

*These notes refer to the Housing (Amendment) Act (Northern Ireland) 2011 (c.22) which received Royal Assent on 3 May 2011*

# Housing (Amendment) Act (Northern Ireland) 2011

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 1: Abolition of statement of tenancy terms***

Section 1 repeals Article 4 of the Private Tenancies (Northern Ireland) Order 2006. This effectively abolishes the requirement in regulations made under that Article for private landlords to provide tenants with a separate statement of tenancy terms.

#### ***Section 2: Tenancy deposit schemes***

Section 2 inserts in the Private Tenancies (Northern Ireland) Order 2006 a new Article 5A, which enables the Department to make regulations providing for schemes to safeguard deposits paid by tenants in the private rented sector, and a new Article 5B which places on private landlords certain obligations relating to such schemes.

#### ***Section 3: Length of notice to quit***

Section 3 amends Article 14 of the Private Tenancies (Northern Ireland) Order 2006 to provide that the existing 4 week period for giving notice to quit in respect of a tenancy in the private rented sector shall remain 4 weeks if the tenancy has not been in existence for more than 5 years but shall be increased to 8 weeks if the tenancy has been in existence for more than 5 but not more than 10 years, and to 12 weeks if the tenancy has been in existence for more than 10 years.

#### ***Section 4: Power of entry to inspect dwelling-houses***

Section 4 inserts in Article 36 of the Private Tenancies (Northern Ireland) Order 2006 a new paragraph (1A) which confers powers of entry on persons authorised by district councils to carry out fitness inspections.

#### ***Section 5: Power to modify Articles 42 to 45***

Section 5 inserts in the Private Tenancies (Northern Ireland) Order 2006 a new Article 45A which enables the Department to make regulations modifying

certain provisions of that Order relating to determination of some private sector rents.

***Section 6: Disclosure of information***

Section 6 inserts new Articles 64A and 64B in the Private Tenancies (Northern Ireland) Order 2006 which provides for the Department of Finance and Personnel and the Housing Executive to share certain information with district councils to enable or assist councils to carry out some of their functions in relation to the private rented sector.

***Section 7: Registration of landlords***

Section 7 inserts in the Private Tenancies (Northern Ireland) Order 2006 a new Article 65A which enables the Department to make regulations providing for the registration of private landlords. This section creates new offences in relation to provision of false information, letting of houses without registering as a landlord and failure to provide evidence of registration, and enables the courts to order a person to register as a landlord if they have been convicted of the offence of letting of houses while unregistered.

***Section 8: Fixed penalty for certain offences***

Section 8 inserts in the Private Tenancies (Northern Ireland) Order 2006 a new Article 68A which allows landlords who appear to have committed an offence in relation to the registration of landlords or tenancy deposits the opportunity of avoiding prosecution by payment of a fixed penalty.

***Section 9: Regulations***

**Section 9** amends Article 72 of the Private Tenancies (Northern Ireland) Order 2006 to provide that regulations in relation to tenancy deposit schemes, determination of rents and landlord registration are subject to the draft affirmative resolution procedure by the Assembly. Regulations in relation to tenancy deposit and landlord registration must be laid within 18 months of the Act receiving Royal Assent.

***Section 10: Houses in multiple occupation: evidence of family relationship***

Section 10 amends Article 75 of the Housing (Northern Ireland) Order 1992 to provide that, where a house is occupied by two or more qualifying persons and the Housing Executive believes they are not all members of the same family, the Executive may serve notice inviting evidence of a family relationship between the occupants to be provided. Where satisfactory documentary evidence is not forthcoming, the house will be treated as a house in multiple occupation and subjected to the regulatory regime which applies to such accommodation under Part 4 of that Act.

***Section 11: Houses in multiple occupation: increase in fine for failure to register***

Section 11 amends Article 75L of the Housing (Northern Ireland) Order 1992 to increase to £20,000 the maximum fine for failing to register a house to which the scheme for registration of houses in multiple occupation applies.

***Section 12: Withholding of consent to mutual exchange of secure tenancies***

Section 12 inserts in Schedule 3A to the Housing (Northern Ireland) Order 1983 new grounds for withholding consent to an exchange of tenancies. This enables the Housing Executive and registered housing associations to withhold consent to exchanges of tenancies between their tenants where certain orders relating to anti-social behaviour are in force or pending against a party to an exchange or a person residing with them, or where a party to such an exchange or a person residing with them has been convicted of certain offences.

***Section 13: Disclosure of information as to orders, etc. in respect of anti-social behaviour***

Section 13 provides that any person may disclose to the landlord of a secure tenancy information about certain orders or applications for orders relating to anti-social behaviour to enable the landlord to decide:

- whether to withhold consent to an exchange of tenancies on anti-social behaviour grounds;
- whether a tenant is entitled to exercise the right to buy their home, or
- to take any appropriate action in relation to an application to exchange tenancies or to exercise the right to buy.

Section 13 also provides that any person may disclose to the Housing Executive information about certain orders or applications for orders relating to anti-social behaviour to enable the Executive to decide:

- whether to treat an applicant for an allocation of housing accommodation as ineligible for such an allocation by virtue of unacceptable behaviour; or
- whether to treat an applicant for homelessness assistance as ineligible for such an allocation by virtue of unacceptable behaviour.

Section 13 also provides that any person may disclose to a registered housing association information about certain orders or applications for orders relating to anti-social behaviour to enable the association to decide whether to allocate housing accommodation to any person.

***Section 14: Possession orders: conduct causing nuisance or annoyance***

Section 14 amends Article 29 of the Housing (Northern Ireland) Order 1983 to ensure that, where a court is considering whether to make an order for possession of a secure tenancy on the grounds of conduct causing nuisance or annoyance,

the court must take into account the effect that the nuisance or annoyance has had on persons other than the person against whom the order is sought and the likely effect that it would have on such persons if continued or repeated. Section 14 also requires the court to consider the likely impact of a possession order on the tenant and any person residing with the tenant.

#### ***Section 15: Abandoned tenancies***

Section 15 amends Article 41 of the Housing (Northern Ireland) Order 1983 to remove the legal requirement for the Housing Executive and registered housing associations to enter abandoned dwelling-houses before an abandonment notice can be served in relation to secure tenancies. Section 15 also amends Article 19A of the Housing (Northern Ireland) Order 2003 to remove the same legal requirement in relation to introductory tenancies. The Housing Executive and registered housing associations continue to have power to enter such premises where this is necessary to make them safe.

#### ***Section 16: Duty to persons found to be homeless***

Section 16 amends Article 10 of the Housing (Northern Ireland) Order 1988 to provide that the Housing Executive's duty under paragraph (2) of that Article to persons found to be homeless shall come to an end if the applicant ceases to be eligible for assistance on certain grounds.

#### ***Section 17: Abolition of rent surplus fund***

Section 17 repeals Article 37 of the Housing (Northern Ireland) Order 1992 (with a consequential amendment to Article 20(2) of that Order) in order to abolish the requirement for registered housing associations to show a "rent surplus fund" in their accounts.

#### ***Section 18: Service of documents***

Section 18 amends Article 104 of the Housing (Northern Ireland) Order 1992 to provide that the Housing Executive or a registered housing association may legally serve any document by sending it by ordinary post.

#### ***Section 19: Functions of Executive in relation to energy brokering***

Section 19 enables the Housing Executive to submit for Departmental approval a scheme for making arrangements with energy providers for the supply of electricity, gas, oil or other means of producing energy to the Executive's tenants.

#### ***Section 20: Functions of Executive in relation to community safety***

Section 20 enables the Housing Executive to take such action for enhancing community safety in any area as is compatible with the proper exercise of its functions in that area.

***Section 21: Power of Executive to enter into arrangements with other statutory authorities***

Section 21 enables the Department to make regulations providing for the Housing Executive to enter into partnership arrangements with certain statutory bodies if such arrangements are likely to lead to an improvement in the way in which certain functions of the Executive or certain housing-related functions of the other bodies are exercised.

***Section 22: Indemnification of members and officers of Executive***

Section 22 enables the Department to make provision by order for the Housing Executive to provide indemnities to its members and officers.

***Section 23: Functions of councils in relation to energy efficiency***

Section 23 provides district councils with powers to promote energy efficiency in residential accommodation within their own districts. To ensure coherence within existing activity, councils are required to take account of certain work undertaken by the Housing Executive and the Department for Social Development and to provide information to the Housing Executive which it needs to carry out its functions as Home Energy Conservation Authority for Northern Ireland.

***Section 24: Repeals***

Section 24 provides for the repeal of the provisions specified in the Schedule to the Act.

***Section 25: Commencement***

Section 25 provides for sections 2, 7 and 9 to come into operation on Royal Assent and enables the Department to make provision by order as to the day or days when sections 1, 3, 4, 5, 6, 8 and 10 to 24 come into operation.

***Section 26: Interpretation***

Section 26 provides for the interpretation of certain expressions used in the Act.

***Section 27: Short title***

Section 27 provides that the Act may be cited as the Housing (Amendment) Act (Northern Ireland) 2011.