

*These notes refer to the Private Tenancies (Coronavirus Modifications) Act (Northern Ireland) 2020 (c.2) which received Royal Assent on 4 May 2020*

# Private Tenancies (Coronavirus Modifications) Act (Northern Ireland) 2020

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These explanatory notes relate to the Private Tenancies (Coronavirus Modifications) Act (Northern Ireland) 2020 which received Royal Assent on 4 May 2020. They have been prepared by the Department for Communities (“the Department”) in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by the Assembly.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section or schedule does not seem to require an explanation or comment, none is given.

### **BACKGROUND AND POLICY OBJECTIVES**

3. Given the urgency of this fast developing public health emergency the Private Tenancies (Coronavirus Modifications) Act (NI) 2020 responds to the present outbreak of coronavirus in Northern Ireland. Due to the current uncertainty surrounding the coronavirus pandemic the Department wishes to protect tenants from eviction for a reasonable and specified period of time and provides that landlords must give their tenants at least 12 weeks’ notice to quit a dwelling house let under a private tenancy. Those people and families in the Private Rented Sector, who could be evicted during this pandemic, and may present as homeless, and would like other homeless people, be disproportionately affected by poor health and often face challenges accessing the health care and support they need. It is the intention of the legislation to reduce unnecessary pressures on the health care, social care and local authority systems that is caused by homelessness and will ensure that tenants are protected, particularly at times when their income streams may be vulnerable, and they will be worried about the health and well-being of themselves and their loved ones.
4. On 18th March 2020, the UK Prime Minister announced that the Westminster Government would pass legislation to protect private renters from eviction as the Covid-19 outbreak worsened. Existing legislation in NI does not contain grounds for eviction but merely instructs landlords to give appropriate notice

to quit periods. Therefore NI is unable to replicate the approach taken by the Westminster Government.

5. As a high number of people will struggle to pay their rent and given the recent changes and restrictions of movement already underway some tenants are reporting that their landlords have already moved to evict them now they have lost their jobs.
6. Public Health Advice is that everyone in Northern Ireland should now stay at home and do what they can to stop the virus spreading. Responding to this public health advice requires people to have a secure home to reduce the effects of the Covid-19 pandemic on both themselves, their families and others. This is a fundamental necessity to allow Government to properly manage this emergency situation. Social distancing, self- isolation and quarantine are key ways of stopping the spread of infectious diseases. Letters have been issued from Health officials to 1.5m people in the UK (34K approx. in NI) who are vulnerable with underlying health conditions identified as high risk patients. This group must remain at home for the next 12 weeks ('shielding') and anyone living in their households should follow strict social distancing measures. The Coronavirus Act 2020, Schedule 29 sets out in statute that notice to quit period could be no less than 3 months. Due to the current uncertainty surrounding the coronavirus pandemic the Department wishes to protect tenants from eviction for a reasonable and specified period of time. This legislation will mean no renter in private accommodation will be forced out of their home during this difficult time. This emergency legislation is urgent priority so that landlords will not be able to start proceedings to evict tenants for a 12 week period. As a result no renters need to be concerned about the threat of eviction.
7. The Private Tenancies (Northern Ireland) Order 2006 is the legislation governing the private rented sector. To begin the eviction process in Northern Ireland the landlord must issue the tenant with a notice to quit. The length of notice to quit varies depending on the length of tenancy. It is 4 weeks, if the tenancy has not been in existence for more than 5 years, 8 weeks, if the tenancy has been in existence for more than 5 years but not for more than 10 years and 12 weeks, if the tenancy has been in existence for more than 10 years. If the tenant refuses to leave the landlord will have to obtain a court order which is subsequently enforceable by the Enforcement of Judgements Office.
8. The right of a private landlord to bring a tenancy to an end through service of a written notice to quit of a specified period is prescribed by Article 14 of the Order. The Bill seeks to temporarily modify the provisions of Article 14 during the emergency period to apply a 12 week notice to quit period to all tenancies, irrespective of the duration of the tenancy. The Act provides that the emergency period commences on the day after Royal Assent and ends on 30 September 2020. However, this period may be extended up to 2 years from date of Royal Assent or shortened to a period specified by the Department. The Act allows for the 12 week notice period to be altered to maximum period of six months.

The Act is not intended to have retrospective effect, so will not apply to notice served before Royal Assent.

## **OVERVIEW**

9. The Act has 6 Sections. It temporarily modifies Article 14 of the Private Tenancies (NI) Order ('the 2006 Order'), which prescribes the length of the notice to quit period by reference to the duration of the tenancy (i.e. "the relevant period") to apply a 12 week notice to quit period for all tenancies during the "emergency period". The effect of this means that for tenancies of: (i) less than five years; and (ii) more than five but less than ten, the respective notice to quit period for these tenancies has been increased by (i) 8 weeks; and (ii) 4 weeks. For tenancies of 10 or more years the notice to quit period remains the same. The legislation clarifies that the extension of the notice to quit period will only apply to landlords.

## **COMMENTARY ON SECTIONS**

### ***Section 1: Notice to Quit: private tenancies***

10. This section allows for modification during the emergency period of Article 14 of 2006 Order. Section 1(3) means the Department has discretion to specify a shorter or longer period for the end of the emergency period. This period may be extended up to 2 years beginning with the day after the day on which this Act receives Royal Assent or shortened to a period specified by the Department, subject to negative resolution.

### ***Section 2: Power to alter notice period***

11. This section has a provision to alter the notice to quit period of 12 weeks during the emergency period by way of regulations by negative resolution. If the Department chose to extend the period exceptions will be made for landlords who need to live in their own property and cases of anti-social behaviour. This section also provides the Department with the power to define the exceptions and level of proof needed in any future regulations made. The 12 week notice period can only be increased to a maximum period of 6 months.

### ***Section 3: Power to make further provision***

12. This section enables transitional, transitory, saving and consequential provisions to be made. The latter is in case any statutory provision needs to be modified. This will be done by negative resolution unless NI primary legislation is to be modified, in which case the procedure will be draft affirmative.

### ***Section 4: Interpretation***

13. Defines the Department responsible for the Act and the meaning of the emergency period.

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**Section 5: Commencement**

14. This defines that the Act comes into operation on the day after the day it receives Royal assent and ensures no retrospectivity occurs.

**Section 6: Short Title**

15. This cites the new law as the Private Tenancies (Coronavirus Modifications) Act (Northern Ireland) 2020

**HANSARD REPORTS**

16. The following table sets out the dates of the Hansard reports for each stage of the Act's passage through the Assembly and the date Royal Assent was received.

<i>Stage</i>	<i>Date</i>
Ministerial briefing on proposed Bill to Committee for Communities <a href="http://www.niassembly.gov.uk/globalassets/documents/committees/2017-2022/communities/minutes-of-proceedings/draft-minutes-6-april-2020-.pdf">http://www.niassembly.gov.uk/globalassets/documents/committees/2017-2022/communities/minutes-of-proceedings/draft-minutes-6-april-2020-.pdf</a>	6 April 2020
Introduction in the Assembly First and Second Stages Accelerated Passage Suspension of Motions <a href="http://aims.niassembly.gov.uk/officialreport/report.aspx?&amp;eveDate=2020/04/21&amp;docID=300445">http://aims.niassembly.gov.uk/officialreport/report.aspx?&amp;eveDate=2020/04/21&amp;docID=300445</a>	21 April 2020
Consideration Stage Final Stage <a href="http://aims.niassembly.gov.uk/officialreport/report.aspx?&amp;eveDate=2020/04/28&amp;docID=300528">http://aims.niassembly.gov.uk/officialreport/report.aspx?&amp;eveDate=2020/04/28&amp;docID=300528</a>	28 April 2020
Royal Assent	4 May 2020