3 (12%) were not in favour of the proposal.

Proposal 15 - Rent Control Date



Those who had objections to this proposal felt that any property, irrespective of its age, should be subject to rent control if it fails to meet the fitness standard. Also contained in the feedback received were comments on the current fitness standard and the urgent need for this to be reviewed.

Conclusion/Departmental Response

It is important to note that the Department will be undertaking a review of the fitness standard and that the proposal to transfer landlord registration to councils will, in the slightly longer term, drive improvements in the PRS fitness levels. That said it is our intention to amend the date in the Prescribed

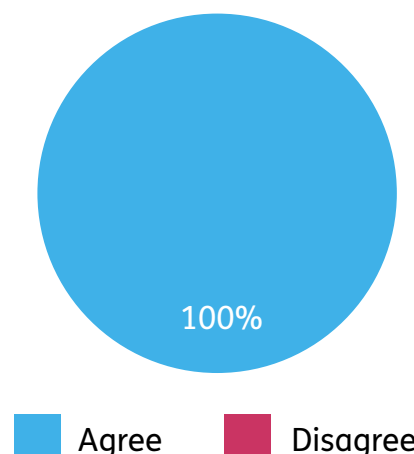
Dwelling-house Regulations (Northern Ireland) 2007 from 1945 to 1956. This will be done in parallel to the Bill being delivered in this mandate.

PROPOSAL 16 – The Department will examine the financial case for establishing an independent housing panel for Northern Ireland.

Responses to Consultation

There were 28 responses to this proposal with all 28 supporting the proposal.

Proposal 16 - Housing Panel



Conclusion/Departmental Response

The intervening period between the review of the Role and Regulation of the Private Rented Sector in 2017 and the restoration of the Northern Ireland Executive saw the Department commence pilot projects which will be vital in informing future decisions around a Housing Panel, such as, the scope, functions and cost of such a panel.

While not part of the current Bill evaluation of the mediation pilot, the landlord helpline

service and the project to look at the Landlord Registrar function transfer are ongoing pieces of work pivotal to inform the decision on a future housing panel.

As well as the 16 main proposals for change in the 2017 consultation document the Department also consulted on amendments to other existing pieces of PRS legislation.

Since the introduction of the Private Tenancies (Northern Ireland) Order 2006 the Department had identified a number of areas that required clarification.

Post project evaluations of the Landlord Registration and Tenancy Deposit Schemes also brought about some recommendations for changes to the legislation.

The following pages set out responses to these particular changes a few of which will be part of a PRS Bill delivered in this mandate. The others will be amended by subordinate legislation in due course.

Private Tenancies Order Proposals for Change

A summary of consultation responses and recommendations on the '2006 Private Tenancies Order (PTO) proposals for change' are set out in the following paragraphs.

PTO Proposal 1 – Tenant to be provided with a rent book.

Responses to Consultation

There were 10 responses to this proposal with all 10 supporting the proposal.

Conclusion/Departmental Response

The Department will not implement this proposal as the requirement for a rent book is being repealed.

PTO Proposal 2 – Tenant to be provided with a rent book which must contain certain specified information.

Responses to Consultation

There were 9 responses to this proposal with all 9 supporting the proposal.

Conclusion/Departmental Response

The Department will not implement this proposal as the requirement for a rent book is being repealed.

PTO Proposal 3 – Notice of Unfitness/ Disrepair. Amend Articles 18(4) & 19(4) of the PTO to specify a period of less than 21 days to require a person to carry out work where there is imminent danger.

Responses to Consultation

There were 9 responses to this proposal with all 9 supporting the proposal.

Conclusion/Departmental Response

The Department will implement this proposal.

PTO Proposal 4 – Functions of the appropriate district council. Create an offence similar to that in Article 28 for Article 36 if a person obstructs an authorised officer of the council from entering the property.

Responses to Consultation

There were 11 responses to this proposal of which 7 (64%) supported the proposal and 4 (36%) were not in favour of it.

Those who disagreed preferred that the onus should be on the landlord to give officers access to their property after the landlord makes an application for a Certificate of Fitness.

Article 36 states what a council must do where it has received an application for a fitness inspection from either a landlord or a tenant.

Conclusion/Departmental Response

The Department will not implement this proposal as it agrees that where a landlord requests a fitness inspection they should ensure a council officer has access to the property. It is unlikely that a tenant who requested a fitness inspection would then obstruct an inspector. In addition this proposal has the potential of criminalising tenants.

PTO Proposal 5 – Prosecution of Offences. Article 68(3) change ‘councils may’ to ‘councils shall’ so rather than enabling make it a requirement.

Responses to Consultation

There were 11 responses to this proposal of which 6 (55%) supported the proposal and 5 (45%) were not in favour of it.

Those who disagreed believe that this would conflict with the Government’s Better Regulation Agenda and the Enforcement Concordat.

Conclusion/Departmental Response

The Department will not implement this proposal as recent legal advice suggests it would not be desirable to make this an absolute duty as there may be circumstances where it is not possible or desirable to carry out every inspection.

PTO Proposal 6 – Private Tenancies (Forms) Regulations (Northern Ireland) 2007 Schedule 2 Form 1 (Include a requirement for landlords to provide electrical certification as part of application for fitness certificate).

Responses to Consultation

There were 9 responses to this proposal of which 8 (89%) supported the proposal and 1 (11%) was not in favour of it.

Conclusion/Departmental Response

The Department will not implement this proposal because it will not be necessary when the regular electrical checks become compulsory.

Tenancy Deposit Schemes (TDS) Proposals or Change

A summary of consultation responses and recommendations on the 'Tenancy Deposit Schemes Regulations' are set out in the following paragraphs.

TDS Proposal 1 – Retrospective Protection

Responses to Consultation

There were 15 responses to this proposal of which 7 (47%) supported the proposal and 8 (53%) were not in favour of it.

There was a mixed response to the proposal to introduce retrospective protection. Some of those against cited that it would be impossible to determine, at the point of protecting the deposit, the condition of a property that had been rented 10 or more years ago.

Conclusion/Departmental Response

At the time of the consultation in 2016 it seemed reasonable that since the Tenancy Deposit Schemes had come into operation in 2013 that deposits prior to this date should also be protected. However, due to the passage of time and by the time legislation is brought forward it will be nearly 10 years since the Tenancy Deposit Schemes commenced. Recent evidence from the Scheme Administrators shows an average tenancy lasts 18 months therefore we see little value in taking this proposal forward.

The Department will not implement this proposal as part of a PRS Bill delivered in this mandate.

TDS Proposal 2 – Time limit for deposit protection – The Department will amend legislation to allow landlords additional time to protect the deposit so landlords will have 28 days to protect the deposit and 35 days to give the required information to the tenant.

Responses to Consultation

There were 13 responses to this proposal with all 13 supporting the proposal.

Conclusion/Departmental Response

The Department will implement this proposal as part of a PRS Bill delivered in this mandate.

TDS Proposal 3 – Prosecution Time Bar- Amend TDS Legislation so that time limitation will not be a barrier to enforcement.

Responses to Consultation

There were 12 responses to this proposal of which 11 (92%) supported the proposal and 1 (8%) was not in favour of it.

The only objection was that if there was only an extension to the time limit then the same issue could arise.

Conclusion/Departmental Response

The Department will implement this proposal as part of a PRS Bill delivered in this mandate so that time limitation will not be a barrier to enforcement action.

TDS Proposal 4 – Fixed Penalties – Amend TDS Legislation to allow part of the penalty to be paid to the tenant.

Responses to Consultation

There were 12 responses to this proposal of which 3 (25%) supported the proposal and 9 (75%) were not in favour of it.

Those against stated that the tenant would not be disadvantaged as their deposit would now be protected.

Conclusion/Departmental Response

The Department will not implement this proposal. Councils will still be entitled to all fixed penalty monies to assist with the implementation of the Private Tenancies Order.

TDS Proposal 5 – Court Decisions – Change TDS Legislation so that courts can order the landlord to protect the deposit.

Responses to Consultation

There were 10 responses to this proposal of which 9 (90%) supported the proposal and 1 (10%) was not in favour of it but did not give a reason.

Conclusion/Departmental Response

The Department will work with the Department of Justice and amend the Private Tenancies Order to ensure this proposal can be implemented.

TDS Proposal 6 – Monies in designated accounts – Explore feasibility of allowing TDS administrators to use monies in designated accounts to work with Housing Associations to invest in affordable housing.

Responses to Consultation

There were 11 responses to this proposal of which 10 (90%) fully supported the proposal and 1 (10%) was not in favour of it stating that monies should remain with the scheme administrators to reduce costs of the insurance scheme.

Conclusion/Departmental Response

The Department will explore how scheme administrators should use monies in designated accounts.

TDS Proposal 7 – Proactive approach by Council Environmental Health Officers.

Responses to Consultation

There were 11 responses to this proposal of which 9 (80%) fully supported the proposal and 2 (20%) were not in favour of it. Those opposing did not agree that councils should be using resources to pursue minor non-compliance issues.

Conclusion/Departmental Response

The Department will continue to encourage all councils to be more proactive and use the legislative powers available to them to prosecute for non-compliance.

TDS Proposal 8 – Correspondence address – Amend para 1(d) of Schedule 1 to the TDS Regulations (NI) 2012 to change ‘Northern Ireland’ to ‘United Kingdom’.

Responses to Consultation

There were 10 responses to this proposal of which 9 (90%) fully supported the proposal and 1 (10%) was not in favour of it as they thought this might discourage institutional investors.

Conclusion/Departmental Response

The Department will implement this proposal.

TDS Proposal 9 – Transfer between schemes – Amend Regulation 14 to insert a timeframe for transfer of a deposit and protection between schemes.

Responses to Consultation

There were 9 responses to this proposal with all 9 supporting the proposal.

Conclusion/Departmental Response

The Department will implement this proposal.

Landlord Registration Scheme (LRS) Proposals for Change

A summary of consultation responses and recommendations on the 'Landlord Registration Scheme Regulations' are set out in the following paragraphs.

LRS Proposal 1 – Registration Fee – The Landlord Registration fee to be re-examined at registration renewal.

Response to Consultation

There were 10 responses to this proposal with all 10 fully supporting the proposal.

Conclusion/Departmental Response

This was reviewed as part of overall Landlord Registration Scheme evaluation in late 2016/early 2017.

LRS Proposal 2 – Enforcement – Liaise with councils to improve enforcement processes to ensure all landlords are complying with the law and registering.

Responses to Consultation

There were 9 responses to this proposal of which 8 (90%) fully supported the proposal and 1 (10%) was not in favour of it stating that enforcement processes are already sufficiently robust.

Conclusion/Departmental Response

The Department will continue to liaise with councils on this.

LRS Proposal 3 – Accountability – To advise landlords twice yearly explaining how the registration fee is used.

Responses to Consultation

There were 9 responses to this proposal with all 9 fully supporting the proposal.

Conclusion/Departmental Response

The Department will implement this proposal.

LRS Proposal 4 – Renewal Process – Examine the possibility of making the renewal process fully electronic by removing the clerical application facility at renewal.

Responses to Consultation

There were 9 responses to this proposal with all 9 fully supporting the proposal.

Conclusion/Departmental Response

This proposal will not be implemented as legal advice is that the Department cannot impose the removal of the clerical application facility. The Department is encouraging all landlords to renew electronically. For clerical applications the registration fee is £80 as opposed to £70 for an electronic application.

LRS Proposal 5 – Correspondence address – Amend para 1(e) of Schedule 1 to the LRS Regulations (NI) 2014 to change ‘Northern Ireland’ to ‘United Kingdom’.

Responses to Consultation

There were 9 responses to this proposal of which 8 (90%) fully supported the proposal and 1 (10%) was not in favour of it as they thought this might discourage institutional investors.

Conclusion/Departmental Response

The Department will implement this proposal.

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Commonities



Private Rented Sector Regulation update

Environmental Health

May 2021

Overview

- Environmental Health role
- DfC Review of Private Rented Sector
- Proposed Changes

Environmental Health role

Regulatory Roles

- Public Health
- Housing (Private Tenancy Legislation)

Health and Wellbeing Advisory Role

- Affordable Warmth
- Energy Efficiency Advice
- Home Accident Prevention service

Private Tenancies (NI) Order 2006

Landlord Obligations

- application for fitness inspections if property is pre 1945 (exemptions apply)
- repair obligations
- comply with notice to quit periods
- provide tenants with a rent book, free of charge
- ensure tenants are free from harassment and illegal eviction

Current Fitness standard

- Be structurally stable
- Be free from serious disrepair
- Be free from dampness prejudicial to health
- Have adequate provision for heating, lighting and ventilation
- An adequate piped supply of wholesome water
- Facilities for the preparation and cooking of food
- WC, Fixed bath or shower and Wash hand basin
- Drainage of foul, waste and surface water

Fitness Standard Review

- DfC consultation 2016/2017 on a Review of the Fitness standard
- MUDC provided a detailed response to Consultation recommending HHSRS risk based standard used In England and Wales
- Extract from Minister's statement 4th May 2021

“It is clear reform is urgently needed to improve protections in the private rented sector particularly for the most vulnerable in our communities. **The initial Bill is only the start. In the longer term I will also address issues such as Letting Agent Regulation, the introduction of Grounds for Eviction and Fitness Standards.** These improvements have been a long time coming and will enhance conditions for tenants living in the sector.”

- May form part of Landlord Registration proposals

Tenancy Deposit Schemes/ Landlord Registration Scheme

- Tenancy Deposit Schemes introduced in 2013.
Landlords to protect deposits in independent schemes
- Landlord Registration Scheme was introduced in 2014,
to enable all private landlords to register and provide
details of themselves and their properties creating a
single database of landlords. Landlords pay £70 fee for
3 year registration.

Using receipts from the LRS fee, DFC covers staff costs/ NI
direct costs of administering the scheme, Landlord Advice
line, independent Housing Mediation Service

DfC Private Rented Sector Review and Proposals for Change

The Department set out a number of proposals including-

- Restrict number of times rent can be increased in a 12 month period
- Ensure all private tenants issued with a written agreement with mandatory terms
- Increase min notice to Quit from 4 weeks to 2 months
- Pilot a dedicated Landlord advice line
- Amend the Landlord Registration regulations to incorporate a fitness declaration at the point of registration
- Other recommendations <https://www.communities-ni.gov.uk/consultations/private-rented-sector-northern-ireland-proposals-change>
- MUDC response 2017 broadly welcomed the proposals

Houses in Multiple Occupation (HMOs)

- Function transferred from NIHE to Councils in April 2019
- Belfast City Council HMO unit deliver the function on behalf of all NI Councils
- SLA in place
- All HMOs must be licenced
- Further information at

<https://www.belfastcity.gov.uk/nihmo>

Potential for transfer of Landlord Registration to Councils

- DfC established a working group in March 2020 with Council, SOLACE and DfC representatives
- DfC Appointed Consultants (ASM) to review options
- Options considered include model similar to HMO model
- Potential for Fitness standard declaration to be incorporated at point of registration

- DfC Minister statement May 21 “..... work is already underway to improve the PRS through a proposal to transfer the registration of landlords to local councils. This would see councils being provided with additional powers to strengthen and provide local enforcement of the PRS, funded by registration fees”

- Discussions are ongoing. Meeting of working group planned for March 21 postponed

Private Tenancies Bill

- DFC have announced earlier this month (May 21) that they intend to bring forward legislation to
 - Extend the notice to quit period, restrict deposits;
 - Ensure all private tenants are issued with a written agreement of tenancy terms;
 - Restrict rent increases to once in a 12 month period;
 - Make it a mandatory requirement for private landlords to provide smoke and carbon monoxide detectors and to carry out periodic electrical checks; and
 - Introducing an enabling power in primary legislation which will make provision for the introduction and enforcement of minimum standards of energy efficiency in the Private Rented Sector.
- Committee report is being prepared for the Environment Committee to update members on the proposals

From: Head of Private Rented Branch

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Date: 30 April 2021

Dear Sir/Madam

ENGAGEMENT WITH KEY STAKEHOLDERS ON DRAFT PRIVATE TENANCIES BILL

The Department intend to publish its response to the consultation on proposals to reform the private rented sector (PRS) on Tuesday 4 May 2021. You will see from the response that the Department plans to bring forward proposals during the current NI Assembly mandate; with others that require further research such as Letting Agent Regulation, the introduction of Grounds for Eviction and Fitness Standards, brought forward in the longer term.

Our purpose in writing to you is to make you aware that the Department is continuing to work with the Office of Legislative Council on the legislative proposals for this mandate.

To that end, a draft of the proposed Private Tenancies Bill is being sent to you for your consideration and review.

Whilst this is in draft form, and therefore subject to change, the majority of drafting has been completed. Key Proposals in the Bill include:

- restriction on rent increases;
- deposit amount restricted to one month's rent;
- time limit to protect a deposit with one of the scheme administrators extended to 28 days and time limit to provide confirmation to tenant extended to 35 days;
- certain offences in connection with tenancy deposits to be continuing offences;
- tenants to be given prescribed information relating to the tenancy;
- requirement for receipts to be provided where rent payment is made in cash;
- extension of the length of the Notice to Quit period to be provided by landlords;
- providing a statutory limit on the tenancy deposit amount requested for a private tenancy;
- making it a legal requirement for private landlords to have working smoke and carbon detectors installed in their rented properties and to carry out periodic electrical checks;
- provision to make regulations concerning the energy efficiency of dwelling-houses let under a private tenancy.

Collectively these key proposals will assist in addressing the aim of the 2017 review which was to make the PRS a safer and more secure housing option for a wider range of households. This includes the most vulnerable in our society who, in part, due to limits on social housing provision, find themselves in this sector. These much needed changes will ensure better regulation of the PRS and offer greater protection to private renters.

The Bill is currently being finalised and it is hoped, subject to Executive approval, to progress the Bill through the NI Assembly before the end of the current mandate which is March 2022.

This means that we are now working to a very tight timeframe in order to deliver the Bill within the current mandate.

While the Department is providing you with details on the key policy and legislative proposals to be included in the Private Tenancies Bill, we wish to remind you that the primary legislation outlines the wider principles of the legislative changes with much of the detail to be provided in subsequent regulations.

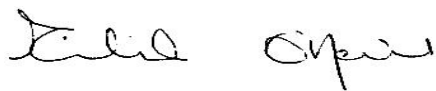
Additionally it is proposed that officials will carry out a subsequent engagement exercise with key stakeholders on the proposed detail to be included in regulations which will provide for the new proposed standards and clarify responsibilities and obligations expected.

We would be grateful for any comments you may have on the content of this draft Bill by 7 May 2021 and have included a separate sheet for your comments.

We look forward to examining your comments to the new legislative proposals. Please return responses to prs@communities-ni.gov.uk

Many thanks

Yours sincerely,



Eilish O'Neill
Head of Private Rented Branch



Conrad Murphy
Head of Private Rented Branch

	Name	Organisation	Date
Completed by			

COMMENTARY ON CLAUSES	comments
<p>Clause 1: Tenant to be given notice regarding certain matters; grant of tenancy</p> <p>Clause 1 inserts new Articles 4A and 4B. Article 4A introduces a requirement for the landlord of a private tenancy to provide the tenant, free of charge, with a written statement of the main terms of the tenancy within 28 days of the granting of the tenancy.</p> <p>Subsection (4) refers that any landlord who fails to comply with paragraph (2) is guilty of an offence under this Order.</p>	<p>Happy with content of this clause.</p>

COMMENTARY ON CLAUSES	comments
<p>Clause 1: Tenant to be given notice regarding certain matters; variation of certain terms</p> <p>Article 4B introduces a requirement for the landlord of a private tenancy to provide the tenant, free of charge, within 28 days with any variations of prescribed terms.</p> <p>Subsection (5) refers that any landlord who fails to comply with paragraph (2) is guilty of an offence under this Order.</p> <p>Amendments to Article 68 and 68A provides the powers for prosecution and punishment of offences up to level 4 of the standard scale on summary conviction with the two offences being subject to the fixed penalty notice regime of the 2006 Order.</p> <p>As previous Article 4 of the Private Tenancies Order (Northern Ireland) 2006 was repealed in error by the 2011 Housing (Amendment) Act (Northern Ireland). This clause permits section 1 of the Housing (Amendment) Act (Northern Ireland) 2011 to be omitted.</p>	<p>Happy with content of this clause.</p>

COMMENTARY ON CLAUSES	comments
<p data-bbox="203 268 931 339">Clause 2: Tenant to be given notice regarding certain past matters</p> <p data-bbox="203 379 981 523">Clause 2 introduces material provided for in Schedule 1 which contains the substance for giving notice to the tenants of dwelling houses that are let under a private tenancy for cases relating to transitional matters.</p> <p data-bbox="203 563 987 786">This clause enables any tenant where the tenancy was granted on or after 30 June 2011 (date that previous Article 4 was repealed in error) but before the date on which the Bill comes into operation to be provided, free of charge, with a written statement of the main terms of the tenancy or any alterations to said agreement.</p>	<p data-bbox="1010 379 1491 411">Happy with content of this clause.</p> <p data-bbox="1010 451 2011 635">There may however be a large amount of resources required following the 29th day after this clause is commenced due to every existing tenancy granted on or after 30 June 2011 potentially having to be provided prescribed information in prescribed format sent to their tenants.</p>

COMMENTARY ON CLAUSES	comments
<p>Clause 3: Tenant to be provided with a rent receipt for payment in cash</p> <p>Clause 3 replaces Article 5 of the 2006 Order and introduces a requirement where rent is paid in cash, for the landlord of a private tenancy to provide the tenant, free of charge, with a rent receipt detailing the payment date, amount paid, if any amount remains outstanding that amount or if paid in full that fact.</p> <p>Subsection 5 paragraph (5) makes a breach of paragraphs (2) or (3) an offence under the 2006 Order and permits that where a landlord fails to comply it punishes the landlord and where an agent has been appointed to provide the receipt, also that agent. If there is no agent and there is a breach then the landlord is guilty; if there is an agent and there is a breach, then both the landlord and agent are guilty.</p> <p>Paragraph (6) applies in the case of a controlled tenancy.</p> <p>This clause provides consequential amendments to Article 50 and inserts (4) to clarify that “similar document” does not include a receipt under Article 5(2); and additionally amends Article 66(1)(a) to “a rent book”</p> <p>Paragraph (8) provides for the offence to be a continuing offence and allows for punishment where a landlord is deemed to commit a further offence.</p>	<p>This is welcomed to bring receipting of rent payment in line with current practices.</p> <p>It is noted however that there is no opportunity to pay fixed penalty notice in lieu of prosecution which we believe would be a suitable enforcement for this offence.</p>

COMMENTARY ON CLAUSES	comments
<p>Clause 4: Limit on tenancy deposit amount; Breach of tenancy deposit limit; recoverability of excess</p> <p>Clause 4 new Article 5ZA limits the amount of deposit that is required in connection with a private tenancy to no more than 1 month's rent and where an excess of 1 month's rent has been paid then the amount exceeding that amount is recoverable by the person that paid it. This will only apply to deposits received after the commencement of this Bill and not retrospectively to those deposits taken before the legislation comes into operation.</p> <p>Subsection (2) provides a definition of 1 month's rent in cases where the private tenancy does not calculate rent monthly.</p> <p>New Article 5ZB provides for the breach of tenancy deposit limit and recoverability of excess and takes account of different circumstances where the deposit might be retained by the landlord.</p> <p>Subsection (3) introduces punishment and prosecution of offences up to level 4 on the standard scale, subparagraph (4) refers to the option to consider a fixed penalty notice under the 2006 Order fixed penalty regime.</p> <p>This Clause provides a number of consequential amendments.</p>	<p>Happy with content of this clause.</p>

COMMENTARY ON CLAUSES	comments
<p>Clause 5: Tenancy deposit schemes: time limits</p> <p>Clause 5 amends Article 5B of the 2006 Order and extends the time limits for a deposit to be protected in an approved scheme in paragraph (3) from 14 days to 28 days and gives additional time for a landlord to provide the information to the tenant and amends paragraph (6)(b) from 28 days to 35 days.</p>	<p>Happy with content of this clause.</p>

COMMENTARY ON CLAUSES	comments
<p>Clause 6: Certain offences in connection with tenancy deposits to be continuing offences</p> <p>Clause 6 amends Article 5B of the 2006 Order making the offences under Article 5B (3) or (6) a continuing offence as long as the tenancy deposit breach persists. There will be no time barrier on prosecuting a person who fails to comply with the set requirements.</p>	<p>Extremely happy with content of this clause as we have been requesting it for many years.</p>

COMMENTARY ON CLAUSES	comments
<p data-bbox="203 269 730 301">Clause 7: Restriction on rent increases</p> <p data-bbox="203 344 965 636">Clause 7 applies to any private tenancy, except a controlled tenancy, and amends the 2006 Order by inserting 5C after 5D which provides that the rent payable under a private tenancy may not be increased more than once in any 12 month period. This will mean that there is no restriction upon when the first increase may take place but there must be a minimum of 12 months between increases. Any proposed increase should be made in writing.</p> <p data-bbox="203 679 965 783">The Department may make regulations under the draft affirmative procedure to prescribe circumstances where this restriction in paragraph (2) does not apply.</p> <p data-bbox="203 826 965 1043">Subsection 5D paragraph (1) applies to any private tenancy, except a controlled tenancy, and provides the requirement to give written notice of increase specifying the date on which the rent will take effect and the rent payable after the increase. The details of the notice will be specified in regulations made by the Department.</p>	<p data-bbox="1010 376 2018 520">We found this clause strange in that it prescribes what a landlord must do but the clause has no detail regarding an offence for not doing what is required, no penalty for not adhering to the requirements and no enforcement authority in relation to investigation of this matter.</p> <p data-bbox="1010 563 2018 667">We would also have concerns relating to historic rent increases. This clause would seem to imply that the offence may be taken back to first 12 months of the tenancy.</p>

COMMENTARY ON CLAUSES	comments
<p data-bbox="203 268 806 300">Clause 8: Fire, smoke and carbon monoxide</p> <p data-bbox="203 341 927 411">Clause 8 is intended to reduce the risk of injury or death caused by fire, smoke and carbon monoxide.</p> <p data-bbox="203 453 927 596">Subsections 11B to 11E set out a requirement on private landlords to provide fire, smoke and carbon monoxide detectors and details the landlord and tenant duties with regard to these.</p> <p data-bbox="203 638 972 782">The Department will subsequently bring forward proposals in regulations with the standards expected which are intended to reduce the risk of injury or death caused by fire, smoke or carbon monoxide.</p> <p data-bbox="203 823 978 1005">Subsection 11F paragraph (3) provides that a landlord is guilty of an offence under this Order with punishment and prosecution of offences up to level 4 on the standard scale, paragraph (4) refers to the option to consider a fixed penalty notice under the 2006 Order fixed penalty regime.</p> <p data-bbox="203 1046 987 1078">This clause also contains various consequential amendments.</p>	<p data-bbox="1010 341 1881 411">Happy with intention of this clause and look forward to further consultation and information on new regulations.</p> <p data-bbox="1010 453 1995 523">Confirmation is needed in regard to what will be the <i>Prescribed Date</i> referred to in 11A (b).</p> <p data-bbox="1010 564 2029 708">In relation to this provision we would ask for guidance on provision of battery powered devices versus hard wired installation. We are unsure as to what regime will be put in place for houses that have not presently got devices installed.</p> <p data-bbox="1010 750 1989 852">The requirement under Building Regulations for installation of smoke alarms only applies to properties built or substantially renovated after 1994.</p> <p data-bbox="1010 893 2018 995">Whilst it would appear that there is an offence under 11B (1) we also have concerns in relation to fire safety in those common parts of the tenancy as there does not appear to be an offence for this area in 11D.</p>

COMMENTARY ON CLAUSES	comments
<p data-bbox="203 269 757 304">Clause 9: Energy Efficiency Regulations</p> <p data-bbox="203 343 952 488">Clause 9 introduces Schedule 2 and notes its purpose with the provision of an enabling power to make regulations concerning the energy efficiency of dwelling houses let under a private tenancy.</p>	<p data-bbox="1037 339 1906 411">Happy with intention of this clause and look forward to further consultation and information on new regulations.</p>

COMMENTARY ON CLAUSES	comments
<p data-bbox="208 236 891 268">Clause 10: Electrical safety standards Regulations</p> <p data-bbox="208 311 967 454">Clause 10 introduces Schedule 3 and notes its purpose with the provision of an enabling power for the Department to make regulations concerning electrical safety standards in private tenancies.</p>	<p data-bbox="1014 311 1881 375">Happy with intention of this clause and look forward to further consultation and information on new regulations.</p> <p data-bbox="1014 383 2038 782">The issue of electrical installations in the private rented sector have been a great concern for many councils across Northern Ireland, and we would welcome any requirement to have regular checks along with certification and enforcement. We would welcome new mandatory electrical testing such as that which exists in Scotland. The provisions there include properties to have fixed wiring checks, Electrical Installation Condition Report, at least every 5 years. The EICR must also include a PAT test (Portable Appliance Test) on portable electric appliances that the landlord has included as part of the rental. There should however be further consultation in regard to what is a competent person.</p> <p data-bbox="1014 821 2027 1045">We would request that a clause is included regarding Gas Safety with the requirement for annual checks by a registered gas engineer. This is enforced by HSENI at present but we would believe that as the enforcement authority for PTO then this requirement would be better serviced by district councils with the offence included within PTO similar to the above mentioned Electrical requirements.</p>

COMMENTARY ON CLAUSES	comments
<p data-bbox="203 269 551 301">Clause 11: Notice to Quit</p> <p data-bbox="203 344 976 376">Clause 11 introduces a number of amendments to Article 14</p> <p data-bbox="203 419 954 600">This clause will now extend the mandatory notice to quit period for landlords to provide to tenants to 8 weeks (after the first 12 months and until the tenancy is 10 years old). The notice to quit for tenancies longer than 10 years will remain unchanged at 12 weeks.</p> <p data-bbox="203 643 987 823">In the case where a notice by a landlord is issued for a tenant to quit a dwelling house under a private tenancy this will have to be provided in the prescribed form and must contain prescribed information as subsequently set by the Department in regulations.</p> <p data-bbox="203 866 969 1046">In the case where a notice by a tenant is given such a notice will need to be given in writing with the relevant period being 4 weeks if the tenancy has not been in existence for more than 10 years; 12 weeks if the tenancy has been in existence for more than 10 years.</p> <p data-bbox="203 1090 981 1230">This clause includes a provision to alter the notice to quit periods by way of regulations by draft affirmative procedure and must consult with landlord and tenant representatives before laying any drafts.</p> <p data-bbox="203 1273 987 1305">This clause also contains various consequential amendments.</p>	<p data-bbox="1012 344 1921 376">Happy with content of this clause and welcome the clarity within.</p>

COMMENTARY ON CLAUSES	comments
<p>Schedule 1:</p> <p>Establishes the procedures to be followed where an existing tenant did not receive a written statement of the main terms of the tenancy during the period that Article 4 was repealed. The tenant should be given that statement and any alterations regarding such past matters within 28 days of the commencement of this Bill.</p> <p>Paragraphs 1 and 2 are similar to Article 4A and 4B and provides for particular cases where a tenant is to be given notice.</p> <p>Paragraph 3, 4 and 5 provides if a landlord is guilty of an offence under this Order that punishment and prosecution of offences are set at up to level 4 on the standard scale, with the option to consider a fixed penalty notice under the 2006 Order fixed penalty regime.</p> <p>Article 72(2) of the 2006 Order the Department may make regulations under paragraph 1, 2, or 5 which are subject to the negative resolution procedure.</p>	<p>This clause may involve a large amount of resources being required following the 29th day after this clause is commenced due to every existing tenancy granted on or after 30 June 2011 potentially having to be provided prescribed information in prescribed format sent to their tenants.</p> <p>Complaints may arise at any date after commencement relating to variations made many years before with very scant evidence and detail.</p>

COMMENTARY ON CLAUSES	comments
<p>Schedule 2</p> <p>Sets out the power for the Department to make regulations to detail the requirements around energy efficiency of dwelling houses let under a private tenancy and what the minimum level any Energy Performance Certificate should be set at.</p> <p>Regulations will also provide which particular dwelling houses that will be exempt from any prohibitions imposed by the regulations.</p> <p>This schedule provides a power for the Department to specify in regulations any offences committed by virtue of non-compliance.</p> <p>An amendment to Article 72 provides that when making the regulations the Department must consult the Department for the Economy, district councils and such persons as appear to the Department to be representative of landlords and any other people the Department considers appropriate.</p>	<p>We welcome any future provisions that improve the thermal quality of any rented property and a new mandatory requirement that a property has to have a minimum EPC rating is a good starting point. Having reviewed the previous 2016 House Condition Survey we would have concerns that quite a large number of properties in this sector may be D standard and below (75,000 properties).</p> <p>We believe that a substantial economic package will be required to improve the standard in this sector.</p> <p>We also find this provision somewhat limited when we have been campaigning to have the Fitness Standard reviewed to include this as one element requiring change. Our concerns have always been that landlords can set up tenancies in properties that only meet our very basic fitness standard and with these provisions those properties in the lowest thermal standard may become an area of empty home blight if funding and technology are not available for improvement. It is also recognised that replacing the boiler with a more efficient replacement can sometimes lift a property substantially without addressing the other thermal deficiencies.</p> <p>We look forward to the further discussion and consultation in this matter and how these changes will sit alongside the Energy Performance Building Regulations 2015 that are presently enforced by councils through our Building Control Departments.</p>

COMMENTARY ON CLAUSES	comments
<p>Schedule 3</p> <p>Provides for the Department to make regulations which will make it obligatory for any domestic private rented property to be subject to periodic electrical checks. The regulations will detail the requirements around electrical safety standards in private tenancies which will involve certification so that proof will exist that such checks have been carried out with the power to create an offence.</p>	<p>Happy with content of this schedule and Clause 10 and await any further discussion and consultation in this matter.</p> <p>We still emphasise the situation in relation to Gas safety which we believe should be included in this Bill as it presents a serious risk to both serious physical injury and/or asphyxiation.</p>

Private Tenancies Bill

[27/4/2021 9:39:2]

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SCHEDULES:

- | | |
|------------|---|
| Schedule 1 | Tenant to be given notice regarding certain past matters [s3] |
| Schedule 2 | Energy efficiency regulations [s1] |
| Schedule 3 | Electrical safety standards regulations [s2] |

A

B I L L

TO

Amend the law relating to private tenancies.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Tenant to be given notice regarding certain matters [j11]

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—

5 **“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.

10 (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.

15 (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

20 **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

Private Tenancies

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—

- 5 (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.

10 (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.”.

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

15 (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);”;

(b) in paragraph (8), after “under Article” insert “4A(4), 4B(5),”.

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

20 **Tenant to be given notice regarding certain past matters [j11A]**

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—

- 25 (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.

Tenant to be provided with a rent receipt for payment in cash [j12]

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

30 (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.

35 (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.

40 (3) The receipt must be provided—

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

5 (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
- 10 (b) any person appointed by the landlord to provide the receipt.

(6) Paragraph (7) applies where, in the case of a controlled tenancy, a receipt complying with paragraph (2)(a) and (b) was provided in accordance with paragraph (3) and—

- (a) where no further amount in fact remained outstanding—
 - 15 (i) the receipt stated that there was an amount outstanding, and
 - (ii) that amount consists wholly of a sum that is irrecoverable by virtue of Article 50(1); or
- (b) where an amount in fact remained outstanding (“the true arrears”)—
 - 20 (i) the receipt stated as outstanding an amount that was more than the true arrears, and
 - (ii) the difference between the stated amount and the true arrears consists wholly of a sum that is irrecoverable by virtue of Article 50(1).

25 (7) It is a defence for a person charged with an offence under paragraph (5) to prove that the landlord had a bona fide claim that the sum mentioned in paragraph (6)(a)(ii) or (b)(ii) was recoverable.

30 (8) If any default in respect of which a landlord is convicted of an offence under paragraph (5) continues for more than 14 days after that conviction, that landlord is deemed to have committed a further offence under that paragraph in respect of that default.”.

(3) In Article 50, after paragraph (3) insert—

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

35 (4) In Article 66(1)(a), for “the rent book; or” substitute “a rent book [*or ...*]; or”.

(5) In Article 68(1), for “5(4)” substitute “5(5)”.

Limit on tenancy deposit amount[j4A]

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

40 (2) After Article 5 insert—

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“Limit on tenancy deposit amount

Tenancy deposit limit of 1 month’s rent

5 **5ZA.**—(1) A person must not require the payment of a tenancy deposit in connection with a private tenancy that is in excess of the amount of 1 month’s rent payable under the tenancy.

(2) “1 month’s rent payable under the tenancy”, where the rent under a private tenancy is not payable monthly, means—

10 (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.

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

(4) Where a person—

(a) is convicted of an offence under paragraph (3), and

(b) has received a tenancy deposit in excess of the amount of 1 month’s rent payable under the tenancy,

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

(5) 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—

25 (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

30 **5ZB.**—(1) A tenancy deposit, in relation to a private tenancy, 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—

35 (a) a tenancy deposit is, on or after the commencement date, paid or retained (as defined in paragraph (3)), and

(b) [*at that time 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—

40 (a) a tenancy deposit is paid (at any time) in connection with a <<fixed-term>> private tenancy [*or a protected tenancy*],

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5 (b) on or after the commencement date, on *<or after>* the ending of that tenancy, the landlord and tenant enter into a new private tenancy *<of that or another dwelling-house>* (whether a fixed-term tenancy or a periodic one) *[or a statutory tenancy comes into existence]*, and

(c) on the granting *[or, as the case may be, coming into existence]* of the new tenancy, *<some or>* all of the deposit continues to be held *[(by the landlord or otherwise)]* in connection with the new tenancy,
10 the deposit is retained in connection with the new tenancy as from the date on which the tenancy is granted *[or, as the case may be, comes into existence]*.

(4) Paragraph (1) does not apply where a person seeks to recover a tenancy deposit under or in connection with a legal obligation that was in
15 existence before the commencement date (regardless of when the obligation accrues).

(5) Paragraph (2) does not apply where the tenancy deposit paid or retained was required to be paid or (as the case may be) liable to be retained under or in connection with a legal obligation that was in
20 existence before the commencement date (regardless of when the obligation accrues).

(6) In this Article—
“1 month’s rent payable under the tenancy” and “tenancy deposit”
have the same meaning as in Article 5ZA;
25 “the commencement date” means the date on which this Article comes into operation.”.

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

(4) In Article 68A (fixed penalty for certain offences)—
30 (a) in paragraph (1), after sub-paragraph (za) (as inserted by section 1) insert—
“(zb) an offence under Article 5ZA(3);”;
(b) in paragraph (8), after “4B(5),” (as inserted by section 1) insert “5ZA(3),”.

Tenancy deposit schemes: time limits [j6]

35 **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 [j7]

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

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“(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 [j2]

5 7.—(1) The 2006 Order is amended as follows.

(2) After Article 5B insert—

“Rent increases

Restriction on frequency of rent increases

10 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
- 15 (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.

20 (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.

Requirement to give written notice of increase

25 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—

- 30 (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—

- 35 (a) contain such other information, and
- (b) be in such form,

as may be prescribed.”.

(3) In Article 72(3) (regulations subject to the draft affirmative procedure), after “5A,” insert “5C,”.

Fire, smoke and carbon monoxide alarms, etc.[j3]

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

(2) After Article 11 insert—

“Application of Articles 11B to 11F

5 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
- 10 (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
15 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

20 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
25 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.

30 (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

35 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
40 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 “5ZA(3),” (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 [j8]

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 [j9]

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.

Notice to quit [j4]

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

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(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—

5 “(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;

10 (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—

15 (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.

20 (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

25 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.

30 (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.

35 (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.

40 (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.

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(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)—

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

(b) after paragraph (6) (as inserted by Schedule 3) insert—

“(7) Before laying a draft of regulations under Article 14 or 14A before the Assembly, the Department must consult—

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

10 (b) such persons as appear to it to be representative of tenants.”.

(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.

15 **Interpretation [jINT]**

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

Commencement [jCOMM]

20 **13.—**(1) This section, section 12 and section 14 come into operation on the day after the day on which this Act receives Royal Assent.

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

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

25 **Short title [jST]**

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

SCHEDULES

SCHEDULE 1

Section 2.

TENANT TO BE GIVEN NOTICE REGARDING CERTAIN PAST
MATTERS [S3]

*Tenancies granted on or after 30 June 2011 but before the coming into operation
of section 1*

1.—(1) This paragraph applies where—

(a) a private tenancy of a dwelling-house was granted on or after 30 June 2011
but before the commencement date; and

(b) the dwelling-house is let under that tenancy on the commencement date.

(2) The landlord under the tenancy must, within 28 days after the
commencement date, 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 sub-paragraph (2).

(4) A landlord who fails to comply with sub-paragraph (2) is guilty of an
offence.

*Variation of certain terms on or after 30 June 2011 but before the coming into
operation of section 1*

2.—(1) This paragraph applies where—

(a) on or after 30 June 2011 but before the commencement date, a prescribed
term of a private tenancy of a dwelling-house was varied; and

(b) the dwelling-house is let under that tenancy on the commencement date;
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
commencement date, 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) In paragraph (1) “varied” includes varied by omission.

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

(5) A landlord who fails to comply with sub-paragraph (2) is guilty of an offence.

Punishment and prosecution of offences under this Schedule

3. A person who is guilty of an offence under paragraph 1 or 2 is liable on
5 summary conviction to a fine not exceeding level 4 on the standard scale.

4. Proceedings for an offence under paragraph 1 or 2 may be instituted by the appropriate district council.

Fixed penalty notices

5.—(1) This paragraph applies where on any occasion an authorised officer of a
10 district council has reason to believe that a person (“P”) has committed an offence under paragraph 1 or 2.

(2) The authorised officer may give P a notice in the prescribed form offering P the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.

15 (3) A fixed penalty payable under this paragraph is payable to the district council whose officer gave the notice.

(4) Where P is given a notice under this paragraph in respect of an offence—

(a) no proceedings may be instituted for that offence before the expiration of the period of 14 days, or such other period as may be specified in the
20 notice, following the date of the notice; and

(b) P may not be convicted of that offence if P pays the fixed penalty before the expiration of that period.

(5) A notice under this paragraph must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving
25 reasonable information of the offence.

(6) A notice under this paragraph must also state—

(a) the period during which, by virtue of sub-paragraph (4), proceedings will not be taken for the offence;

(b) the amount of the fixed penalty; and

30 (c) the person to whom and the address at which the fixed penalty may be paid.

(7) The fixed penalty payable to a district council under this paragraph in respect of an offence under paragraph 1 or 2 is an amount determined by the council, being an amount not exceeding one-fifth of the maximum fine payable on
35 summary conviction of that offence.

(8) In any proceedings a certificate which—

(a) purports to be signed on behalf of the clerk of the council, and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

40 is evidence of the facts stated.

(9) A district council may use amounts paid to it in pursuance of notices under this paragraph only for the purposes of its functions under this paragraph, the 2006 Order or such other of its functions as may be prescribed.

(10) In this paragraph “authorised officer”, in relation to a district council,
5 means an officer of the council who is authorised in writing by the council for the purposes of this paragraph.

Supplementary and interpretation

6. Regulations under paragraph 1, 2 or 5 are subject to negative resolution.

7. In paragraphs 1 and 2 “the commencement date” means the date on which
10 section 1 comes into operation.

8. Any expression that is used in both this Schedule and the 2006 Order has the same meaning in this Schedule as in that Order.

SCHEDULE 2

Section 9.

15 ENERGY EFFICIENCY REGULATIONS [S1]

1. The 2006 Order is amended as follows.

2. After Article 11F (as inserted by section 8) insert—

“Energy efficiency

Energy efficiency of dwelling-houses let under a private tenancy

20 11G.—(1) The Department may by regulations provide that a person may not—

(a) grant a private tenancy of a dwelling-house to which paragraph (2) applies;

(b) continue to let out under a private tenancy a dwelling-house to
25 which paragraph (2) applies.

(2) This paragraph applies to a dwelling-house—

(a) that is of such description of dwelling-house as is provided for by the regulations,

(b) in relation to which there is an energy performance certificate, and

(c) that falls below such level of energy efficiency (as demonstrated by
30 the energy performance certificate) as is provided for by the regulations.

(3) The regulations may provide that a dwelling-house that is of such description as is provided for by the regulations is exempt from such
35 prohibitions imposed by the regulations as are prescribed in the regulations.

(4) In this Article “energy performance certificate” has the meaning given by the Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008.

(5) The Department may by regulations amend the definition of “energy performance certificate” in paragraph (4).

Private tenancy energy efficiency regulations: power to create an offence

5 11H.—(1) Regulations under Article 11G may provide that a person who breaches a prohibition imposed under paragraph (1) of that Article is guilty of an offence.

(2) Any offence created by virtue of paragraph (1)—

- 10 (a) is not to be triable on indictment or punishable with imprisonment;
(b) is not to be punishable with a fine exceeding level 5 on the standard scale.”.

3. In Article 68(3) (prosecution by appropriate district council), after “this Order” insert “(including any offence created by virtue of Article 11H)”.

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

- 15 (a) in paragraph (1), after sub-paragraph (aa) (as inserted by section 8) insert—
“(ab) an offence created by virtue of Article 11H; or”;
(b) in paragraph (8), after “or 65A(4)” insert “or an offence created by virtue of Article 11H”.

20 5. In Article 72 (provisions concerning regulations), after paragraph (4) insert—

“(5) Before making regulations under Article 11G, the Department must consult—

- (a) the Department for the Economy,
(b) district councils,
25 (c) such persons as appear to the Department to be representative of landlords, and
(d) such other persons as the Department considers appropriate (which may include landlords).”.

SCHEDULE 3

30

Section 10.

ELECTRICAL SAFETY STANDARDS REGULATIONS [S2]

1. The 2006 Order is amended as follows.

2. After Article 11H (as inserted by Schedule 2) insert—

“Electrical safety standards

35 **Electrical safety standards for dwelling-houses let under a private tenancy**

11I.—(1) The Department may by regulations impose duties on the landlord of a dwelling-house let under a private tenancy for the purposes of ensuring that electrical safety standards are met during the period when
40 the dwelling-house is let under the tenancy.

(2) “Electrical safety standards” means standards specified in, or determined in accordance with, the regulations in relation to—

(a) the installations in the dwelling-house for the supply and use of electricity, or

5 (b) electrical fixtures, fittings or appliances provided by the landlord.

(3) The duties imposed on the landlord may include duties to ensure that a qualified person has checked that the electrical safety standards are met.

(4) The regulations may make provision about—

(a) how and when checks are carried out;

10 (b) who is qualified to carry out checks.

(5) The regulations may require the landlord to undertake works as a result of checks carried out by the qualified person.

(6) The regulations may require the landlord—

15 (a) to obtain a certificate from the qualified person confirming that electrical safety standards are met;

(b) to give a copy of the certificate to the tenant, or a prospective tenant, or any other person specified in the regulations;

20 (c) where the electrical safety standards are not met, to obtain from the qualified person a written description of the works required to meet the standards.

(7) Regulations under this Article are referred to in Articles 11J and 11K as “electrical safety standards regulations”.

Electrical safety standards regulations: power to create an offence

25 11J.—(1) Electrical safety standards regulations may provide that a landlord who fails to comply with a duty imposed under Article 11I(1) is guilty of an offence.

(2) Any offence created by virtue of paragraph (1)—

(a) is not to be triable on indictment or punishable with imprisonment;

30 (b) is not to be punishable with a fine exceeding level 5 on the standard scale.

Electrical safety standards regulations: other enforcement

11K.—(1) Electrical safety standards regulations may make provision, for the enforcement of a duty imposed under Article 11I(1)—

(a) under which a landlord may be required to take remedial action;

35 (b) under which a district council may, with the consent of the tenant, arrange for a person to enter the dwelling-house and take remedial action.

(2) Regulations under paragraph (1) may also include, in particular—

(a) provision about procedural matters;

40 (b) where the provision is made in connection with paragraph (1)(a), provision enabling the landlord to make representations against any requirement to take remedial action;

(c) where the provision is made in connection with paragraph (1)(b), provision—

(i) about appeals against any proposed remedial action;

5 (ii) enabling a district council to recover from the landlord any costs incurred by it in taking remedial action;

(iii) about the application of costs recovered.”.

3. In Article 68(3) (prosecution by appropriate district council), after “11H” (as inserted by Schedule 2) insert “or 11J”.

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

10 (a) in paragraph (1)(ab) (as inserted by Schedule 2), after “11H” insert “or 11J”;

(b) in paragraph (8), after “11H” (as inserted by Schedule 2) insert “or 11J”.

5. In Article 72 (provisions concerning regulations), after paragraph (5) (as inserted by Schedule 2) insert—

15 “(6) Before making regulations under Article 11I, the Department must consult—

(a) district councils,

(b) such persons as appear to the Department to be representative of landlords, and

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