

Briefing for Committee Appearance regarding Private Tenancies Bill Northern Ireland Housing Executive

As the Strategic Regional Housing Authority, the Housing Executive takes a comprehensive overview of the housing system and recognises the level of integration and interdependency between social, affordable, owner occupied, and the private rented sector reflecting the dynamic nature of the housing market.

The Housing Executive supports a regulatory environment to better assist both landlords and tenants. A regulated Private Rented Sector (PRS) can provide high quality, safe, secure, and affordable homes to households, which enhances the health, wellbeing, and quality of life for tenants. The sector makes a valuable contribution to the housing market and provides much required housing for those in need.

Objectives

The key objectives of the review are to:

- a. Assess the contribution the PRS currently makes and could potentially make to increase housing supply;
- b. Identify the key enablers to support the current and potential future role of the PRS;
- c. Evaluate the effectiveness of existing regulation;
- d. Ascertain if there are any unintended consequences in the current system and make recommendations on how these could be addressed; and
- e. Assess the contribution the PRS does and could make to support the NI Executive's Together Building a United Community Strategy, which focuses on encouraging more shared housing.

We are in general agreement with the objectives of the Review. In particular, we welcome the objective to encourage more housing and contribute to Together Building a United Community Strategy, as it provides another lever for encouraging greater shared housing.

However, the Housing Executive believes an additional key objective could be 'to ensure the PRS provides people with a safe, energy efficient, secure, affordable, and habitable home, which provides an adequate standard of living'.

Supply

The Housing Executive believes that further research, data and statistics on PRS are needed in order to assess how to best attract investment in the PRS in Northern Ireland. The availability of additional information could lead to more tailored support for landlords. We believe that additional data could be captured by a remodelled landlord registration scheme.

The introduction of longer tenancies could better establish a 'Build to Rent' model, as available in Europe and promoted in GB. Longer tenancies would provide investors with greater stability and predictability.

We would also like the opportunity to further explore the potential of an expanded role for intermediate housing in the rented sector. We believe the high management standards provided by social landlords could help improve standards in the PRS and can assist landlords.

The Housing Executive supports the Department's proposals to explore opportunities to use money available for shared housing to incentivise the development of more mixed-tenure housing areas, including private rented accommodation, underpinned by a shared ethos. We believe this will provide us with a valuable opportunity to share our best practice to ensure collaborative working with this sector.

Affordability

The Housing Executive is concerned that the Local Housing Allowance, in many instances, cannot meet rent costs for the cheapest properties in the local area. While we strongly support the payment of discretionary housing payments, we note that funding is limited, and this does not provide a long-term solution.

We would like to see further details on how successful other mechanisms have been at keeping rents affordable. In particular, we would like to see the effect of the new requirements in the Republic of Ireland, where rents can only be reviewed once every 24 months, a 90-day notice of a rent review is given, and that the landlord must advertise comparable rents in the area.

The Housing Executive supports Option 4 which states that rent increases are restricted to once in any 12 month period and appropriate notice is given. However, the 'proposal for change' does not include a statement that notice should be given. We would like to see the proposal amended so it is in line with Option 4.

We also believe that the affordability of rents should be kept under review. We would like to ensure that rents are kept at an affordable rate in the future, and that any rent increases, above inflation, are due to increased standards.

Security of Tenure

The Housing Executive believes that an important way to support the growth of PRS is to ensure that there are sufficient numbers of long-term tenancies. Long-term tenancies have benefits including providing certainty and less stress for tenants, especially those with families, and landlords, and they can support more settled and sustainable communities. A long-term tenancy can also mean tenants are more likely to view a property as their home. Consequently, they are willing to invest and take care of a property, which also benefits the property owner.

However, often within the PRS market, there is only an option of a 12 month tenancy. This is frequently the choice of letting agents, not necessarily for tenants and landlords. The Housing Executive would like to see further choice in the PRS by providing tenancies which are appropriate for different household needs.

The Housing Executive supports a mandatory tenancy agreement as these can provide the tenant and landlord with a sense of security and a clear understanding of the roles and responsibilities of each party. We believe that mandatory tenancy agreement templates could be drawn up for three different lengths of tenancy, which could have different notice to quit periods.

- a. A standard tenancy agreement can offer short to medium term agreement. This type of tenancy should have a mandatory notice to quit period (e.g. two months);
- b. A long-term tenancy agreement could be aimed at households who wish to stay long term in a property e.g. 5-15 years. This would need to have a long notice to quit period.

We would like to see the lengthening of the notice to quit periods given, depending on the length of residency. We agree that the four-week period should be extended, and could be set at two months. We believe this is more adequate to allow people to find a new home, and to arrange moving. In addition, we would like to see notice to quit periods also adapted to households' circumstances, for example, families, or if a tenant is trying to find wheelchair standard accommodation, where it is likely to take a longer time to find alternative accommodation.

We agree that the eviction process should be amended, due to the length of delays and high costs. We would like to see an accelerated procedure, which can only be triggered where certain criteria are met, including after mediation or arbitration has taken place. Mediation can assist in preventing eviction and people becoming homeless.

Tenancy Management

The Housing Executive believes that the PRS needs to be further professionalised. Therefore, the Housing Executive strongly supports the introduction of a licencing scheme. Due to the critical nature of providing secure, fit, and safe homes to individuals and families, we believe that a licencing scheme could be central to delivering a continuously improving and quality service. We believe that licensing is the most effective way to raise and maintain standards within the sector, ensuring accountability and good management.

We believe that licencing could be introduced as part of the landlord registration scheme. If a license is not to be introduced, we believe it will be imperative that the landlord registration scheme requires a fitness test at the point of registration, to ensure the health and wellbeing of tenants. We also believe that the landlord registration scheme should be amended to capture additional information on properties.

We support the proposal to develop a tenant information pack, which a landlord must provide at the commencement of a tenancy. The Housing Executive has experience of developing welcome packs, including shared housing welcome packs. We would welcome an opportunity to share our best practice.

The Housing Executive supports the proposal to introduce a new regulatory framework for letting agents. Landlords and tenants have experienced problems and high charges from letting agents, and regulation would offer protection for both. We would also like to see a mandatory code of practice established by the Department, that all letting agents are required to follow in order to provide consistency. We also support the ban on all letting agent fees for tenants, as tenants are often not in a position to 'shop around'. Fees also affect the affordability of the sector.

New standards for the PRS should cover thermal comfort, fire safety, electrical safety, the prevention of falls, and carbon monoxide detection. We agree that the provision of fire and carbon monoxide alarms and electrical safety checks should be mandatory. These detectors should be hard wired to prevent occupants having to maintain and replace batteries. We believe the prevention of accidental falls should be included as an area of focus, and we would like to see fall prevention risk assessments as a requirement. These need not be onerous, and can be undertaken by landlords using a checklist.

Half of all tenants in the private rented sector are in fuel poverty, higher than the Northern Ireland and UK averages (HCS 2011). Inadequate home heating can have a serious detrimental effect on people's health and well-being. Therefore, the Housing Executive would like to see a specification for a 'reasonable degree of thermal comfort' included in any new fitness standard adopted for the PRS.

Linked to fuel poverty and thermal comfort, is the provision of energy efficient homes. It is important that more energy efficient properties are made available within the PRS, where many tenants have low incomes, and have little or no opportunity to improve the energy efficiency of their property.

It is estimated that many older properties with no retrofitted energy efficient saving technology are able to achieve a SAP band C rating. We believe this should be achievable for many landlords. Therefore, we believe that all PRS properties should be required to achieve a SAP band C rating and above.

As unfit properties can have serious detrimental effects on people's health and safety, we do not believe an arbitrary construction date should apply to the application of rent control. We would like to see rent control applied for all unfit properties, regardless of the date they were built. We would also like consideration to be given that Local Housing Allowance can be reclaimed from Landlords, where a private rented dwelling falls below accepted standards.

Existing grants, and the Affordable Warmth Scheme, have eased the financial burden for occupants to carry out necessary improvements to the safety of their home. However, as the grants budget has reduced, the Housing Executive would

welcome the provision of loans to landlords to improve unfit properties, and raise standards in the PRS.

Dispute Resolution

The Housing Executive supports the establishment of an independent housing panel, which could provide an opportunity to resolve issues before they result in court action, eviction, or homelessness.

Commentary on Clauses

COMMENTARY ON CLAUSES	Comments
<p>Clause 1: Tenant to be given notice regarding certain matters; grant of tenancy</p> <p>Clause 1 inserts new Articles 4A and 4B. Article 4A introduces a requirement for the landlord of a private tenancy to provide the tenant, free of charge, with a written statement of the main terms of the tenancy within 28 days of the granting of the tenancy.</p> <p>Subsection (4) refers that any landlord who fails to comply with paragraph (2) is guilty of an offence under this Order.</p>	<p>The Housing Executive support that the tenant receives a statement of the terms of a tenancy. These tenancy agreements are important to clarify rights and responsibilities to tenants and landlords and will help to prevent any disputes.</p> <p>It is important that tenants receive these statement of terms as soon as possible and we believe that landlords and letting agents should provide sight of the terms to prospective tenants, in order that people are not signing up for a tenancy without being fully informed.</p> <p>We believe that establishing a model of private residential tenancy agreements could assist landlords fulfil this requirement.</p>
COMMENTARY ON CLAUSES	Comments
<p>Clause 1: Tenant to be given notice regarding certain matters; variation of certain terms</p> <p>Article 4B introduces a requirement for the landlord of a private tenancy to provide the tenant, free of charge, within 28 days with any variations of prescribed terms.</p> <p>Subsection (5) refers that any landlord who fails to comply with paragraph (2) is guilty of an offence under this Order.</p> <p>Amendments to Article 68 and 68A provides the powers for prosecution and punishment of offences up to level 4 of the standard scale on summary conviction with the two offences being subject to the fixed penalty notice regime of the 2006 Order.</p>	<p>We support this proposal.</p> <p>However, again depending on the variation in terms, there may be room for different terms of notice. If there is a significant change affecting the viability of a tenancy, longer notice periods in this instance could allow tenants to consider changes, and if necessary, provide people with adequate time to find alternative accommodation.</p>

<p>As previous, Article 4 of the Private Tenancies Order (Northern Ireland) 2006 was repealed in error by the 2011 Housing (Amendment) Act (Northern Ireland). This clause permits section 1 of the Housing (Amendment) Act (Northern Ireland) 2011 to be omitted.</p>	
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COMMENTARY ON CLAUSES	Comments
<p>Clause 2: Tenant to be given notice regarding certain past matters</p> <p>Clause 2 introduces material provided for in Schedule 1 which contains the substance for giving notice to the tenants of dwelling houses that are let under a private tenancy for cases relating to transitional matters.</p> <p>This clause enables any tenant where the tenancy was granted on or after 30 June 2011 (date that previous Article 4 was repealed in error) but before the date on which the Bill comes into operation to be provided, free of charge, with a written statement of the main terms of the tenancy or any alterations to said agreement.</p>	<p>The Housing Executive supports this clause.</p>
COMMENTARY ON CLAUSES	Comments
<p>Clause 3: Tenant to be provided with a rent receipt for payment in cash</p> <p>Clause 3 replaces Article 5 of the 2006 Order, and introduces a requirement where rent is paid in cash, for the landlord of a private tenancy to provide the tenant, free of charge, with a rent receipt detailing the payment date, amount paid, if any amount remains outstanding, that amount, or if paid in full that fact.</p> <p>Subsection 5 paragraph (5) makes a breach of paragraphs (2) or (3) an offence under the 2006 Order and permits that where a landlord fails to comply, it punishes the landlord, and where an agent has been appointed to provide the receipt, also that agent. If there is no agent and there is a breach, then the landlord is guilty; if there</p>	<p>The Housing Executive strongly welcomes a requirement to provide a rent receipt.</p>

<p>is an agent and there is a breach, then both the landlord and agent are guilty.</p> <p>Paragraph (6) applies in the case of a controlled tenancy.</p> <p>This clause provides consequential amendments to Article 50 and inserts (4) to clarify that “similar document” does not include a receipt under Article 5(2); and additionally amends Article 66(1)(a) to “a rent book”</p> <p>Paragraph (8) provides for the offence to be a continuing offence and allows for punishment where a landlord is deemed to commit a further offence.</p>	
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COMMENTARY ON CLAUSES	Comments
<p>Clause 4: Limit on tenancy deposit amount; Breach of tenancy deposit limit; recoverability of excess</p> <p>Clause 4 new Article 5ZA limits the amount of deposit that is required in connection with a private tenancy to no more than 1 month’s rent and where an excess of 1 month’s rent has been paid, then the amount exceeding that amount is recoverable by the person that paid it. This will only apply to deposits received after the commencement of this Bill, and not retrospectively to those deposits taken before the legislation comes into operation.</p> <p>Subsection (2) provides a definition of 1 month’s rent in cases where the private tenancy does not calculate rent monthly.</p> <p>New Article 5ZB provides for the breach of tenancy deposit limit and recoverability of excess, and takes account of different circumstances where the deposit might be retained by the landlord.</p> <p>Subsection (3) introduces punishment and prosecution of offences up to level 4 on the standard scale, subparagraph (4) refers to the option to consider a fixed penalty</p>	<p>Many tenants have difficulty entering the PRS, due to the affordability of paying fees and raising a deposit. Therefore, we support this provision, which limits the cost of a deposit.</p>

<p>notice under the 2006 Order fixed penalty regime.</p> <p>This Clause provides a number of consequential amendments.</p>	
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COMMENTARY ON CLAUSES	Comments
<p>Clause 5: Tenancy deposit schemes: time limits</p> <p>Clause 5 amends Article 5B of the 2006 Order and extends the time limits for a deposit to be protected in an approved scheme in paragraph (3) from 14 days to 28 days, and gives additional time for a landlord to provide the information to the tenant, and amends paragraph (6)(b) from 28 days to 35 days.</p>	<p>We support this proposal.</p>

COMMENTARY ON CLAUSES	Comments
<p>Clause 6: Certain offences in connection with tenancy deposits to be continuing offences</p> <p>Clause 6 amends Article 5B of the 2006 Order making the offences under Article 5B (3) or (6) a continuing offence as long as the tenancy deposit breach persists. There will be no time barrier on prosecuting a person who fails to comply with the set requirements.</p>	<p>The Housing Executive welcomes this provision.</p>

COMMENTARY ON CLAUSES	Comments
<p>Clause 7: Restriction on rent increases</p> <p>Clause 7 applies to any private tenancy, except a controlled tenancy, and amends the 2006 Order by inserting 5C after 5D which provides that the rent payable under a private tenancy may not be increased more than once in any 12 month period. This will mean that there is no restriction upon when the first increase may take place, but there must be a minimum of 12</p>	<p>The Housing Executive supports the clause that rent cannot be increased within a 12-month period.</p> <p>We would also like to see included an adequate notice given to tenants that the rent will be increased. This could affect the ability of a tenant to sustain a tenancy, and the tenant may need to find alternative accommodation. If a tenant notified the landlord that they need to seek alternative accommodation, we would like the landlord to provide a timeframe for tenants to leave, aligned to the notice to quit period.</p>

<p>months between increases. Any proposed increase should be made in writing.</p> <p>The Department may make regulations under the draft affirmative procedure to prescribe circumstances where this restriction in paragraph (2) does not apply.</p> <p>Subsection 5D paragraph (1) applies to any private tenancy, except a controlled tenancy, and provides the requirement to give written notice of increase specifying the date on which the rent will take effect, and the rent payable after the increase. The details of the notice will be specified in regulations made by the Department.</p>	
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COMMENTARY ON CLAUSES	Comments
<p>Clause 8: Fire, smoke, and carbon monoxide</p> <p>Clause 8 is intended to reduce the risk of injury or death caused by fire, smoke, and carbon monoxide.</p> <p>Subsections 11B to 11E set out a requirement on private landlords to provide fire, smoke, and carbon monoxide detectors and details the landlord and tenant duties with regard to these.</p> <p>The Department will subsequently bring forward proposals in regulations with the standards expected which are intended to reduce the risk of injury or death caused by fire, smoke, or carbon monoxide.</p> <p>Subsection 11F paragraph (3) provides that a landlord is guilty of an offence under this Order with punishment and prosecution of offences up to level 4 on the standard scale, paragraph (4) refers to the option to consider a fixed penalty notice under the 2006 Order fixed penalty regime.</p> <p>This clause also contains various consequential amendments.</p>	<p>We strongly welcome this requirement.</p> <p>The Housing Executive would like to see regulations that require the installation of at least one smoke alarm on each storey of a property, and these should be mains-powered and interlinked.</p> <p>We would like to see that both smoke alarms and carbon monoxide detectors are fitted for all tenancies, regardless of when the tenancy started.</p>

COMMENTARY ON CLAUSES	Comments
<p>Clause 9: Energy Efficiency Regulations</p> <p>Clause 9 introduces Schedule 2 and notes its purpose with the provision of an enabling power to make regulations concerning the energy efficiency of dwelling houses let under a private tenancy.</p>	<p>The Housing Executive’s House Condition Survey reports that PRS tenants experience higher levels of fuel poverty than other housing tenures, with properties having lower energy efficiency measures in place.</p> <p>We note that in GB, there is a requirement for properties rented out in the private rented sector to have a minimum energy performance rating of E on an Energy Performance Certificate (EPC). A minimum EPC rating should be considered in the context of preventing fuel poverty and carbon reduction targets.</p> <p>We would like to see landlords be able to achieve support and assistance in order to implement energy efficiency measures for their property.</p>
COMMENTARY ON CLAUSES	Comments
<p>Clause 10: Electrical safety standards Regulations</p> <p>Clause 10 introduces Schedule 3 and notes its purpose with the provision of an enabling power for the Department to make regulations concerning electrical safety standards in private tenancies.</p>	<p>We support this clause.</p> <p>We note that in England, the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020, require that landlords have property electrics checked at least every 5 years by a properly qualified person. The electrics must meet standards, and landlords must give their tenants proof of this. We believe similar regulations can be sought in Northern Ireland.</p>

COMMENTARY ON CLAUSES	Comments
<p>Clause 11: Notice to Quit</p> <p>Clause 11 introduces a number of amendments to Article 14</p> <p>This clause will now extend the mandatory notice to quit period, for landlords to provide to tenants, to 8 weeks (after the first 12 months, and until the tenancy is 10 years old). The notice to quit for tenancies longer than 10 years will remain unchanged at 12 weeks.</p> <p>In the case where a notice by a landlord is issued for a tenant to quit a dwelling house</p>	<p>We support extended Notice to Quit periods and we would like a six-month period to be further investigated. A longer period may be needed for some households, for example, families, older people, and those with a disability, or who require accessible housing. These households may require additional time, even for shorter than 12 month tenancies.</p>

<p>under a private tenancy, this will have to be provided in the prescribed form and must contain prescribed information as subsequently set by the Department in regulations.</p> <p>In the case where a notice by a tenant is given such a notice will need to be given in writing, with the relevant period being 4 weeks if the tenancy has not been in existence for more than 10 years, and 12 weeks if the tenancy has been in existence for more than 10 years.</p> <p>This clause includes a provision to alter the notice to quit periods by way of regulations by draft affirmative procedure, and must consult with landlord and tenant representatives before laying any drafts.</p> <p>This clause also contains various consequential amendments.</p>	
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COMMENTARY ON CLAUSES	comments
<p>Schedule 1:</p> <p>Establishes the procedures to be followed where an existing tenant did not receive a written statement of the main terms of the tenancy during the period that Article 4 was repealed. The tenant should be given that statement and any alterations regarding such past matters within 28 days of the commencement of this Bill.</p> <p>Paragraphs 1 and 2 are similar to Article 4A and 4B and provides for particular cases where a tenant is to be given notice.</p> <p>Paragraph 3, 4 and 5 provides if a landlord is guilty of an offence under this Order, that punishment and prosecution of offences are set at up to level 4 on the standard scale, with the option to consider a fixed penalty notice under the 2006 Order fixed penalty regime.</p> <p>Article 72(2) of the 2006 Order. The Department may make regulations under paragraph 1, 2, or 5 which are subject to the negative resolution procedure.</p>	<p>The Housing Executive has no further comments.</p>

COMMENTARY ON CLAUSES	Comments
<p>Schedule 2</p> <p>Sets out the power for the Department to make regulations to detail the requirements around energy efficiency of dwelling houses let under a private tenancy, and what the minimum level any Energy Performance Certificate should be set at.</p> <p>Regulations will also provide which particular dwelling houses will be exempt from any prohibitions imposed by the regulations.</p> <p>This schedule provides a power for the Department to specify in regulations any offences committed by virtue of non-compliance.</p> <p>An amendment to Article 72 provides that when making the regulations, the Department must consult the Department for the Economy, district councils, and such persons as appear to the Department to be representative of landlords, and any other people the Department considers appropriate.</p>	<p>The Housing Executive has no further comments.</p>

COMMENTARY ON CLAUSES	Comments
<p>Schedule 3</p> <p>Provides for the Department to make regulations which will make it obligatory for any domestic private rented property to be subject to periodic electrical checks. The regulations will detail the requirements around electrical safety standards in private tenancies, which will involve certification so that proof will exist that such checks have been carried out with the power to create an offence.</p>	<p>The Housing Executive has no further comments.</p>