

<b>Report on</b>	Commencement of Sections 1-12 of the Private Tenancies Act (Northern Ireland) 2022
<b>Date of Meeting</b>	16th February 2023
<b>Reporting Officer</b>	Kieran Gordon, Assistant Director Health, Leisure & Wellbeing
<b>Contact Officer</b>	Anne Caldwell, Principal Environmental Health Officer

<b>Is this report restricted for confidential business?</b>	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	X

<b>1.0</b>	<b>Purpose of Report</b>
1.1	To update Members of the new provisions of the Private Tenancies Act (NI) 2022 commencing on 1st April 2023 and to seek approval to set fixed penalty levels for certain offences under said Act.
<b>2.0</b>	<b>Background</b>
2.1	Previously in July 2022, information was presented to Members on the introduction of the Private Tenancies Act (Northern Ireland) 2022 (minute reference: D121/22).
2.2	Thereafter, following a Members workshop on 14th September 2022 relating to Houses of Multiple Occupation and general housing matters relating to the Environmental Health remit, Members received a copy of a presentation provided by DFC at a stakeholder workshop which provided details on the implementation of sections of the Private Tenancies Act 2022.
2.3	The Private Tenancies Act (Northern Ireland) 2022 (appendix 1) has 11 substantive clauses and three schedules aimed at making the private rented sector a safer and more protected housing option. The Act amends existing Articles and inserts new Articles into the Private Tenancies (NI) Order 2006 (PTO).
2.4	The Environmental Health team have now received confirmation of changes to the Private Tenancies Act (Northern Ireland) 2022 and that the commencement date for the first six sections of the Act will now be 1 April 2023. Tenancy Information Regulations (Northern Ireland) 2022 will also come into operation at this time.
2.5	This report provides the key details of the elements of the new legislation that will come into effect on the 1st April 2023, however it should be noted that there are still a number of provisions which require further consultation and members will be provided with an update when officers receive the Department for Communities (DfC) consultation papers.
<b>3.0</b>	<b>Main Report</b>
3.1	The Act creates several new offences for which the Council will have powers to issue fixed penalty notices. The fixed penalty payable in respect of an offence is an amount determined by the Council, being an amount not exceeding one-fifth of the maximum fine payable on summary conviction of that offence which is set by legislation at £2,500 in each case.

3.2	Therefore, the maximum level of fixed penalty fine that the Council can set for the new offences is £500.
3.3	In November 2012, the Council has previously set the fine level at £500 for failure to register as a landlord under the same legislation. Therefore, it is proposed that the fines for the new offences are set at the same level of £500 as detailed below.
3.4	The Council will seek to publicise the new legislative provisions in advance of the start date on 1st April 2023 using our media outlets.
3.5	<p><b><u>Tenancy Information Notice</u></b></p> <p>The Act amends the Private Tenancies NI Order 2006 requiring Landlords to give a tenant a Tenancy Information Notice containing specified information on a prescribed form within 28 days of the commencement of a tenancy. A tenant must not be required to pay for this notice. Any landlord who fails to give the required Tenancy Information Notice within the required 28-day period is guilty of an offence (Article 4A(4)PTO)</p> <p>A Tenancy Information Notice is an important legal document which provides the landlord and tenant with information on their respective rights and responsibilities. It can help to minimise disputes, as information, such as, the rent payable, deposit details, duration of tenancy, responsibility for repairs and notice of termination are given in writing.</p> <p>The Notice also provides tenants with the landlord's (and, if appropriate, agent's) contact information.</p> <p>If the landlord has previously given a tenant a Notice which substantially meets the specified requirements, this would be deemed compliant.</p> <p>In respect of the offence in Article 4A(4) of the Private Tenancies NI Order 2006 as amended by the Private tenancies Act (NI) 2022, it is proposed that the fixed penalty notice level is set by the Council at £500.</p>
3.6	<p><b><u>Notice Relating to the Variation of a Private Tenancy</u></b></p> <p>The Act will introduce the requirement for landlords to provide the tenant with a Notice of Variation if there is any change to the information contained in the original Tenancy Information Notice. The new Notice must contain the address of the dwelling-house, the provision to be varied and the new provision. For example, if there is a new landlord contact number then a Notice should be provided with 28 days of the new contact number coming into effect.</p> <p>The landlord must provide this within 28 days of any changes made and the Notice must be free of charge.</p> <p>Any landlord who fails to give the required Notice of Variation within the required 28-day period is guilty of an offence (Article 4B(5)PTO)</p> <p>In respect of the offence relating to Article 4B(5) of the Private Tenancies NI Order 2006 as amended by the Private Tenancies Act NI 2022, it is proposed that the fixed penalty notice level is set by the Council at £500.</p>

3.7	<p><b><u>Continued failure by landlord to provide information notice or variation notice after fixed penalty has been paid</u></b></p>
	<p>Where Council issues a landlord with a fixed penalty notice for failing to provide an information notice or variation notice, and a landlord continues to fail to provide either of these notices for more than 14 days after the payment of the fixed penalty, then they are deemed to have committed a further offence.</p> <p>In respect of the offence relating to Article 4C(3) of the Private Tenancies NI Order 2006 as amended by the Private Tenancies Act NI 2022, it is proposed that the fixed penalty notice level is set by the Council at £500.</p>
3.8	<p><b><u>Notice regarding past matters</u></b></p>
	<p>For any tenants who would have received notices under previous Article 4 of the 2006 Order but did not do so because of its' accidental removal from legislation, and who are still in a private tenancy on 1 April 2023 their landlord must provide them with a free notice regarding past matters and any variations.</p> <p>However, where a landlord has, between the granting of the tenancy and the 1 April 2023, given the tenant a notice that substantially meets the requirements, that landlord is to be regarded as having complied with the legislation. The tenant should be given these notices within 28 days of 1 April 2023 and they must be given free of charge.</p> <p>Any landlord who fails to give the required Tenancy Information Notice or Notice of Variation within the required 28-day period is guilty of an offence. If a landlord continues to fail to provide either of these notices for more than 14 days after conviction, then they are deemed to have committed a further offence (paragraphs 1(5), 2(6) and 3(3) of Schedule 1 of the Private Tenancies Act NI 2022)</p> <p>In respect of the offences in paragraphs 1(5), 2(6) and 3(3) of Schedule 1 of the Private Tenancies Act NI 2022, it is proposed that the fixed penalty notice level is set by the Council at £500</p>
3.9	<p><b><u>Receipts</u></b></p>
	<p>There is a new requirement for a landlord to provide a written receipt for any payment made in cash in relation to a tenancy. A receipt is a method of documenting cash payments that a tenant pays to a landlord under a tenancy. A receipt is beneficial to both tenants and landlords offering tenants documented proof of cash payments and landlords a record of cash payments. For tenants who pay their rent in cash a rent receipt may be the only written evidence they have of their payments Any written receipt must detail:</p> <ul style="list-style-type: none"> <li>• the payment date;</li> <li>• what the payment was for; and</li> <li>• the amount paid, including: <ul style="list-style-type: none"> <li>• if any amounts remain outstanding, and</li> <li>• if the payment was made in full.</li> </ul> </li> </ul> <p>The landlord or his/her representative/agent commits an offence by failing to provide the receipt for cash payments (Article 5(7)PTO)</p> <p>Where Council issues a landlord with a fixed penalty notice for failing to provide a receipt, and a landlord continues to fail to provide a receipt for more than 14 days after the payment of the fixed penalty, then they are deemed to have committed a further offence. (Article 5ZA(3)PTO)</p>

	<p>In respect of the offences relating to Article 5(7) and 5ZA(3) of the Private Tenancies NI Order 2006 as amended by the Private Tenancies Act NI 2022, it is proposed that the fixed penalty notice level is set by the Council at £500.</p>
3.10	<p><b><u>Changes to Tenancy Deposits</u></b></p> <p>A requirement will be introduced that a landlord cannot ask for or retain a tenancy deposit that is more than one month's rent. If a landlord has unlawfully requested or retained a tenancy deposit of more than one month's rent, they are guilty of an offence (Article 5Z(4)PTO). A council can issue a fixed penalty notice or fine for this offence. If a landlord is convicted of requiring or retaining a deposit in excess of one month's rent, the court may order the excess to be repaid to the person who paid it.</p> <p>In respect of the offence in Article 5ZC(4) of the Private Tenancies NI Order 2006 as amended by the Private Tenancies Act NI 2022, it is proposed that the fixed penalty notice level is set by the Council at £500.</p>
3.11	<p><b><u>Increase in time for requirements relating to tenancy deposits</u></b></p> <p>The time limit for a deposit to be protected in an approved scheme will change from 14 days to 28 days and landlords have additional time to provide the prescribed information to the tenant as this has changed from 28 days to 35 days. If a landlord or agent fails to protect the deposit or notify a tenant of the deposit information, then they will be guilty of an offence. The Council may issue a fixed penalty three times the value of the deposit taken. If convicted of this offence, they may be liable for a fine not exceeding £20,000</p>
3.12	<p><b><u>Removal of the 6-month time barrier to prosecution of tenancy deposit offence</u></b></p> <p>The Private Tenancies Act (Northern Ireland) 2022 makes the failure to protect a tenancy deposit a continuing offence and removes the 6-month time limit on prosecutions. This legislation provides that those offences continue to be committed throughout any period during which the failure to protect a deposit, or supply the required information to the tenant, continues. The result of this is that there will be no time barrier on prosecuting a person who fails to comply with the requirements.</p>
<b>4.0</b>	<b>Other Considerations</b>
<b>4.1</b>	<p><b>Financial, Human Resources &amp; Risk Implications</b></p> <p>Financial: The Private Tenancies Act will provide Councils with new enforcement powers to deal with issues in the Private Rented sector which will place additional resources demands on our existing resources. There is no financial support available from the Department for Communities (DfC) to assist Councils with these additional powers. The fixed penalty regime introduced for some of the new offences may provide some income to Council however it will not cover all of the additional resourcing required. Setting the fixed penalty fine to the maximum of £500 for each offence is a key consideration in the absence of any financial support to implement this important legislation.</p> <p>Human: Due to the additional enforcement powers provided by the Act and responsibility for Councils to implement, as there is no budgetary provision or resource from the Department of Communities to facilitate this (or to recruit additional staff), this may have an impact on the Environmental Health Service resourcing in terms of response times and involvement in other statutory work areas.</p>

	Risk Management: Considered in line with relevant council policies and procedures.
<b>4.2</b>	<b>Screening &amp; Impact Assessments</b>
	Equality & Good Relations Implications: Considered by DfC as per implementation of the Act.
	Rural Needs Implications: Considered by DfC as per implementation of the Act.
<b>5.0</b>	<b>Recommendation(s)</b>
5.1	To note the contents of the report, namely the new legislative powers for Council's in relation to the private rented sector and give approval for Officers to enforce by way of fixed penalty levels at £500 for offences detailed as per sections 3.5 through to section 3.10 of this report.
<b>6.0</b>	<b>Documents Attached &amp; References</b>
6.1	Appendix A: Private Tenancies Act (NI) 2022.