



2011 CHAPTER 22

Private tenancies

PROSPECTIVE

Abolition of statement of tenancy terms

1 Article 4 of the Private Tenancies Order (tenant to be given notice regarding certain matters) is repealed.

Tenancy deposit schemes

2 After Article 5 of the Private Tenancies Order insert—

“Tenancy deposit schemes

Tenancy deposit schemes

5A.—(1) The Department may by regulations make provision for securing that one or more tenancy deposit schemes are available for the purpose of safeguarding tenancy deposits paid in connection with private tenancies.

(2) A “tenancy deposit scheme” is a scheme which is made for the purpose of safeguarding tenancy deposits paid in connection with private tenancies and facilitating the resolution of disputes arising in connection with such deposits.

(3) Regulations under paragraph (1)—

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- (a) must provide for the appointment of a body or person (“the scheme administrator”) to establish and maintain a scheme of a prescribed description;
 - (b) must provide that a scheme or an amendment to a scheme does not come into force unless approved by the Department;
 - (c) may confer or impose on the scheme administrator such powers or duties in connection with a scheme as are prescribed;
 - (d) may provide for information held by a scheme administrator to be disclosed to prescribed persons for prescribed purposes.
- (4) The Department may make payments to a scheme administrator.
- (5) In this Article and Article 5B—
- “money” means money in the form of cash or otherwise;
 - “tenancy deposit”, in relation to a private tenancy, means any money intended to be held (by the landlord or otherwise) as security for—
- (a) the performance of any obligations of the tenant arising under or in connection with the tenancy, or
 - (b) the discharge of any liability of the tenant so arising.
- (6) In this Article and Article 5B references to a landlord in relation to any private tenancy include references to a person acting on behalf of the landlord in relation to the tenancy.

Requirements relating to tenancy deposits

5B.—(1) Any tenancy deposit paid to a person in connection with a private tenancy must, as from the time when it is received, be dealt with in accordance with an approved scheme.

(2) A person must not require the payment of a tenancy deposit in connection with a private tenancy which is not to be subject to the requirement in paragraph (1).

(3) Where a landlord receives a tenancy deposit in connection with a private tenancy, the initial requirements of an approved scheme must be complied with by the landlord in relation to the deposit within the period of 14 days beginning with the date on which it is received.

(4) For the purposes of this Article “the initial requirements” of an approved scheme are such requirements imposed by the scheme as fall to be complied with by a landlord on receiving such a tenancy deposit.

(5) A landlord who has received such a tenancy deposit must give the tenant and any relevant person such information relating to—

- (a) the approved scheme applying to the deposit,

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- (b) compliance by the landlord with the initial requirements of the scheme in relation to the deposit, and
- (c) the operation of this Article and Article 5A in relation to the deposit,

as may be prescribed.

(6) The information required by paragraph (5) must be given to the tenant and any relevant person—

- (a) in the prescribed form or in a form substantially to the same effect, and
- (b) within the period of 28 days beginning with the date on which the deposit is received by the landlord.

(7) A person must not, in connection with a private tenancy, require a deposit which consists of property other than money.

(8) In paragraph (7) “deposit” means a transfer of property intended to be held (by the landlord or otherwise) as security for—

- (a) the performance of any obligations of the tenant arising under or in connection with the tenancy, or
- (b) the discharge of any liability of the tenant so arising.

(9) The provisions of this Article apply despite any agreement to the contrary.

(10) A person who contravenes paragraph (7) is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(11) A person who contravenes any other provision of this Article is guilty of an offence and liable on summary conviction to a fine not exceeding £20,000.

(12) In this Article—

“approved scheme” means a scheme for the time being in force under Article 5A;

“property” means moveable property;

“relevant person” means any person who, in accordance with arrangements made with the tenant, paid the deposit on behalf of the tenant.”.

Length of notice to quit

3.—(1) Article 14 of the Private Tenancies Order (length of notice to quit) is amended as follows.

- (2) In paragraph (1) for “4 weeks” substitute “ the relevant period ”.

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(3) After that paragraph insert—

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

- (a) 4 weeks, if the tenancy has not been in existence for more than 5 years;
- (b) 8 weeks, if the tenancy has been in existence for more than 5 years but not for more than 10 years;
- (c) 12 weeks, if the tenancy has been in existence for more than 10 years.”.

(4) This section—

- (a) applies whether the private tenancy was granted before or after the date on which this section comes into operation; but
- (b) does not apply in relation to a notice to quit given before that date.

Power of entry to inspect dwelling-house

4 In Article 36 of the Private Tenancies Order (functions of council on application to have dwelling-house inspected) after paragraph (1) insert—

“(1A) A person authorised by the appropriate district council in relation to this Article may, at any reasonable time and having given at least 24 hours' notice to the occupier, and to the owner if known, enter a dwelling-house for the purpose of an inspection under paragraph (1).

(1B) An authorisation under paragraph (1A)—

- (a) shall be in writing; and
- (b) shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf.”.

Power to modify Articles 42 to 45

5.—(1) After Article 45 of the Private Tenancies Order insert—

“Power to amend Articles 42 to 45

45A.—(1) The Department may by regulations modify any provision of Articles 42 to 45 and Schedule 2.

(2) Regulations under this Article may make such consequential modifications of other provisions of this Chapter as appear to the Department to be necessary or appropriate.”.

(2) In Article 44(3) omit the words from “including” to the end.

Disclosure of information

6 After Article 64 of the Private Tenancies Order insert—

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“Disclosure of information for purposes of Parts 2 to 4

64A.—(1) This Article applies to any relevant information which is held—

- (a) by the Department of Finance and Personnel for the purposes of—
 - (i) its functions under the Rates (Northern Ireland) Order 1977 or the Rates (Capital Values, etc.) (Northern Ireland) Order 2006; or
 - (ii) the administration of housing benefit; or
- (b) by the Northern Ireland Housing Executive for the purposes of the administration of housing benefit.

(2) Relevant information to which this Article applies must, if an authorised officer of the appropriate council so requires, be supplied to that council for the purpose of enabling or assisting that council to exercise its functions under any provision of Part 2, 3 or 4.

(3) Any requirement under paragraph (2) must specify—

- (a) the description of relevant information which is to be supplied;
- (b) the form in which that information is to be supplied; and
- (c) the date by which that information is to be supplied.

(4) This Article—

- (a) does not limit the circumstances in which information may be supplied apart from this Article; but
- (b) has effect despite any restriction on the purposes for which relevant information may be disclosed or used.

(5) In this Article—

“authorised officer”, in relation to a council, means an officer of the council authorised for the purposes of this Article by the council;

“housing benefit” means housing benefit provided by virtue of a scheme under section 122 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“relevant information” means information as to—

- (a) the location, age, size or description of a dwelling-house let under a private tenancy;
- (b) the name and address of the landlord or tenant of such a dwelling-house or of any person acting as an agent of the landlord.

Unauthorised disclosure of information

64B.—(1) An employee of a council commits an offence if he discloses without lawful authority any information—

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- (a) which he acquired in the course of his employment;
 - (b) which is, or is derived from, information supplied to the council under Article 64A; and
 - (c) which relates to a particular dwelling-house or person.
- (2) It is not an offence under this Article to disclose information which has previously been disclosed to the public with lawful authority.
- (3) It is a defence for a person charged with an offence under this Article to show that at the time of the alleged offence—
- (a) he believed that he was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise; or
 - (b) he believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.
- (4) A person who is guilty of an offence under this Article shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (5) For the purposes of this Article a disclosure of information is to be regarded as made with lawful authority if, and only if, it is made—
- (a) in accordance with his official duty by an employee of the council;
 - (b) in accordance with any statutory provision or order of a court;
 - (c) for the purposes of any criminal proceedings; or
 - (d) with the consent of the person to whom the information relates.”.

Registration of landlords

7 After Article 65 of the Private Tenancies Order insert—

“Registration of landlords

Registration of landlords

- 65A.**—(1) The Department may by regulations provide for the registration of landlords of dwelling-houses let under a private tenancy.
- (2) Regulations under this Article may in particular make provision for—
- (a) the appointment of a body or person (“the registrar”) to establish and maintain a register;

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- (b) the maintenance of the register, including provision as to the information which is to be included in, or excluded from, the register;
 - (c) imposing a requirement to register on all landlords mentioned in paragraph (1), subject to any prescribed exceptions;
 - (d) the procedure for registration, including provision about the information to be provided for the purposes of registration;
 - (e) the conditions to be satisfied for registration or continued registration;
 - (f) the fees (if any) payable for registration or continued registration;
 - (g) appeals against decisions of the registrar under the regulations;
 - (h) information held by the registrar which is not included in the register to be disclosed to prescribed persons for prescribed purposes.
- (3) The registrar must make the register available for public inspection without charge at such place and at such times as the registrar considers appropriate.
- (4) A person commits an offence if—
- (a) he provides false information for the purposes of registration under this Article;
 - (b) not being a person registered under this Article, he lets a dwelling-house under a private tenancy;
 - (c) being a person registered under this Article, he fails to provide evidence of registration in prescribed circumstances.
- (5) A person guilty of an offence under paragraph (4)(a) or (b) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) A person guilty of an offence under paragraph (4)(c) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (7) If on an application made to it by a district council, the county court is satisfied that—
- (a) a person has been convicted of an offence under paragraph (4)(b), and
 - (b) that person is continuing after that conviction to contravene paragraph (4)(b),
- the court may make an order requiring that person to register under this Article within such period not being less than 28 days from the date of the order) as the court may specify.”.

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Fixed penalty for certain offences

8 After Article 68 of the Private Tenancies Order insert—

“Fixed penalty for certain offences

68A.—(1) This Article applies where on any occasion an authorised officer of a district council has reason to believe that a person (“P”) has committed—

- (a) an offence under Article 5B(10) or (11); or
- (b) an offence under Article 65A(4).

(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.

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

(4) Where P is given a notice under this Article 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 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 Article must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

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

- (a) the period during which, by virtue of paragraph (4), proceedings will not be taken for the offence;
- (b) the amount of the fixed penalty; and
- (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 Article in respect of an offence under Article 5B(11) in relation to a tenancy deposit received or required by a landlord is an amount equal to three times the amount of that tenancy deposit.

(8) The fixed penalty payable to a district council under this Article in respect of an offence under Article 5B(10) or 65A(4) 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.

(9) In any proceedings a certificate which—

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- (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,

is evidence of the facts stated.

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

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

Regulations

9 In Article 72 of the Private Tenancies Order (regulations) for paragraph (3) substitute—

“(3) Regulations under Article 5A, 45A or 65A shall not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

(4) The Department must lay before the Assembly—

- (a) a draft of regulations under Article 5A, and
- (b) a draft of regulations under Article 65A,

not later than 18 months after the date on which the Housing (Amendment) Act (Northern Ireland) 2011 receives Royal Assent.”.

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