

Title of Report:	Commencement of Private Tenancies Act (NI) 2022
Committee Report Submitted To:	Environmental Services Committee
Date of Meeting:	14th March 2023
For Decision or For Information	For Decision

Linkage to Council Strategy (2021-25)	
Strategic Theme	Healthy, Active and Engaged Communities
Outcome	Implementation of Statutory Requirements
Lead Officer	Head of Health & Built Environment

Budgetary Considerations	
Cost of Proposal	N/A
Included in Current Year Estimates	N/A
Capital/Revenue	N/A
Code	N/A
Staffing Costs	N/A

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	Yes/No N/A	Date:
	EQIA Required and Completed:	Yes/No N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	Yes/No N/A	Date:
	RNA Required and Completed:	Yes/No N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	Yes/No N/A	Date:
	DPIA Required and Completed:	Yes/No N/A	Date:

1.0 Purpose of Report

1.1 The purpose of this report is to inform members of new legislative powers for Councils in relation to the private rented sector and to set fixed penalty levels.

2.0 Background

2.1 New provisions contained in The Private Tenancies Act (NI) 2022 received royal assent on the 27th April 2022. The Act amends the Private Tenancies Order (NI) 2006 aimed at making the private rented sector a safer and more protected housing option.

2.2 This report provides details of Sections 1-6 of the Act which are effective from 1st April 2023 and which Council's Environmental Health Department has enforcement responsibility for.

2.3 A copy of the Private Tenancies Act (NI) 2022 can be found at:
<https://www.legislation.gov.uk/nia/2022/20/contents/enacted>

2.4 The Council will seek to publicise the new legislative provisions in advance of the commencement date of 1st April 2023 using our media outlets.

3.0 Proposals

3.1 The Act creates new offences for which the Council will have powers to issue fixed penalty notices. The fixed penalty payable in respect of an offence 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 which is currently £2500. The maximum level of fixed penalty fine that the Council can set for the new offences is therefore £500.

3.2 Council has previously set the fixed penalty for failure to register as a landlord under the same legislation at £500.

3.3 It is therefore proposed that the fixed penalty amounts for new offences introduced under the following sections of the Act and detailed in Appendix 1 are each set at a level of £500.

- Section 1 & 2: Tenant to be given notice of certain matters and certain past matters
- Section 3: Tenant to be provided with a rent receipt for payment in cash
- Section 4: Limit on tenancy deposit amount

4.0 **Amended legislative provisions**

4.1 In addition to creating new offences, the following sections of the Act amend existing legislative provisions. These amendments are detailed in Appendix 1 also.

- Section 5: Increase in time limits for requirements relating to tenancy deposits
- Section 6: Certain offences in connection with tenancy deposits to be continuing offences

5.0 **Financial and Resource Implications**

5.1 The Private Tenancies Act will provide Council with new enforcement powers to deal with tenancy issues in the private rented sector placing additional duties and demands on our existing resources.

5.2 There is no financial support available from the Department for Communities (DfC) to assist Councils with these additional powers. The fixed penalty regime introduced for some of the new offences may provide some income but it is not anticipated this will be sufficient to cover the additional staffing and administrative resources required.

5.3 Setting the fixed penalty fine to the maximum of £500 for each offence is a key consideration in the absence of any financial support to implement this important legislation.

6.0 **Recommendation**

6.1 It is recommended that members note the new legislative powers for Councils in relation to the private rented sector and agree the proposed fixed penalty levels.

REQUIREMENTS OF THE PRIVATE TENANCIES ACT (NI) 2022

Section 1 & 2: Tenant to be given notice of certain matters and certain past matters

This introduces a requirement for the landlord to provide the tenant, free of charge, with a written **Tenancy Information Notice** within 28 days of granting the tenancy.

The information and detail required in the Tenancy Information Notice is prescribed in the Tenancy Information Regulations (NI) 2022, it includes information on the landlord and tenant's respective rights and responsibilities.

A Tenancy Information Notice is an important legal document which can help to minimise disputes, as information, such as, the rent payable, deposit details, duration of tenancy, responsibility for repairs and notice of termination are given in writing. The Notice also provides tenants with the landlords (and, if appropriate, agent's) contact information.

A **Notice of Variation** is also required if there is any change to the prescribed terms in the original Tenancy Information Notice. This must be provided to the tenant within 28 days of any change made and be free of charge.

Where a landlord has, between granting the tenancy and the 1 April 2023 given the tenant a notice that substantially meets the new requirements, that landlord is regarded as having complied with the legislation.

If the landlord commits an offence, the council will have the power to issue a fixed penalty notice, not exceeding £500. If the landlord is convicted by a court, the penalty will be a fine not exceeding level 4 on the standard scale (Currently £2,500).

Section 3: Tenant to be provided with a rent receipt for payment in cash

It is no longer a requirement to provide a rent book, this has been substituted with the requirement for a landlord to **provide a written receipt**, free of charge, for any payment made in cash in relation to the tenancy. Both the landlord and the tenant should be able to keep a copy.

Any written receipt must detail:

- the payment date;
- what the payment was for; and
- the amount paid, including:
 - if any amounts remain outstanding, and
 - if the payment was made in full.

Where a payment of a single sum covers two or more payments, then the receipt must state:

- how these payments are shared out between each payment;
- any amount that remains outstanding on each payment; and
- if no further amount is due.

If the landlord or his/her representative commits an offence by failing to provide the written receipt containing the required information for cash payments, or if the receipt is not provided

at the time or as soon as reasonably possible, the council may issue a fixed penalty notice not exceeding £500. If the landlord is convicted by a court the penalty will be a fine not exceeding level 4 on the standard scale (currently £2,500).

Section 4: Limit on tenancy deposit amount

This section limits the amount of deposit that can be asked for or retained in connection with a private tenancy **to no more than equivalent of 1 month's rent**. This only applies to **deposits received after 1 April 2023** and not retrospectively to those deposits taken before.

Any landlord or other person who requires a tenancy deposit in excess of 1 months rent to be paid or retained in connection with a private tenancy (after the 1 April 2023) is guilty of an offence under the Private Tenancies Order.

The council can issue a fixed penalty notice or prosecute for this offence. The amount of the fixed penalty notice is to be determined by the Council. The maximum fixed penalty amount which can be issued by Council is £500.

If the landlord is convicted by a court the penalty will be a fine not exceeding level 4 on the standard scale (currently £2,500). The courts may also order the landlord to repay the excess amount to the person who had originally paid it.

Section 5: Increase in time limits for requirements relating to tenancy deposits

This **extends the time limits** for a deposit to be protected in an approved scheme from 14 days **to 28 days** and gives additional time for a landlord to provide information to the tenant, from 28 days to 35 days.

If a landlord or agent fails to protect the deposit or notify a tenant of the deposit information within the specified time limits, then they will be guilty of an offence. Under the existing provisions of the Private Tenancies Order, the council may issue a fixed penalty three times the value of the deposit taken and if convicted of the offence, the person may be liable to a fine not exceeding £20 000.

Section 6: Certain offences in connection with tenancy deposits to be continuing offences

The Private Tenancies Act (Northern Ireland) 2022 **makes the failure to protect a tenancy deposit a continuing offence and removes the 6-month time limit on prosecutions.** There will no longer be a time barrier on prosecuting a person who fails to comply with the tenancy deposit requirements.

This legislation provides that those offences continue to be committed throughout any period during which the failure to protect a deposit, or supply the required information to the tenant, continues.