



From: The DALO

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Dr Janice Thompson
Communities Committee Clerk
Room 430
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

Dear Janice,

DELIBERATIONS ON THE PRIVATE TENANCIES BILL

A reply was issued to the Committee on 6 December 2021 regarding its queries on Clauses 6, 7, 8, 10 and 13 as requested after its meeting on 30th November. The queries on Clause 9 have been overtaken by the proposals for the amended Schedule 2.

This response covers the ongoing issues with Clause 3 and a number of matters regarding Clause 11 and Schedule 2 as detailed in the letter of 3 December 2021.

The Department will write to the Committee separately on the following issues:

- 1) Clause 3 Tenant to be provided with a rent receipt for payment in cash
- 2) The Committee's request to amend or remove Clause 3, Article 5(3)(b); and
- 3) Schedule 2

Regarding Schedule 2, officials are working this as a priority and will forward the draft of the proposed amendment as soon as possible.

If you require any further clarification, please feel free to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'F. Dorrian' with a stylized flourish at the end.

Fionnbar Dorrian
Departmental Assembly Liaison Officer

Clause 3 – Tenant to be provided with a rent receipt for payment in cash

The Committee had queried on 25th November whether the Minister would be minded to insert a time period (for example, 28 days as used in Clause 1) in the Bill for the receipt to be provided to the tenant.

The Officials reminded the Committee that by inserting a time period, the offence is then automatically committed if the receipt is not supplied within the time period. This would not allow for certain scenarios or circumstances, which prevent the receipt being given within the time period. For example, as this is for rental payment (monthly) the Landlord would not have the opportunity to provide the receipt when reminded at the next payment if this was beyond 28 days.

At the meeting on 2 December a Member undertook further discussions around the need for 5(3)(B) in the Bill and the Officials explained the impact of either removing that part of the clause or setting a time limit.

Committee comment

The Committee had queried on 25th November, what constituted a minimum acceptable receipt and the Department had liaised with Department for the Economy and responded on the relevant consumer law. The Officials advised in the response that they have sought Departmental Solicitor's advice on whether what is drafted in Clause 3 is sufficient to satisfy the concerns raised by the Committee and in particular if the fact that the clause states the landlord has to give a written receipt includes a digital receipt.

Department Response

Based on legal advice received the Department is assured that the provision as drafted is sufficiently wide as to include many formats or types of written receipt including digital receipts.

The Committee had queried on 25th November around what other payments in cash the Minister would consider this Clause could include in terms of a receipt being required (must be payments in connection with the private tenancy).

Committee comment

The Officials apologised for overlooking this question and the Committee awaits a written response.

Departmental Response

The Department included an update in its 3 December response indicating it is content to explore the possibility of an amendment to this clause or the insertion of a sub clause to cover a requirement for a receipt to be provided for all cash payments relating to a tenancy. The Department would welcome the Committee's input on what types of other payments it envisages this might include, noting

- There is already provision for notification of deposits (5B of the 2006 Order);
- The provision in New 5 (2) (c) and (d) that the receipt includes information on any outstanding amount, and whether this would be appropriate in all cases; and
- The need to consider consequential impacts on the rest of the clause, including 5ZB.

Committee comment

In connection with this matter, a Member highlighted at the meeting on 2 December that the old rent book system (to be replaced by this new Clause 3) covered payments of all types to the landlord and therefore this new Clause is not as 'tight' so the Member will be keen to see all payments covered in connection with the tenancy and **awaits the response referred to above.**

Departmental Response

The Department would welcome the Committee's input on what types of other payments it envisages this might include as per issued to Committee on 6 December 2021.

At the meeting on 2 December, a Member raised the possibility of providing tenants with a 'statement of payments' (such as a tenant renting a business premises would receive) every quarter or six months and that could be put in guidance and would provide additional evidence or rent payments if needed.

Committee comment

Please confirm that the guidance to landlords and tenants could cover such a statement as being good practice.

Departmental Response

Guidance to landlords and tenants can cover such a statement as being good practice.

Committee comment

At the meeting on 2 December, a Member queried if there was anywhere in the Bill that banned landlords from solely requesting cash payments. The Officials replied that it was not in the Bill.

The Committee is still considering this matter but requests a response on whether the Minister would be minded to make such an amendment to prevent landlords forcing cash payments and not allowing tenants a range of payment options. Please provide an explanation if this is not thought to be possible.

Departmental Response

Legal advice is being sought urgently regarding whether the Bill could include provision to prevent a landlord from requesting solely cash payments. Once this advice is received Minister's view will be sought.

Clause 11

The Committee further considered its options regarding Clause 11 in a closed session with the Assembly Bill Office. The Bill Office Official highlighted to the Committee that any draft affirmative regulations would be scrutinised by the Committee in due course.

However, the Bill Office Official also advised that the Committee potentially could propose amendments to Clause 11 as presently drafted.

Committee comment

The Committee is still considering its options on this Clause, cognisant of the fact that the consultation will not be completed before the Committee stage ends. Members noted that this situation is far from ideal and the Committee will further review the evidence it has received on Clause 11.

Department Response

The Department notes the Committee's position on Clause 11.

Schedule 2

The Committee noted in the public session that it accepted that the amendments to Schedule 2 were being done to improve and future proof the clause regarding the need to move to net zero carbon emissions by 2050.