



Northern Ireland  
Assembly

**Committee for Communities**

# Report on the Private Tenancies Bill

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Report: NIA 157-17/22 Committee for Communities

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# Powers and Membership

## Powers

The Committee for Communities is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of Strand One of the Belfast Agreement and under Assembly Standing Order No 48. The Committee has a scrutiny, policy development and consultation role with respect to the Department for Communities and has a role in the initiation of legislation.

The Committee has power to:

- consider and advise on Departmental budgets and Annual Plans in the context of the overall budget allocation;
- approve relevant secondary legislation and take the Committee Stage of relevant primary legislation;
- call for persons and papers;
- initiate enquiries and make reports; and
- consider and advise on matters brought to the Committee by the Minister of Communities.

## Membership

The Committee has nine members, including a Chairperson and Deputy Chairperson, and a quorum of five members. The membership of the Committee is as follows:

- Paula Bradley MLA (Chairperson)
- Kellie Armstrong MLA (Deputy Chairperson)
- Andy Allen MBE MLA
- Stephen Dunne MLA
- Mark Durkan MLA
- Paul Frew MLA
- Ciara Ferguson MLA
- Áine Murphy MLA
- Aisling Reilly MLA

# List of Abbreviations and Acronyms used in this Report

CaCHE	UK Collaborative Centre for Housing Excellence
CIH	Chartered Institute of Housing
CMP	Client money protection
DfC	Department for Communities
DoF	Department of Finance
EHNI	Environmental Health Northern Ireland
EICR	Electrical Installation Condition Report
EPC	Energy Performance Certificate
FTB	First Time Buyer
HA	Housing Associations
HMO	House of Multiple Occupancy
HSENI	Health and Safety Executive Northern Ireland
LA	Local Authority
MEES	Minimum Energy Efficiency Standards
MLA	Member of Legislative Assembly
NIA	Northern Ireland Assembly
NICEIC	National Inspection Council for Electrical Installation Contracting
NIFHA	Northern Ireland Federation of Housing Associations
NIHCS	Northern Ireland House Condition Survey

NIHE	Northern Ireland Housing Executive
NTQ	Notice to Quit
NUS-USI	National Union of Students - Union of Students in Ireland
PAT	Portable Appliance Testing
PBSA	Purpose Built Student Accommodation
PRS	Private Rental Sector
PTO	Private Tenancy Order 2006
RaISe	Research and Information Services (NI Assembly)
RPZ	Rent Pressure Zone
SAP	Standard Assessment Procedure
SDS	Safe Deposits Scotland
The Assembly	The Northern Ireland Assembly
The Order	Private Tenancies (Northern Ireland) Order 2006
The Department	Department for Communities
DHP	Discretionary Housing Payment
LHP	Local Housing Payment

# Executive Summary

1. This report sets out the Committee for Communities' consideration of the Private Tenancies Bill.
2. The Private Tenancies Bill was introduced to the Northern Ireland Assembly on 06 July 2021 and was referred to the Committee for Communities for consideration after Second Stage, which took place on 13 September 2021.
3. The purpose of the Bill, which contains 14 substantive clauses and three schedules, is to provide a series of amendments to The Private Tenancies (Northern Ireland) Order 2006. The key objectives of the clauses in the Bill are to make the private rented sector a safer and more secure housing option for a wider range of households, to ensure better regulation of the sector and offer greater protection to private renters.
4. The Committee requested evidence from interested organisations as well as the Department of Communities as part of its deliberations on the Bill.
5. 13 written submissions were received along with 20 responses to the online Citizen Space survey. The Committee held 12 oral evidence sessions with interested organisations as well as exploring the issues raised in the written and oral evidence with Department of Communities officials both in writing and in oral briefings. The Committee considered the provisions of the Bill at 17 meetings.
6. At its meeting on 11th January 2022 the Committee undertook its formal Clause by Clause consideration and agreed the Clauses as outlined in the formal clause by clause agreement section of this report.
7. The Committee aimed to scrutinise the Bill bearing in mind the context that it follows a series of reforms to the regulation of the Private Rented Sector (PRS) in Northern Ireland over the past decade but that this Bill has a focused remit and that further reform will be needed in the next mandate.

8. However, it is the Committee's intention, through this Bill, to assist as far as possible, with making the PRS a safer and more secure option for those who require or wish to be housed within the sector.
9. The Committee bore in mind that the PRS sector provides a flexible tenure choice for many tenants, particularly young professionals. However, as it considered the Bill it remained mindful that it houses a considerable number of vulnerable households and that many third sector bodies and indeed the constituency offices of MLAs, have played a pivotal role in providing support and advice to vulnerable tenants in the sector.
10. Throughout its scrutiny of the evidence, the Committee aimed to consider any potential unintended consequences of the Bill in terms of finding a balance between protecting tenants and the potential for over-regulation which could drive landlords from the sector thus compounding housing problems.
11. The body of this report starts with a summary of the context of the Bill and an overview of the clauses, highlighting comparisons with similar legislation in neighbouring jurisdictions.
12. From the evidence the Committee considered, it noted that much progress has been made to reform the PRS but that there is still much to be achieved in terms of both regulation and harnessing the potential of the sector.
13. The Committee noted that the Minister for Communities has highlighted that the Bill represents only the first stage of a longer-term programme of reform for the PRS.
14. The Committee did, however, consider the wider and longer term issues that were highlighted to it through its evidence and made a number of specific recommendations in that regard as well as recommendations pertinent to the clauses of the Bill.
15. After considering all its evidence, deliberating on the many issues raised, taking advice from the Assembly Bill Office and querying many issues and seeking clarifications with Departmental Officials, the Committee agreed to Clauses 1, 2, 4, 5, 6, 8, 10, 12, 13, 14 and Schedule 1 as drafted.

16. Although the Committee also agreed to Clause 9, it introduces Schedule 2 which provides the Department with the power to make regulations that will make it obligatory for domestic private rented properties in NI to have a minimum Energy Performance Certificate (EPC) rating. A new amended Schedule 2 was brought forward by the Department during the deliberations (see paragraph 22 below).
17. The Committee requested that the Department make a number of amendments to the Bill in Clauses 3 and 7 and was pleased that these are being taken forward as Ministerial amendments, so that the Bill now provides for receipts for all cash payments in relation to the tenancy (not just for rent payments) and that the time period in 5D(4) be increased from two to three months.
18. The Committee felt strongly that landlords should not insist on cash payments and should offer tenants a choice of payment methods and having first considered its own amendment, finally agreed to the Departmental amendment of a new Clause 11A 'Payment options for tenants: power to make provision and duty to consult'.
19. With regard to Clause 11, the Committee was put in an extremely difficult position as its deliberations on this Clause were severely hampered by the fact that the Department commenced a consultation around enhancing the Clause at an advanced stage of the Committee's deliberations. The consultation will not end until after the Committee has reported on the Bill and this situation is extremely unusual and meant the Committee could only consider the Clause as drafted, knowing that changes are likely to be proposed by the Minister later in the Bill's legislative process.
20. After seeking Bill Office advice and its own legal advice on Clause 11, the Committee decided to reserve its position on Clause 11 until after the outcome of the Department's consultation is known, although it strongly re-iterated during the formal Clause by Clause process its frustration at this turn of events.
21. With regard to Schedule 2 (linked to Clause 9 as above), the Committee were again put in a difficult position as midway through its deliberations on the Bill, the Department advised that they had produced a new enhanced Schedule 2 to future proof the legislation as it was concerned that the powers in Schedule 2 as

drafted would be too limiting in terms of the Regulations it would allow the Department to put into place.

22. The Committee noted that it was far from ideal being presented with a new Schedule in the middle of its deliberations and one on which it had taken no evidence itself and that it was likely unheard of in past Bills. However, having considered the new Schedule in discussion with the Officials, it accepted the positive nature of the proposals as the legislation will now be a tool to drive the decarbonisation of a significant portion of the housing stock to deliver our climate change obligations. After full explanation of the amendments by the Officials it agreed to offer its support for the new Schedule.
23. Overall, the Committee would have wished to see a more ambitious Bill to match progress in neighbouring jurisdictions but Members were left in no doubt from witnesses that reform could not wait and that this Bill is a necessary first step.
24. The Committee enjoyed a productive working relationship throughout the Committee Stage with the Department for Communities' Officials, the Minister, the Assembly's Bill Office and Assembly Secretariat.

## Introduction

25. The Private Tenancies Bill (NIA Bill 32/17-22) was referred to the Committee in accordance with Standing Order 33 on completion of the Second Stage of the Bill on 13 September 2021.
26. The Minister for Communities made the following statement under section 9 of the Northern Ireland Act 1998: “In my view the Private Tenancies Bill would be within the legislative competence of the Northern Ireland Assembly.”
27. The stated purpose of the Bill is to amend the Private Tenancies (Northern Ireland) Order 2006. The Order is divided into 6 Parts. The Bill focuses on Parts 2 and 6.
28. Part 2 of the Order describes the obligations of landlords and tenants in relation to rent books, tenancy deposits, repairs and maintenance, and other matters. Part 6 sets out a number of miscellaneous provisions including provisions relating to the service of notices and documents, the punishment of offences, fixed penalty notices and regulation making powers.
29. During the period covered by this Report, the Committee considered the Bill and related issues at 17 meetings. The relevant Minutes of Proceedings for these meetings are included at Appendix 4. Also included in this Appendix are the Minutes of Proceedings highlighting the discussions the Committee undertook prior to introduction.
30. The Committee had before it the Private Tenancies Bill (NIA 32/17-22) and the Explanatory and Financial Memorandum that accompanied the Bill. Following the introduction of the Bill on 06 July 2021, the Committee wrote to key stakeholders and inserted public notices in the Belfast Telegraph, Irish News, and News Letter seeking written evidence on the Bill by 12.00p.m. on Friday 29 October 2021.
31. 13 organisations responded to the request for written evidence and a copy of the submissions received are included at Appendix 6. The Committee also published a survey on its Citizen Space webpage. A total of 33 responses were received from individuals and organisations.

32. Correspondence received from the Department of Communities is included at Appendix 2, with other relevant correspondence at Appendix 8.
33. The Committee commissioned the Northern Ireland Assembly Research and Information Service (RaISe) to provide research on the content and implications of the Bill. These papers are included at Appendix 7 and the Committee received an oral briefing from RaISe on 21 October 2021, which explored the provisions of the Bill (as introduced); provided comparisons with similar legislation and policy in Great Britain and Ireland; and identified issues for the Committee's further consideration.
34. After the Bill completed its Second Stage on 13 September 2021, the Committee arranged to take oral evidence on the Bill from relevant stakeholders and the Department. The Committee heard from the following organisations on the dates listed below:
  - 21 October 2021 – NI Assembly Research and Information Service
  - 02 November 2021 – Chartered Institute of Housing Northern Ireland
  - 02 November 2021 – Renters' Voice
  - 02 November 2021 – Housing Rights
  - 09 November 2021 – PropertyPal
  - 09 November 2021 – NUS - USI
  - 16 November 2021 – Landlords Association for Northern Ireland
  - 16 November 2021 – Fuel Poverty Coalition NI
  - 18 November 2021 – Northern Ireland Fire and Rescue Service
  - 18 November 2021 – Electrical Safety First
  - 18 November 2021 – Propertymark
  - 23 November 2021 – Northern Ireland Housing Executive

- 23 November 2021 – Tenancy Deposit Scheme Administrators

35. The Committee also had discussions with Departmental Officials on the key issues of the Bill prior to its introduction at its meeting on 01 July 2021. Committee deliberations on the clauses of the Bill were conducted at the meetings on 25 November 2021, 30 November 2021, 2 December 2021, 9 December 2021, 16 December 2021, 21 December 2021 and 11 January 2022. The formal clause by clause scrutiny of the Bill was completed at the meeting on 11 January 2022. The relevant Minutes of Evidence of these meeting are included at Appendix 5.

## Context and Overview of the Bill

36. The private rented home sector has grown to replace the social housing sector as the second largest category of housing tenure in Northern Ireland. It now accounts for over 17% of all housing stock in NI, providing an important housing option for numerous families and individuals.
37. The Committee understands that the sector provides a flexible tenure choice for many tenants, particularly young professionals. However, as it considered the Bill it remained mindful that it houses a considerable number of vulnerable households including households on low incomes (with nearly half of those housed in the sector in receipt of some element of housing support, either through Universal Credit or Housing Benefit), those that are homeless and threatened with homelessness, migrant workers, black and minority groups, a growing number of older people and children; and individuals with complex needs including drug and alcohol dependency.
38. The Committee is aware that this Bill follows a series of reforms to the regulation of the sector in NI over the past decade, including the mandatory Landlord Registration Scheme, a new regulatory framework and licensing regime for Houses in Multiple Occupation (HMOs) and longer Notice to Quit periods.
39. In 2010 the Department for Social Development launched its Private Rented Sector Strategy, 'Building Sound Foundations', which focused on delivering of targeted improvements to the regulatory regime (including the introduction of the Tenancy Deposit and Landlord Registration Schemes).
40. The 2012 – 2017 Housing Strategy Action Plan committed the Department to undertaking a review of the private rented sector to consider the current and future role of the sector and assess the effectiveness of current regulation, identifying where improvements could be made to help make the private rented sector a more attractive housing option.
41. The Department carried out a two-stage review of the role and regulation of the private rented sector, the first of which was a discussion paper. The formal

consultation on this paper ran from 12 November 2015 to 05 February 2016 and was then followed by stakeholder engagement.

42. The second stage set out recommendations for enhancing and improving the sector in the context of the housing strategy aim of making the private sector a more attractive housing option for a wider range of individuals and households.
43. The Department established a consultative working group to consider the key issues that emerged from the two stages. This resulted in the Proposals for Change document.
44. The Committee acknowledges that this Bill has a focused remit and does not address all of the issues covered in that Proposals document and that further reform will be needed in the next mandate. However, it is the Committee's intention, through this Bill, to assist as far as possible, with making the private rented sector a safer and more secure option for those who require or wish to be housed within the sector.
45. The Committee were keen to consider the Bill (as introduced) in comparison with similar legislation in neighbouring jurisdictions and did so through the Bill paper prepared by the Northern Ireland Assembly Research and Information Service (RaISe) and comparative issues raised in other written and oral evidence received. The RaISe Bill paper (Appendix 7) provided comparisons with similar legislation and policy in Great Britain and Ireland; and identified issues for the Committee's further consideration.
46. The following contextual information is extracted and summarised from that paper based on the Bill as introduced and the Committee considered the issues and the context in more detail through the deliberations on the clauses of the Bill (see section titled 'Consideration of the Bill').
47. Clauses 1 and 2 of the Bill will provide existing and future tenants with the right to a notice containing certain particulars and other details relating to their tenancy. A duty on landlords to provide tenants with the written terms of the tenancy already exists in Scotland and in England, certain tenants have a right in law to request that the landlord provides, in writing, a statement of any terms of the tenancy. There are also further developments in relation to tenancy

terms in both jurisdictions, for example, the Scottish Government has included statutory terms that must be included (such as rent increases, ending the tenancy agreement, Notice to Quit etc.) and in both jurisdictions easy-to-read guidance booklets have been published.

48. Additionally, both the UK Government and the Scottish Government have produced model tenancy agreements for landlords and letting agents to use and in Scotland, the voluntary model tenancy agreement can be used by landlords to fulfil their duties to provide the written terms of a tenancy. The Welsh Government has recently consulted on the introduction of model written statements of tenancy terms.
49. The Bill substitutes a new Article 5 in the 2006 Order to remove the requirement for landlords to provide tenants with a rent book. However, Clause 3 (as introduced) aims to provide safeguards for tenants by requiring that the landlord provides the tenant, free of charge, with a receipt (containing prescribed information) for rent paid in cash. This right is already enshrined in housing law for private residential tenants in Scotland, and for private rented sector tenants in the Republic of Ireland. There are no similar obligations placed on landlords in England but many tenant and landlord representative bodies advise that a receipt should be issued by landlords, or requested by tenants.
50. The Committee are concerned about affordability in accessing the private rented sector for low-income households and know that this has been exacerbated by the impact of the COVID-19 pandemic. Clause 4 of the Bill, as introduced, limits the amount of deposit to no more than one month's rent.
51. Legislation has recently been passed in the Republic of Ireland, which similarly restricts deposits to no more than the equivalent of one month's rent and in addition an advance payment of rent also cannot exceed one month's rent. These limits only apply to tenancies created from 9 August 2021 onwards.
52. For 'private residential tenancies' in Scotland, a deposit equivalent of no more than two months' rent can be charged. In England, the amount of deposit for certain tenancies is linked to the total annual rent. The UK Government has outlined its intention to introduce a reform package for private renters in

England and stated that it will outline later this year proposals for a new “lifetime tenancy deposit model”.

53. The Committee heard that the fees associated with renting a property can also contribute to affordability issues for households on low incomes and that NI does not have a modern statutory regulatory framework for letting agents or for letting agent fees. Minister Hargey has indicated that this is an issue she will consider as part of the Department’s longer-term programme of reform. A legislative framework for fees already exists in England, Scotland and Wales.
54. The Committee heard that other jurisdictions have also moved ahead in terms of developing a regulatory framework for letting and managing agents. For example, the Welsh Government has introduced a licensing system for letting agents with mandatory training requirements. In Scotland, letting agents must follow a Scottish Government Code of Practice and must also be registered on the Scottish Letting Agency Register, which involves training and qualification requirements.
55. In NI, tenancy deposits paid on or after 1 April 2013 must be protected with one of the three approved Tenancy Deposit Scheme administrators. Landlords are currently required by law to place the deposit in an approved scheme within a period of 14 days beginning on the date on which the deposit is received. Landlords must also provide tenants with certain related prescribed information within 28 days from the receipt of the deposit. Clause 5 contains provisions to extend the time limits respectively from 14 days to 28 days and from 28 days to 35 days.
56. In Scotland, England and Wales the respective time periods are both 30 working days and in England and Wales, a deposit must be placed in an approved scheme within 30 days of it being received by the landlord and the prescribed information must also be provided to tenants within 30 days of the receipt of the deposit.
57. The Committee was advised that Clause 6 is intended to remove the current prosecution ‘time bar’ for certain offences relating to the Tenancy Deposit Scheme. An offence is committed under the current 2006 Order where a landlord fails to protect a tenancy deposit or provide the prescribed information

within the required timeframe. Clause 6 provides that these offences continue to be committed throughout any time period during which the failure continues. Thereby, removing the time barrier on prosecuting a person who fails to complete these requirements.

58. As only a small number of tenancies in NI are subject to rent control, the vast majority are not subject to rent regulation or caps set by government. The Department for Communities 2017 consultation on the private rented sector considered the issue of rent control but maintained that it could act as a disincentive to investment in the sector. It proposed instead, to restrict rent increases to once in any 12-month period and this is provided for in Clause 7 (as introduced).
59. Clause 7 also provides that tenants must be provided with a written notice specifying the date the increase will take effect and the rent payable after the increase and that the Department for Communities may make regulations prescribing circumstances in which the restriction will not apply e.g., where the property is renovated, refurbished, altered or extended.
60. The Committee understood that there are restrictions on rent increases provided for in housing legislation in other jurisdictions. For private residential tenancies in Scotland, rent can similarly only be increased once a year and tenants must be provided with at least three months' written notice. In the Republic of Ireland, for example, the rent can only be reviewed either 24 months after the tenancy commencement date, or 24 months from the date of the last review. The tenant must be provided with at least 90 days' notice in writing of a change in rent and the notice must also be in a prescribed format.
61. This is applicable where the property is not in a Rent Pressure Zone (RPZ) (more information on RPZs is provided in the RaISe paper - both Scotland and the Republic of Ireland have legislated for Rent Pressure Zones (RPZs) to control rising rent levels in certain high rent geographical areas that are causing affordability issues for tenants).
62. There is a mechanism for tenants in both Scotland (Rent Service Scotland, then appeals to First-Tier (Housing and Property Chamber) and the Republic of

Ireland (Residential Tenancies Board) to challenge a rental increase and to have it reassessed by a third party.

63. The research paper noted that the Bill focused on property standards in Clauses 8, 9 & 10. The Department for Communities 2017 consultation paper on the sector indicated that the review of the 'Fitness Standard' for properties was scheduled to produce proposals for public consultation in 2017. This consultation has not yet taken place but, the Department has, however, indicated that there are a number of private rented sector issues that it needs to look at over a longer timescale, including Fitness Standards.
64. Whilst the current statutory Fitness Standard remains under consideration, the Department has sought to move ahead with introducing new requirements in relation to fire, smoke and carbon monoxide detectors (Clause 8); energy efficiency standards (Clause 9); and electrical safety standards (Clause 10).
65. Minimum property standards and statutory tools for dealing with properties that do not meet those standards are more developed in other jurisdictions and further details are provided in the RalSe paper. For example, in Scotland, the 'Tolerable Standard' is the basic statutory minimum standard for all housing.
66. Private landlords in Scotland are also required by law to ensure that a rented property meets the 'Repairing Standard' at the start of, and throughout, a tenancy, which requires, amongst other things, that the property has a satisfactory mechanism for detecting and providing warning in the event of a fire (or suspected fire) and for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
67. The Housing Health and Safety Rating System (HHSRS) is the main system for assessing and enforcing housing standards in England and Wales. It is a risk-based tool designed to help local authorities identify and protect against potential risks and hazards to health and safety in properties across all housing tenures. A review of the HHSRS is now ongoing.
68. In England, the Homes (Fitness for Human Habitation) Act 2018 came into force in March 2019 and places an onus on landlords (both social and private rented

sector) to ensure that their properties are fit for human habitation at the beginning of, and throughout, a tenancy.

69. In the Republic of Ireland, private sector landlords must comply with the minimum standards set out in the Housing (Standards for Rented Housing) Regulations 2019. The regulations contain standards in respect of fire safety and carbon monoxide, thermal comfort and electrical safety.
70. Clause 8 in the Bill provides for new requirements on private landlords in relation to fire, smoke and carbon monoxide alarms and the duties on landlords and tenants with regards to these. Mandatory requirements in respect of smoke and carbon monoxide detection are already in place in England, Scotland and the Republic of Ireland (and being consulted upon in Wales).
71. Clause 9 introduces Schedule 2 which provides the Department with the power to make regulations that will make it obligatory for domestic private rented properties in NI to have a minimum Energy Performance Certificate (EPC) rating.
72. The Committee were midway through its deliberations on the Bill, when the Department advised that they had produced a new enhanced Schedule 2 to future proof the legislation as it was concerned that the powers in Schedule 2 as drafted would be too limiting in terms of the Regulations it would allow the Department to put into place. The revised Schedule will still prohibit letting, or continuing to let, a dwelling house under a private tenancy of inadequate energy efficiency. This will be given effect by further Regulations, which will be subject to full consultation.
73. The Committee were made aware that minimum energy efficiency standards have already been introduced in England and Wales with all private rented sector properties meeting a minimum EPC Band 'E' rating. There is now a consultation on proposals to upgrade private rented sector homes to EPC Band 'C' by 2030 where it is "practical, cost-effective and affordable".
74. The Scottish Government has in place plans to introduce energy efficiency regulations. These appear to have been delayed due to the impact of the pandemic but the draft regulations contained provisions to require all private

rental properties to have a minimum EPC rating of E by 31 March 2022 and to have a minimum EPC rating of D by 31 March 2025.

75. The Irish Government are taking a number of steps towards improving energy efficiency across all housing tenures including a Climate Action Plan, which contains a commitment to encourage around 500,000 homes to upgrade to a B2 Building Energy Rating and includes the establishment of a Retrofitting Taskforce.
76. In Northern Ireland, the Committee are aware that there is currently no blanket requirement for private sector landlords (except in the case of HMOs) to ensure that periodic mandatory electrical safety checks are conducted by a suitably qualified professional. Clause 10 of the Bill contains provision to provide the Department for Communities to make regulations concerning electrical safety standards in properties let under a private tenancy.
77. Schedule 3 of the Bill provides that the Department may make regulations imposing duties on private landlords for the purposes of ensuring that electrical safety standards are met during the period in which the property is let under the tenancy.
78. In Scotland, there is a duty on landlords under the Housing (Scotland) Act 2006 to ensure that electrical safety inspections are carried out once every five years. Much of the detail of the legal requirements are outlined in guidance. Mandatory requirements in respect of electrical safety standards and 5-yearly inspections have also been introduced in England via the Electricity Safety Standards in the Private Rented Sector (England) Regulations 2020.
79. Pre-pandemic, the Private Tenancies (NI) Order 2006 set out the relevant Notice to Quit periods for different length of tenancies. However, at the start of the COVID-19 pandemic, the Private Tenancies (Coronavirus Modifications) Act (Northern Ireland) 2020 required private rented sector landlords to give tenants a 12-week Notice to Quit period before seeking a court order to begin proceedings to evict. This has been extended until 4 May 2022.
80. Clause 11 of the Bill (as introduced) contains provisions to amend the Notice to Quit periods for landlords as follows:

- 4 weeks' Notice to Quit where the tenant has been in the property for a year or less;
- 8 weeks' Notice to Quit where the tenant has been in the property for more than one year but not more than 10 years; and
- 12 weeks' Notice to Quit where the tenant has been in the property for more than 10 years.

81. The Committee's deliberations on this Clause were severely hampered by the fact that the Department commenced a consultation around enhancing the Clause at an advanced stage of the Committee's deliberations. The consultation will not end until after the Committee has reported on the Bill and this situation is extremely unusual and meant the Committee could only consider the Clause as drafted, knowing that changes are likely to be proposed by the Minister later in the Bill's legislative process.
82. The Committee were made aware that there has also been a drive in NI towards providing information and advice to both landlords and tenants on their rights and responsibilities with a large proportion of work being taken forward by Housing Rights (funded by the Housing Executive and DfC).
83. The Committee is also aware that many other third sector bodies and indeed the constituency offices of MLAs, have also played a pivotal role in providing support and advice to tenants in the sector.
84. Whilst the Committee notes that much progress has been made to reform the sector, from the evidence it took it is clear that there is still much to be achieved in terms of both regulation and harnessing the potential of the sector.
85. Although the Committee would have wished to see a more ambitious Bill as the above context clearly highlights the enhanced progress in other neighbouring jurisdictions, Members were left in no doubt from witnesses that reform could not wait and that this Bill is a necessary first step in a series of legislative reforms to address some of these issues in the sector.
86. The Committee noted that the Minister for Communities has highlighted that the Bill represents only the first stage of a longer-term programme of reform for the

private rented sector and stated in July 2021 that she is "...committed to making our housing system better for people and families. The housing market has changed dramatically over the past few decades, so our legislation needs to keep up".

87. Although the Committee would have wished to see a more ambitious Bill, it noted the time constraints of the mandate. Members were left in no doubt from witnesses that reform could not wait and that this Bill is an important first step in a series of legislative reforms to address some of these issues in the sector.

# Committee Recommendations and Consideration of Wider Issues

## Context of the Recommendations

88. In making its recommendations, the Committee considered the wider context of the Bill. It noted that the private rented sector continues to play a critical role in meeting housing need in NI and in recent years has taken over from the social housing sector as the second largest housing tenure.
89. The Committee understands that the sector also provides a flexible tenure choice for many tenants, particularly young professionals. However, it is also mindful that it houses a considerable number of vulnerable households including households on low incomes (with nearly half of those housed in the sector in receipt of some element of housing support, either through Universal Credit or Housing Benefit), those that are homeless and threatened with homelessness, migrant workers, black and minority groups, a growing number of older people and children; and individuals with complex needs including drug and alcohol dependency.
90. The Committee is aware that this Bill follows a series of reforms to the regulation of the sector in NI over the past decade, including the mandatory Landlord Registration Scheme, a new regulatory framework and licensing regime for Houses in Multiple Occupation (HMOs) and longer Notice to Quit periods.
91. There has also been a drive towards providing information and advice to both landlords and tenants on their rights and responsibilities with a large proportion of work being taken forward by Housing Rights (funded by the Housing Executive and DfC).
92. The Committee is also aware that many other third sector bodies and indeed the constituency offices of MLAs, have also played a pivotal role in providing support and advice to tenants in the sector.

93. Whilst the Committee notes that much progress has been made to reform the sector, from the evidence it took it is clear that there is still much to be achieved in terms of both regulation and harnessing the potential.
94. However, the Committee accepts the Minister for Communities has highlighted that the Bill represents only the first stage of a longer-term programme of reform for the private rented sector and stated in July that she is "...committed to making our housing system better for people and families. The housing market has changed dramatically over the past few decades, so our legislation needs to keep up".
95. Although the Committee would have wished to see a more ambitious Bill, it noted the time constraints of the mandate. Members were left in no doubt from witnesses that reform could not wait and that this Bill is an important first step in a series of legislative reforms to address some of these issues in the sector. However, as the Department has recognised, further legislative steps will be required in order to fully meet these objectives to address issues such as letting fees, fitness standards, affordability and landlord licensing.

## **Recommendations Specific to the Bill:**

### **Communication and Education**

96. To maximise the effectiveness of the bill, it is vital that all individuals, organisations and businesses operating in the sector or availing of housing in the sector are aware of the requirements under the new legislation when these come into force.
97. **The Committee recommends that to that end, a comprehensive programme of information, advice, support and training as appropriate should be put in place by the Department covering the wide range of relevant stakeholders including and beyond tenants and landlords, to include for example, councils, advice groups, relevant charities.**

### **Clause 1 – Tenant to be given notice regarding certain matters**

98. The Committee queried and were assured that the Department will publish comprehensive, accessible guidance to assist landlords and tenants with the new legislative requirements and that an online template will be provided for landlords to download and use.
99. **The Committee recommends that landlords, tenants, and representatives of tenants, should be involved in determining the template and information in the notice of tenancy terms.**

### **Clause 3 - Tenant to be provided with a rent receipt for payment in cash**

#### **Choice of Payment Methods**

100. Although not directly related to Clause 3, the discussions around choice of payments commenced as Committee considered Clause 3. Members expressed concern that it has been made known to them that some landlords insist on solely cash payments for payments in connection with the tenancy, for mainly deposit and rent.
101. The Committee felt strongly that this needed to be addressed. The Committee firstly drafted its own amendment with the Assembly Bill Office to provide for that landlords offering a choice of payment method. The Department were concerned about the unintended consequences of the proposals and then proposed a new Clause 11A 'Payment options for tenants: power to make provision and duty to consult' to allow for Regulations to be made on the issue after a public consultation to uncover the true scale of the problem and what a preferred way forward would be.
102. **The Committee accepted that proposal and recommend that in advance of the consultation that the guidance on the legislation and the proposed template for landlords should clearly lay out that it is expected that landlords will offer a choice of payment options and a list of those suitable options.**

103. **The Committee also recommend that the new Committee for Communities in the next mandate keep a close watching brief on the consultation process and pursue with the Department the timely making of the regulations, if that is indeed what transpires as being needed from the consultation.**

### **Statement of Payments**

104. The Committee felt that the provision to tenants of a 'statement of payments' (such as a tenant renting a business premises would receive) at least yearly would be good practice and provide additional evidence of rent payments if needed.
105. **The Committee recommend that the guidance to landlords and tenants should cover such a statement as being good practice for a landlord to follow.**

### **Clause 4 - Limit on tenancy deposit amount**

106. The Committee raised some concerns that the limit on the deposit may lead to increased 'advance rent' being requested by landlords in some cases. The Department confirmed that the Bill only deals with deposits and there are no exemptions for any deposits larger than one month's rent, and that issues pertaining to advanced rent payments will be dealt with in the second stage of reforms.
107. **The Committee recommend that the Department monitor carefully the implementation of this clause and be prepared to deal with any unintended consequences when considering advance rent payments during the second stage of reforms.**

### **Clause 7 - Restriction on rent increases**

108. The Committee expressed concern that for some, unfair rent increases were as much of an issue as the frequency of rent increases and the Department confirmed that the Minister was committed to taking forward work in Phase 2 to

ensure that rents in the private rented sector are fair and outlined the range of work to the Committee.

109. **The Committee recommend that the guidance on the requirements of Clause 7 on the new restrictions for tenants, landlords, the advice sector and other relevant parties, including the definitions of any exceptions made under 5C (3) (if any are made).**
110. **The Committee recommend that the Department widely publicise the planned work on ‘Fair Rents’ for the second stage of reform to coincide with this Bill so that all stakeholders are aware the issue is under consideration.**

### **Clause 8 - Fire, Smoke and CO Alarms, etc.**

111. The Committee was keen to ensure that the fire safety of communal areas of buildings was adequately covered in legislation and sought wider information, which was provided by the Department of Finance (DoF). The Committee were assured that a programme of work began in December 2019 to take forward changes to Part E (Fire safety) of the Building Regulations that it is hoped to bring forward a Statutory Rule before the end of this Assembly mandate to enact the changes proposed in that consultation and that a second phase will involve addressing the issue of automatic fire suppression systems for certain buildings and the provision of fire safety information in Part E of the building regulations. DoF would hope to launch public consultation on this second phase in 2022.
112. **The Committee recommends cross-departmental working to ensure that all relevant stakeholders are alerted to this second phase consultation and that the Department ensures all relevant stakeholders with the PRS are alerted to the changes to Part E (Fire safety) of the Building Regulations in due course.**

### **Clause 9 - Energy Efficiency Regulations and Schedule 2.**

113. The Committee were midway through its deliberations on the Bill, when the Department advised that they had produced a new enhanced Schedule 2 to future proof the legislation as, after the Committee's evidence sessions and other consideration, it was concerned that the powers that Schedule 2 contained as drafted would be too limiting in terms of the Regulations it would allow the Department to put into place.
114. The Committee noted that it was far from ideal being presented with a new Schedule in the middle of its deliberations but accepted the positive nature of the proposals as the legislation will now be a tool to drive the decarbonisation of a significant portion of the housing stock to deliver our climate change obligations.
115. The Committee noted that the Schedule will still prohibit letting, or continuing to let, a dwelling house under a private tenancy of inadequate energy efficiency. This will be given effect by further Regulations, which will be subject to full consultation.
116. **The Committee recommend that the Department consult widely and carefully on the regulations and be guided by the Energy Strategy for NI.**
117. **The Committee recommend that the Department consider a substantial economic package to support private landlords to improve standards and avoid costs being transferred to tenants in rent increases; and also consider how to deal with the potential for landlords to use available grants to improve properties and then sell them on as the value has increased.**

## **Clause 10 - Electrical safety standards regulations**

118. After much discussion on this Clause, the Committee accepted that the frequency of electrical testing would be established in Regulations.
119. **The Committee recommend that whatever period of time is decided upon that it should be synchronised with the intervals of landlord registration and that the confirmation statement of the electrical safety check should be submitted by the landlord as part of the registration process.**

## **Clause 11 - Validity requirements for notices to quit given by landlords and tenants**

120. The Committee's deliberations on this Clause were severely hampered by the fact that the Department commenced a consultation around enhancing the Clause at an advanced stage of the Committee's deliberations. The consultation will not end until after the Committee has reported on the Bill and this situation is extremely unusual and meant the Committee could really only consider the Clause as drafted, knowing that changes are likely to be proposed by the Minister later in the Bill's legislative process.
121. **The Committee recommends that the outcome of the consultation is made available to the Committee and all Assembly Members in advance of Consideration Stage of this Bill.**
122. **The Committee also recommends that consideration is given to a more nuanced 'tiering' of the NTQ periods.**

## **Clause 13 Commencement**

123. The Committee discussed the ongoing work exploring the potential to transfer the Landlord Registration function from the Department to councils, however are concerned about the councils receiving adequate resources to provide adequate and consistent delivery of landlord registration and enforcement of the law, particularly with new legislation from this Bill and the second stage of law reform still to come.
124. **The Committee recommend that the Department give due consideration as to how the councils are to be effectively resourced in this regard is to be managed, given that landlord registration fees may need to be split over different council areas as landlords may own properties in more than once council area.**

## **Wider Recommendations:**

### **Second Stage of Reform**

125. The Bill constitutes just the first step in the reform of the private rented sector and the Minister has stated that she wishes to look in the longer term at a range of other issues for a second stage of reform.
126. **The Committee recommends that the Department explore the regulatory frameworks of other jurisdictions and utilises the emerging body of research looking at the different approaches in private rented sector regulation and enforcement across neighbouring jurisdictions.**

## **Approach to Regulation of Landlords and Letting agents**

127. The Committee noted from its research and evidence that neighbouring jurisdictions have arguably taken a more ambitious approach to the regulation of landlords and letting agents, for example, the Landlord Registration Scheme in Scotland includes a 'fit and proper' person test and the Welsh Government has gone a step further and introduced mandatory licensing for private sector landlords (who manage their own properties) and for letting/managing agents. Other jurisdictions have also linked the Landlord Registration Scheme to property fitness standards and/or mandatory or voluntary training or accreditation.
128. **The Committee recommends that the Department avails of all relevant evidence from neighbouring jurisdictions to fully investigate, in advance of the second stage of reforms, what could be achieved for NI in terms of a more ambitious approach to landlord and letting agent regulation.**
129. **The Committee recommend that the Landlord Registration scheme should be further developed in the second stage of reforms, including fully reviewing the evidence for the potential for a system of Landlord Licensing, which could potentially include a fit and proper person test, suitable management and financial arrangements and mandatory compliance with all relevant legislation.**
130. **The Committee recommends that the project group that the Department has already established with representatives from the 11 councils, which**

**is exploring the potential to transfer the Landlord Registration function from the Department to councils has the potential to take this more ambitious approach forward as the Committee understands that it is looking to reform the system to include inspections and would be closely linked to a review of the current fitness standard.**

## **Security of Tenure**

131. The Committee noted from its research and evidence that many landlords and certain types of tenants prefer the stability of longer term tenancies and noted a number of innovations in this regard in neighbouring jurisdictions. For example, Scotland has introduced a new 'open ended' private residential tenancy, intended to last until a tenant wishes to leave the property or a landlord uses one or more of the specified grounds for eviction and longer tenancies have also been introduced in the Republic of Ireland ('Part 4' tenancies), in which tenants can remain in the property for four or six years depending on when the tenancy commenced unless the landlord terminates the tenancy on certain specified grounds.
132. **As with the recommendation above, the Committee recommends that the Department avails of all evidence from neighbouring jurisdictions, in advance of the second stage of reforms, to take a wider view of what could be achieved for NI in terms of security of tenure.**

## **Affordability**

133. The Committee noted in its research that the Scottish and Irish Governments have opted to legislate to create Rent Pressure Zones (RPZs) in which rental increases in a specific area could be controlled in order to address affordability pressures in that location. A number of Rent Pressure Zones are currently in operation in the Republic of Ireland but there are currently none yet in place in Scotland.
134. **The Committee recommends that the Department looks widely at innovations in place elsewhere regarding tackling affordability of rents, including the RPZs referred to in the examples above.**

## Minimum Fitness Standards

135. The Committee is aware that the current minimum fitness standard for all housing tenures in NI, including private rented sector properties, has been in place since 1992 but is now outdated in areas such as energy efficiency or home safety.
136. It was noted that the Department commenced a review of this Fitness Standard in 2016 and while the current statutory Fitness Standard remains under consideration, the Committee was pleased to note that the Department has sought to move ahead with introducing some new requirements within this Bill, in relation to fire, smoke and carbon monoxide detectors; energy efficiency standards; electrical safety standards and the new Schedule 2, which sets out the power for the Department to make regulations to detail the requirements for the energy efficiency of dwelling houses let under a private tenancy and what the minimum level any Energy Performance Certificate should be.
137. **The Committee recommends that the review into the Fitness Standard for all housing tenures is prioritised and moved forward at pace and that, specifically for the PRS and the second stage of reform, the comparatively more modern and detailed regulatory framework for minimum standards for properties in the PRS in place in, for example Scotland and the Republic of Ireland are taken into consideration.**

## Access to Mediation, Adjudication and Redress

138. The Committee notes that the ease with which tenants and landlords will have access to mediation, adjudication and redress are important to the successful implementation of this Bill. Its research has shown that the issue of redress and adjudication is arguably easier to access in some other jurisdictions. For example, specialist bodies have been established in Scotland (i.e. the First-Tier Tribunal (Housing and Property Chamber)) and the Republic of Ireland (the Residential Tenancies Board) and can be approached by both landlords and tenants to adjudicate on certain PRS issues.

139. The Committee notes that the Department for Communities has provided funding for a new mediation service delivered by Housing Rights, but **would recommend that the Department to further consider an independent housing panel for NI and to evaluate the mediation service, the landlord helpline service and progress the project looking at the Landlord Register function to inform the decision on a future housing panel.**

## Consideration of the Bill

140. The Committee's consideration and deliberation on the clauses and schedules of the Bill was informed by the research, written and oral evidence it received. The Committee received 33 written submissions in response to its call for evidence and heard oral evidence from 12 of those organisations.
141. The Committee also had ongoing engagement with Departmental Officials throughout its consideration of the Bill and explored the issues raised in evidence during departmental oral evidence sessions and by correspondence.
142. A summary of a range of key evidence points raised with the Committee on each clause is set out below:

### **Clause 1: Tenant to be given notice regarding certain matters**

143. Key issues raised in evidence in relation to Clause 1 were:
- Greater direction could be provided within the Bill outlining the detail such a notice should include;
  - Concerns that the Bill only applies to new tenancies and will therefore not help tenants currently experiencing issues with their landlord or rental property;
  - To make Tenancy Information Packs mandatory and adopt a clear model template to ensure uniformity of content across the sector;
  - Concerns that Article 4 (B) requires the tenants to be notified after a variation had been made as this could lead to situations where key tenancy terms are altered during the tenancy without the tenant's prior notification or consultation;
  - Set clear requirements detailing any issues, past or present, tenants should be made aware of which could affect the property or their tenancy;

- The need for a mechanism whereby letting agents are compelled to pass significant information to the landlord and retain evidence of having done so;
- The Scottish model, requiring landlords to provide tenants with written copies of the terms of tenancies, was regularly cited as a standard to aspire to.

## **Clause 2: Tenant to be given notice regarding certain past matters**

144. Key issues raised in evidence in relation to Clause 2 were:

- Clause 2, and its introduction of Schedule 1, was generally viewed as sufficient in correcting the accidental repeal of Article 4 of the Private Tenancies (NI) Order 2006, which has negatively impacted some tenants;
- Concerns landlords may abuse the lack of knowledge of tenants surrounding the rules of renters;
- The need for a detailed substantive list detailing 'key issues' and ensuring it covers any matter or event which could affect either the property or the tenancy agreement, such as damage to the property, antisocial behaviour, an intention to sell the property, or any other issue which may arise affecting the landlord and by extension, the tenant;
- The need for a mechanism whereby letting agents are compelled to pass significant information to the landlord and retain evidence of having done so;
- In instances where a tenant has been paying increased rent for years, either by verbal agreement or otherwise, and does not possess proof of the required notice, concerns were raised whether landlords would be liable to refund the increased amount;

- Key aspects of the Department's 2017 proposals for change in the private rented sector, which relate directly to tenancy management, are not included in this Bill.

### **Clause 3: Tenant to be provided with a rent receipt for payment in cash**

145. Key issues raised in evidence in relation to Clause 3 were:

- The Clause was widely welcomed as a means to protect the more vulnerable groups in society who typically pay rent in cash, including immigrants, some elderly renters who may struggle with technology, and students whose employment pays them in cash;
- Clause 3 (2) of the Bill removes the requirement to provide a rent book under Article 5 of the 2006 Order, it will therefore be important that the notice includes other information no longer required through the rent book, particularly the landlord's name and contact details, including email and postal address;
- The Clause should make provisions for receipts issued for any other payments in cash, such as deposits, fees etc., and this requirement should be specified as required;
- Encourage the introduction of a mandatory Client Money Protection (CMP) for letting agents to safeguard the money of tenants who do opt to use cash for payments. This is designed to offer both landlords and tenants a route to compensation, should an agent misappropriate funds or go out of business;
- Clause 3 (2) details that a rent receipt must be provided (a) at the time the payment is made, or (b) if that is not possible, as soon as reasonably possible after that time. This allows for potential differing views between landlords and tenants as to what constitutes a 'reasonable' period of time. It may be pertinent to prescribe a time limit to prevent disputes;

- Add provisions to protect tenants who would rather make rent payments by bank transfer or direct debit, ensuring they landlords cannot force them to pay by cash;
- That notices and receipts should be provided free of charge;
- The provisions make failure to provide a rent receipt a named offence with the same level of fine levied regardless of tenure. It is crucial that councils are provided with the resources needed to bring action against landlords;
- The Bill could articulate minimum requirements expected in relation to a defined complaints process, especially for smaller landlords or sole providers or may not have a robust complaints process;
- Some landlords may insist on receiving rent payments in cash in an attempt to conceal income. Tenants in these circumstances may therefore have particular difficulties in gaining a receipt and the Clause should address this.

## **Clause 4: Limit on tenancy deposit amount**

146. Key issues raised in evidence in relation to Clause 4 were:

- The limit of no more than one month's rent on the amount of deposit required was considered as an important first step in addressing affordability issues;
- Deposits of two or three months prohibit financially disadvantaged people from renting;
- The need to restrict the amount of rent requested in advance was highlighted, as landlords could use this to circumvent the limit on tenancy deposit amounts;
- The most attractive guarantor is a home owner living in NI, and in cases where such a guarantor is unavailable, a larger deposit of typically 4 months is required. If this enhanced deposit option is not available, the

tenancy application is likely to be rejected, resulting in the Clause disproportionately affecting those from an economically disadvantaged background or from outside NI;

- There should be a provision allowing a deposit in excess of one month's rent in certain circumstances where the landlord and tenant are in agreement. For example; cases where a tenant cannot provide a suitable guarantor;
- It is difficult for tenants to pay a deposit on another property where part of their previous deposit has been retained by the landlord, either due to damage to a property resulting in financial loss for the landlord, or a lengthy deposit dispute;
- This issue should be addressed in a way that offers tenants options in assisting them to secure a property, while ensuring it is not open to abuse. For example, permitting a tenant to offer a larger deposit but making it illegal for a landlord to require one;
- This Clause only applies to deposits received after the commencement of the Bill and will have no retrospective impact;
- Concerns that tenancy applications from those with emotional support pets may be disproportionately rejected as landlords may be unable to recoup money lost through damage to property or furnishings;
- The issue of landlords requiring protection of greater than one month's rent was also raised and the need for landlords to be confident the Clause will protect them against the cost of damage beyond wear and tear.

## **Clause 5: Increase in time limits for requirements relating to tenancy deposits**

147. Key issues raised in evidence in relation to Clause 5 were:

- Comments that the Clause appears to be designed for landlords and agents or several properties where the tenancies change at specific times of the year.

## **Clause 6: Certain offences in connection with tenancy deposits to be continuing offences**

148. Key issues raised in evidence in relation to Clause 6 were:

- This Clause was generally supported with many witnesses commenting that tenants often do not discover any such failure to protect deposits until after the completion of their tenancy (normally a minimum of six months) and are therefore unable to prosecute this offence, as it has expired;
- An amendment proposal from Housing Rights stated that Article 5B of the 2006 Order is further amended to explicitly state that deposits protected under an insurance-based scheme must be renewed as needed, to ensure they remain protected for the duration of the tenancy.

## **Clause 7: Restriction on rent increases**

149. Key issues raised in evidence in relation to Clause 7 were:

- The amount of a rent increase is likely to be at least as much of an affordability issue, as the frequency of the increase;
- The proposed restriction in Clause 7 (5C) (2) is reasonable;
- The inclusion of Clause 7 (5C) (5) which gives powers to restrict a rent increase to once in every two-year period is likely to deter landlords from making improvements.

## **Clause 8: Fire, smoke and carbon monoxide**

150. Key issues raised in evidence in relation to Clause 8 were:

- Uncertainties over who had responsibility for installation of fire, smoke and carbon monoxide detectors in communal areas, such as hallways, in buildings with multiple private landlords;
- Need for the Department to set minimum standards to enable tenants and councils to confirm whether the standards have been met and if they are appropriate for the property;
- Landlords should be able to report tenants who deliberately remove or damage alarms;
- The Clause does not address the fundamental issue of the Fitness Standard and does not go far enough to improve physical standards in the sector, including risk of fire and escape from fire, particularly within flats or apartments galling outside the HMO regime.

## **Clause 9: Energy Efficiency Regulations**

151. Key issues raised in evidence in relation to Clause 9 were:

- Concerns that landlords would comply with only the minimum energy efficiency standards;
- A substantial economic package will likely be required to support private landlords improve standards and avoid costs transferred to tenants;
- There is the potential for properties in the lowest thermal banding to become vacant and lead to areas of empty home and/or dereliction if funding and technology are not available to make necessary improvements;
- Checks and balances are required regarding capital expenditure necessary to meet regulations where it is not economically viable from an investment perspective to enhance the property to the standard of the regulation.

## **Clause 10: Electrical Safety Standards**

152. Key issues raised in evidence in relation to Clause 10 were:

- Mandatory electrical testing should be introduced, similar to that in Scotland, which includes fixed wiring checks, Electrical Installation Condition Report (EICR) at least every five years, in addition to Portable Appliance Test (PAT) testing;
- Clause 10 will bring the private rental sector in NI into line with that of England and Scotland.

## **Clause 11: Validity requirements for notices to quit**

153. Key issues raised in evidence in relation to Clause 11 were:

- Uncertainty over how the Clause will be enforced;
- The need for a corresponding requirement for the tenant to give a similar notice or be held financially responsible;
- The Clause does not go far enough in increasing security for private rented households;
- The notice to quit period should be 12 weeks, instead of the 8 weeks currently provided in Clause 11 (4);
- There is significant value in continuing with the 12 weeks' notice to quit required by landlords under Section 1 of the Private Tenancies (Coronavirus Modifications) Act (Northern Ireland) 2020;
- Houses of Multiple Occupancy (HMO) should be excluded from the extended notice to quit proposals as that segment of the market is characterised by shorter term lets;
- There should be a different notice to quit period for families as opposed to single people and couples;

- The notice to quit period should be shorter, such as 4 weeks, in instances where a tenant is in arrears or antisocial behaviour damage as quick eviction may be required;
- For tenancies under a year, it may be appropriate to consider a notice period which is longer than 4 weeks but less than the period required for tenancies which are longer than 12 months;

## **Clause 12: Interpretation**

154. Key issues raised in evidence in relation to Clause 12 were:

- Given the urgency with which all stakeholder agree these reforms are necessary, it may be helpful to include a time limit in this Clause (similar to Art 72 (4) of the 2006 Order);
- Amendments are needed to ensure the Department for Communities (DfC) commences Clauses by a specific date;
- Concerns that the Clause does not give a clear picture of what exactly is being changed.

## **Clause 13: Commencement**

155. No issues were raised in evidence in relation to Clause 13.

## **Clause 14: Short title**

156. No issues were raised in evidence in relation to Clause 14.

## **Committee Deliberations on the Bill**

157. The Committee commenced its deliberations on the clauses of the Bill at its meeting on 25 November 2021 and continued the deliberations at its meetings on 30 November 2021, 2, December 2021, 9 December 2021, 16 December 2021, 21 December 2021 and 11th January 2022.
158. The Committee Chairperson informed Members that the deliberations on the Bill was their opportunity to go through the clauses and comprehensively review with the Department any issues raised by stakeholders or by Committee Members. It was also the opportunity to ask for clarification on how the Bill addressed these concerns and any additional action that the Department intended to take on the back of the evidence the Committee received.
159. The deliberations on each clause commenced with a brief overview by the Officials of the intentions of the clause.
160. The following information is a summary of the key points discussed and agreed during the deliberations. The full discussions can be read in the Minutes of Evidence of the relevant meetings (see Appendix 5).

### **Clause 1 – Tenant to be give notice regarding certain matters**

161. At the meeting on 25 November, Officials explained that Clause 1 would make it mandatory 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, to any alterations to it, within 28 days of granting of the tenancy. Landlords of private residential tenancies would be obligated to provide a document to a tenant setting out the roles, responsibilities and obligations of both parties. Regulation-making powers will allow the Department to prescribe the detail required.
162. Officials responded to points raised by the Committee, confirming that the Department would require landlords to provide tenants, free-of-charge, with an easy-read guide to the terms of their tenancy. Officials also confirmed the Department will provide tenants with links to support pages, information will also

be readily available on NI Direct, and that the Department will draft a template for landlords to follow to ensure uniformity across the sector.

163. At the meeting on 30 November, Members queried whether Electrical Safety Standards Regulations could be added to Clause 1 with tenants required to ensure the safe working order of electrical equipment and not overburden sockets.
164. Officials agreed that the Committee's recommendations concerning Electrical Safety Standards Regulations could be included under the model tenancy agreement.
165. At the meeting on 2 December, Officials confirmed that comprehensive guidance will be issued to assist landlords and tenants with the new legislative requirements and that an online template will be provided for landlords to download and use. Officials also confirmed the creation of a communication strategy with publicity on the new legislation.
166. At the meeting on 9 December, Officials confirmed with the Committee that the Department felt all outstanding queries related to Clause 1 had been addressed.

## **Clause 2 – Tenant to be given notice regarding certain past matters**

167. At the meeting on 25 November, Officials noted that Clause 2 introduces Schedule 1 which ensures that tenants who would have received a notice under Article 4 of the Private Tenancies (Northern Ireland) Order 2006 (PTO), but did not do so because of its accidental repeal, will receive a notice regarding their tenancy of terms, provided they are still in a tenancy on the date on which the Bill becomes an Act.
168. Officials explained that Schedule 1 of Clause 2 is to address a gap in the legislation from 2011 arising from the accidental repeal of Article 4 of the 2006 Order.
169. Officials confirmed that, while the changes legislated for by Schedule 1 of Clause 2 will not be applied retrospectively, any agreements and actions in the

previous tenancy period may still have been subject to a verbal agreement and will therefore not become null and void following the introduction of Clause 2.

170. At the meeting on 2 December, Officials clarified that there will be no retrospective action by virtue of Clause 2, it simply protects tenants who had not been given notice of their tenancy terms due to the accidental repeal under the 2006 Order.
171. At the meeting on 9 December, Officials confirmed with the Committee that the Department felt all outstanding queries related to Clause 2 now had been addressed.

## **Proposed New Clause 2A**

172. At the meeting on 16 December 2021, the Committee discussed the reasons why the Department does not wish to consider taking forward the amendment proposed by the Committee regarding placing a statutory duty on a landlord to offer a choice of payment options for rent and other payments related to the tenancy.
173. In its closed session the Committee considered the draft text of two potential amendments on this matter as drafted by the Assembly Bill Office.
174. The Committee agreed to share the text of the draft amendments with the Officials and the Office of Legislative Counsel and for the Bill Clerk to liaise with them in advance of the meeting on 21st December, in order to get a steer on any unintended consequences of the proposal.
175. The Deputy Chairperson informed Members that the Committee was also awaiting its own legal advice on the proposal.
176. At the meeting on 11 January 2022, the Committee considered a Departmental response on this issue which stated that, as the Department had indicated during deliberations on the Bill, it has no detailed evidence to clarify any of the issue(s) raised with the Committee as a result of its call for evidence and, therefore, the need for policy and legislative intervention. It cannot, therefore, be definitive in terms of intended or

unintended impact. Members were content with the response and agreed not to pursue an amendment.

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

177. At the meeting on 25 November, Officials confirmed that Clause 3 replaces Article 5 of the 2006 PTO and requires a landlord to provide a tenant with a rent receipt detailing the payment date and amount, for any rental payments paid in cash.
178. Clause 3 requires that the receipt must be provided at the time the payment is made or, if that is not possible, as soon as is reasonably possible after that time. Clause 3 provided that an offence is committed if the landlord neglects to provide a notice with the correct information or provide a notice late. In cases where a landlord has appointed a representative to provide a receipt, that person, in addition to the landlord, is guilty of an offence.
179. Members queried the addition of Article 5(3)(b) suggesting that it contradicts Article 5(3)(a).
180. Officials confirmed that Article 5(3)(b) is not intended to contradict other aspects of Clause 3, but merely to offer a degree of flexibility to landlords who receive rental payments in cash in an informal setting and may therefore be unable to provide a receipt immediately.
181. Officials elaborated on the justification for the inclusion of Article 5(3)(b), noting that if a landlord was not able to provide a receipt immediately and therefore refused a rent payment in cash to avoid criminalising themselves, the tenant could be in breach of their tenancy contract and thus make themselves liable to eviction.
182. Members suggested that a time period of 28 days could be added to Article 5(3)(b), rather than 'as soon as is reasonably possible' to ensure landlords were obligated to respond within a certain time.

183. Officials agreed that, as 28 days has been used in Clause 1 in relation to the tenancy agreement, there is a precedent for this time period and the Department would consider it and report back.
184. Members noted their preference for the requirement of a receipt for rental payments to be extended to all cash payments related to the tenancy to necessitate a receipt.
185. Officials noted that Clause 3 replaces Article 5 of the 2006 PTO which refers to payment of rent in cash and it might not be possible to expand Clause 3 to cover all cash payments. Officials agreed to explore the Committee's suggestion but stated that a potential amendment would exclude payments outside the duration of the tenancy agreement. Officials also confirmed that it would not apply to deposit payments as they are covered by deposit protection schemes and therefore not legislated for in the same way as rent payments in cash.
186. Officials confirmed that any tenant wishing to complain about a landlord is still covered by the 2006 PTO. The tenant may complain to the Council where the privately rented property is located and the Council will still retain enforcement powers after the introduction of the new Private Tenancies Bill.
187. Members raised the issue of what constitutes a receipt and if a minimum standard should be imposed.
188. Officials agreed to refer to consumer law definition of a receipt, noting that it should be well defined, and to forward the Department's findings to the Committee for consideration.
189. Members noted that third parties involved in managing a rental property, such as letting agencies, are responsible for issuing receipts for rent payments in cash and should therefore be obligated to provide copies of receipts issued to the landlord. The landlord may not be cognisant of a letting agent's failure to fulfil this responsibility and this suggestion would protect landlords, as well as tenants.

190. At the meeting on 2 December, Officials, having investigated consumer law further, noted that the detail contained in the Bill relating to the definition of a receipt is sufficient and that the Bill as drafted adequately covers digital receipts and those issued by email or any other electronic method.
191. Officials confirmed that one Committee request to investigate the potential for receipts to be issued for all cash payments had been overlooked in its response for that meeting but that Officials would explore the possibility of a new sub clause or amendment to include all payments in cash including rent. The Officials agreed to raise the issue with the Minister and report back to the Committee at a future meeting.
192. Officials then responded to Committee suggestions on the inclusion of 28 days, stating that a time period was not given to ensure a degree of discretion for landlords. Tenants can still complain to the Council if they feel they waited an unduly long time to receive a receipt and that Councils may then impose a penalty as required.
193. Members noted their continued concern surrounding the proposed new Article 5(3)(b) of the 2006 Order under Clause 3.
194. Members reiterated their concerns that tenants could potentially give a rental payment in cash and not receive a receipt until 28 days later.
195. Officials elaborated that if Article 5(3)(b) was removed, then landlords might have to reject rental payments in cash until such times as they could offer a receipt immediately upon payment. Officials explained that this scenario could force a tenant to default on their rental agreement and that the removal of Article 5(3)(b) would threaten landlords with punishments to incentivise a certain behaviour from tenants.
196. Members suggested a statement of payments, akin to an annual mortgage statement, listing all payments related to a private tenancy as a means of further addressing issues surrounding the provision of receipts.
197. Officials stated that such an idea could be included in the guidance as best practice, but would not be legislated for.

198. Officials highlighted that Clause 3 removes the requirement to provide private tenants with a rent book as they are considered antiquated and obsolete, and that the detail within Clause 3 is intended to provide equal protection for any renter who still prefers to pay in cash.
199. Officials confirmed that Clause 3 does not require private tenants to make rental payments in cash, but rather, is intended to afford protection to those who choose to do so.
200. At the meeting on 9 December, Officials requested clarification regarding the precise wording of the Committee's requested amendment to Clause 3 for the issuance of receipts for all payments in cash, including rent.
201. The Committee confirmed that it wished for all payments in cash pertaining to a tenancy, not just payments of rent, to be confirmed with a receipt.
202. The Committee confirmed that rental deposits paid in cash should also be confirmed with a receipt, in addition to the required paperwork detailing the tenancy deposit protection scheme.
203. Officials agreed to discuss the Committee's requests with the Bill drafters in the Department and to produce a draft amendment for the Committee to consider.
204. Officials informed the Committee that the proposed new article 5(2) clearly defined the content to be contained in a receipt, and that it would be relevant to any payment in cash.
205. The Committee agreed to further discuss in closed session the detail of the proposed article 5(3)(b), concerning time limits for the issuance of a receipt following a payment in cash with the Assembly Bill Office Clerk. Following this consultation, the Committee would update the Officials on the Committee's desired wording of the amendment.
206. Officials informed Committee of the resultant advice sought regarding the form and presentation of a receipt. Officials confirmed that the Interpretation Act details that receipts must be written and includes text messages, emails, and other digital formats. Receipts must also be durable and unable to be amended.

207. The Committee raised the issue of receipts sent via WhatsApp, as original messages are not permanent, and the content of WhatsApp messages could be altered. Officials confirmed that WhatsApp therefore did not qualify as a suitable method for the issuance of receipts.
208. Officials confirmed that any tenant wishing to lodge a formal complaint against a landlord for failing to issue a receipt would do so via the local council which covered the rental property, not the landlord's residence.
209. Officials responded to the Committee's concerns regarding a general lack of awareness pertaining to renters' right among the general public. Officials confirmed that a communication and information strategy, educating and informing private tenants of their rights, was sorely needed.
210. Officials stated that a section at the bottom of the model tenancy agreement provided to landlords and tenants will detail how and where tenants can refer their complaints.
211. Officials responded to the Committee's concerns that landlords could request rental payments solely in cash or even more obscure payment methods, such as Bitcoin. Officials informed the Committee that details, such as the form and definition of legal tender, are reserved and not within the competence of the Northern Ireland Assembly.
212. The Committee requested that the Officials seek further advice regarding the convention of rights that a landlord has to request certain payment methods, such as cash. Officials agreed to clarify the issue.
213. After discussions with the Bill Office the Committee agreed to seek its own legal advice regarding the matter.
214. Officials confirmed that the Department accepted the Committee's request that an annual statement of rent paid should be provided by a landlord to a tenant, and that this requirement should be outlined in the guidance.
215. At the meeting on 16 December 2021, Departmental Officials informed the Committee that the Minister will take forward an amendment to the clause (or insertion of sub clause) for a receipt to be provided for all cash payments arising

under the tenancy. The Committee was pleased to note that the Department will make this amendment. The Committee agreed to await the text of the amendment and asked that it was forwarded in time for consideration at its meeting on 21st December.

216. The Committee then discussed the reasons why the Department did not wish to consider taking forward an amendment to remove 5(3)(b) and agreed to consider this issue in further detail at the meeting on 21st December.

217. At the meeting on 21 December 2021, The Deputy Chairperson informed Members that there were three matters to consider under or related to Clause 3.

- i. Receipts for all cash payments in relation to the tenancy.

Officials informed Members that the amended clause intended to cover any scenario where more was given than the receipt stated, and also to ensure the receipt states what the payment is for. Officials also noted that the amendment included new language which had been updated by the drafter to more technical language. The Clause now included payments before and after the conclusion of the tenancy period.

- ii. Committee's proposed new Clause 2A.

The Committee and Officials discussed a number of concerns with the Committee's proposed amendment of new Clause 2A, drafted as a proposal by the Bill Office at the Committee's request, to provide a choice of payment methods, including that it could result in a Hobson's Choice scenario for tenants regarding methods of rent payments i.e. landlords could still ensure rent payments in cash by offering two methods which could be expensive or unrealistic, and a third option of paying in cash, knowing the tenant would be forced to do so.

Officials suggested another potential way forward as an alternative – to include an enabling power to consult on the matter and then make regulations allow the Department time to work through payment issues and to consult.

The Committee agreed that the Officials, in discussion with the Bill Clerk, should draft up such an alternative amendment and ask if the Minister would be minded to take that forward.

iii. Consider Clause 3 5(3)(b)

The Committee noted Clause 3 5(3)(b) was addressed in a Departmental letter dated 10 December 2021. The Committee decided to discuss the matter in further detail at its next meeting.

218. At the meeting on 11 January 2021, the Committee decided that, although it felt strongly in the matter, it did not want to pre-empt the outcome of the consultation on a range of payment options and decided that it was content with the new proposed Clause 11A as the Departmental amendment to deal with the issue.

## **Clause 4 – Limit on tenancy deposit amount**

219. At the meeting on 25 November, Officials confirmed that Clause 4 limits the amount of deposit required in connection with a private tenancy to no more than one month's rent. The Clause provides a definition of 'one month's rent' in cases where the private tenancy does not calculate rent monthly and makes provision for recoverability of excess.

220. Members requested clarification that Clause 4 would only apply to deposits, rather than rental payments in advance, which the Officials confirmed.

221. Officials confirmed that the issue of rental payments in advance will be covered by legislation relating to fees and charges and dealt with in the second stage of reforms in the next mandate.

222. Officials noted that, although deposits were being limited to one month's rent, the decision not to limit rent payments in advance at this stage was taken to ensure the Bill was balanced in protecting tenants, but not dissuading private landlords from remaining in the sector. Officials noted that excessive regulatory

measures perceived or actual, would potentially drive private landlords out of the private rental sector.

223. Members raised the issue of whether landlords could ask for more than one month's rent in certain circumstances, such as for tenants with pets, and if provisions were in place to protect tenants who use assistance dogs. Members noted that, as assistance dogs and other assistance pets perform a specialised role, treating these animals as regular domestic pets and demanding an increased rent deposit could breach the Disability Discrimination Act 1995.
224. Officials informed Members that no exceptions apply to Clause 4 and therefore, no animal, domestic or assistance, would necessitate an increased rent deposit. Officials also noted that purported breaches of the Disability Discrimination Act 1995 were beyond the scope of this Bill.
225. At the meeting on 2 December, Officials confirmed that the Bill only limits the amount of deposit a landlord can charge, it does not refer to rent in advance. The issue of rent in advance and any other tenant fees is to be considered in the second phase of the reform of the private rented sector, planned for the new Mandate.
226. At the meeting on 9 December, Officials reaffirmed the Department's intention that rent in advance and letting agent regulation will be covered in the second phase of the reform of the private rented sector, planned for the new Mandate.
227. Officials confirmed that a statement of rent would cover rent payments paid in advance of the required date.
228. The Committee was content with the Officials' responses and comments on Clause 4 and that the Committee's proposals would be taken forward by the Department.

## **Clause 5 – Increase in time limits for requirements relating to tenancy deposits**

229. At the meeting on 25 November, Officials confirmed that Clause 5 amends Article 5(b) of the 2006 PTO and extends the time limit for a deposit to be protected in an approved scheme from 14 days to 28 days. It also amends

Article 6(b) from 28 days to 35 days, providing additional time for a landlord to provide the prescribed information to the tenant.

230. Members queried the inclusion of 35 days and whether this time limit might be considered for Clause 3 to achieve uniformity across the Bill.
231. Officials clarified that the 35 days represents 28 days to place the deposit within a tenancy deposit protection scheme and then a further 7 days to notify the tenant. Officials confirmed that 28 days would therefore be a time period for uniformity across the Bill.
232. At the meeting on 2 December, Officials responded to Committee queries surrounding the additional 7 days to inform a tenant that their deposit was protected. Officials clarified that, when drafting the Bill with colleagues in the Office of the Legislative Counsel (OLC), it was noted that a landlord can decide legally to only protect a tenant's deposit on day 27 of the required 28-day maximum. Therefore, the additional 7 days was recommended to allow the landlord to pass this information to the tenant.
233. At the meeting on 9 December, Officials provided further information regarding the increase in time limits for requirements relating to tenancy deposits. The Committee was content with the information provided and felt that all outstanding queries related to Clause 5 now had been addressed.

## **Clause 6 – Certain offences in connection with tenancy deposits to be continuing offences**

234. At the meeting on 30 November Officials clarified that Clause 6 amends Article 5B of the 2006 PTO, making the offences under Article 5B(3) and 5B(6) a continuing offence as long as a tenancy deposit breach persists. There will be no barrier on persecuting a person who fails to comply with the set requirements.
235. The Committee queried a proposed amendment by Housing Rights to the insurance scheme. Officials confirmed that the proposal is already covered by existing legislation so an amendment is not required.

236. The Committee queried the need for Clause 6, as it was legislated for under the 2006 Order.
237. Officials informed the Committee that the Department of Justice confirmed that when no period of limitation is provided in legislation, Article 19(1) of the Magistrates' Courts (NI) Order 1981 applies, which is a six-month limit for instituting an offence. If tenants discovered that their deposit was not protected at the end of their tenancy, Councils were unable to begin legal proceedings if more than six months had elapsed.
238. At the meeting on 9 December, Officials further clarified the concept of continuing offences and provided further information to the Committee regarding removing the time bar. The Committee was content that all outstanding queries related to Clause 6 now had been addressed.

## **Clause 7 – Restriction on rent increase**

239. At the meeting on 30 November, Officials noted that Clause 7 will ensure rents can be increased only once in a 12-month period from the start of the tenancy but there will be some exemptions, for example, where a landlord has carried out significant improvement to the property. The landlord has to give the tenant two months' notice of any rent increase.
240. The Committee raised concerns related to the title of Clause 7 and requested consideration of amending the title to 'restriction on frequency of rent increases'. Officials agreed to consider the alteration to clarify the title of the Clause.
241. The Committee queried the inclusion of Article 5C(3) under Clause 7. Officials confirmed that it legislated for instances where a landlord had to complete extensive work on a property, such as to meet energy efficiency standards, and needed to raise rent to address the expense.
242. The Committee queried the proposal under Article 5D(4) which would require landlords to give two months' notice of rent increases, and questioned why it could not be three months. Officials confirmed there was no policy related reason for two months, and they were content to consider three months.

243. At the meeting on 9 December, Officials responded to the Committee's request to alter the name of the Clause. Officials confirmed that the Department would consider renaming Clause 7, but that it would not accept the suggested title of 'Restriction on frequency of rent increases'. Officials highlighted that this was the same title as the new article 5C and it would be unnecessarily confusing if Clause 7 and Article 5C had the same name.

244. The Committee noted the Officials' comments that Articles 5C and 5D respectively had different intents and accepted that the inclusion of 'frequency' in the title would therefore be misleading.

245. The Officials responded to the Committee's queries regarding future work to ensure that rents are fair. Officials outlined the proposed work and the Committee agreed to include the Officials' remarks regarding future work on fair rents in the Committee report, to help a future Communities Committee in the new Mandate. The Department intends to:

- Conduct research into rental markets in other jurisdictions;
- Conduct further analysis into rent prices from the perspectives of the landlord and tenant respectively;
- Consider the implementation of new policy ideas and how they might achieve objectives;
- Engage further with stakeholders in the Private Rental Sector;
- Engage in ongoing consultation.

246. Officials informed the Committee that they were still discussing, with the Minister, the Committee's request, that the time period for the notification of a rent increase be extended from two months to three months in Article 5D(4).

247. Officials confirmed that an extension in the time period for the notification of a rent increase would not benefit tenants in receipt of Universal Credit, as rent increases in those instances are done retrospectively as a change in circumstances. Officials confirmed that the Clause would, however, apply to tenants in receipt of housing benefit, as rent increases can be done in advance

and the tenant might need to make a subsequent claim for a Discretionary Housing Payment (DHP) if rent payments were to increase beyond the Local Housing Allowance (LHA). Officials confirmed that three months would indeed offer a more practical time frame.

248. Officials confirmed that a comprehensive list of definitions of any exemptions made under 5C(3), if any were made, would be included in guidance.
249. At the meeting on 16 December 2021, the Officials stated that the Minister would make an amendment to ensure that the time period in 5D(4) is increased to three months. The Committee agreed to consider the text of the amendment at the meeting on 21st December.
250. At the meeting on 21 December 2021, the text of the amendment was considered and the Committee noted its preference for the increase in the time period for rent increases in 5D(4) to be raised from two months to three months. Members were content with the Departmental amendment on that issue.

## **Clause 8 – Fire, smoke and carbon monoxide**

251. At the meeting on 30 November, Officials outlined the new Articles 11A through to 11F under Clause 8, noting they were intended to set; new requirements for private landlords regarding the provision of detectors; duties on landlords and tenants in regards to the detectors; and greater powers for the Department to set minimum standards and enforce offences.
252. The Committee raised concerns related to communal areas of buildings containing multiple privately let dwellings and who held overall responsibility to install and maintain detectors in these areas.
253. Officials confirmed that, in this instance, management agents had responsibilities derived from Departments of Finance and Health responsibilities respectively and this issue was not within the scope of the Bill. The Committee agreed to write to both those Departments for further clarification on the matter.
254. At the meeting on 9 December, Officials responded to the Committee's concerns that the fire, smoke and carbon monoxide alarms in the communal areas of buildings with multiple private landlords could be neglected. Officials

confirmed that Building Control Northern Ireland's Technical Booklet E covered this exact scenario, and that the contents of the booklet were also being reviewed following the Grenfell Tower fire in London.

255. Officials confirmed that any tenant who has a concern regarding fire, smoke or carbon monoxide alarms in communal areas should inform their landlord or managing agent, who will subsequently raise those concerns with the owner of the building.
256. Officials reiterated that communal areas are beyond the scope of this Bill. Officials also noted that specific wording from the Building Control Northern Ireland's Technical Booklet E was not included as its content is currently under review and subsequent guidance included in the Bill could be out of date very quickly.
257. At the meeting on 16 December 2021, Departmental Officials updated the Committee on the response from the Department of Finance on the changes to Part E of the Building Regulations. The Committee noted that the Officials stated that the text of Clause 8 future proofs the Bill in this regard.

## **Clause 9 – Energy Efficiency Regulations**

258. At the meeting on 30 November, the Committee raised concerns whether Clause 9 and the related Schedule 2 would sufficiently future-proof legislation with regards to energy performance certificates. Some Members felt it could increase rents or reduce rental housing stocks while others pondered whether or not EPC checks presented a true rating.
259. Officials responded that Article 5(C)(3) would permit a landlord to increase rent amounts if they had undertaken substantial renovations on a property.
260. Officials noted that the Energy Efficiency Regulations under Clause 9 were influenced by successful legislation in other jurisdictions, such as in Scotland. Legislation was also guided by the Department for the Economy and its work on the Energy Strategy for NI and the energy sector more generally.

261. Officials confirmed that legislation related to the Fitness Standards for housing would be addressed in the second phase of reform to be commenced in the new mandate.
262. Officials reiterated that the time frame to comply with the Energy Efficiency Regulations and deliver net zero was until 2050. This was decided in an effort to be mindful of the intrusion for tenants and the cost to landlords.
263. At the meeting on 2 December, Officials stated that upon reviewing evidence gathered by the Committee, the Department now felt that the amendments to Schedule 2 of Clause 9 as drafted did not fully achieve the regulations the Department wished to enact nor deliver policy objectives as intended. Subsequently, proposals for a revised Schedule 2 were still being finalised with the Office of the Legislative Counsel (OLC) and would be passed to the Assembly Bill Office as soon as possible.
264. Officials apologised to Members for the late notice of the proposed change to the schedule and offered to outline the proposed amendments to Schedule 2 orally to Members in absence of the written draft.
265. The Committee noted that it was far from ideal being presented with a new Schedule in the middle of its deliberations but accepted the positive nature of the proposals as the legislation will now be a tool to drive the decarbonisation of a significant portion of the housing stock to deliver climate change obligations.
266. Officials informed Members that Schedule 2 outlined the powers for the Department to enact regulations detailing the requirements for the energy efficiency of dwelling houses let under private tenancies. It would also allow the Department to set the minimum Energy Performance Certificate (EPC) required.
267. Officials noted that Articles 11G(1) and 11G(2) would still prohibit letting or continuing to let a dwelling house under private tenancy of inadequate energy efficiency, while Article 11G(3) allowed the Department to provide exemptions to those prohibitions. Given the impact of those regulations, Officials noted that the Department wished to make the regulations draft affirmative.

268. Officials commented that the proposed amendment would detail other areas that regulations may cover, such as;
- more detail on exemptions, including their duration;
  - and appeals, inspections and other issues related to the processes around securing exemptions for houses individuals are proposing to let.
269. Officials noted that the proposed amendment linked the required improvement to Article 12 of the 2006 PTO, which was intended to assist landlords in conducting work on tenanted properties.
270. Officials stated that Article 11H stipulates that the Department may specify offences committed by virtue of non-compliance in regulations. This included an additional offence related to the continued letting of a property with an inadequate EPC rating, and more specific detail related to improvement exemptions.
271. Officials confirmed that an amendment to Article 72 stated that, when making regulations, the Department must consult with tenants. The Department also proposed to make that minor change to Schedule 3.
272. Members noted that tenants could become homeless if a landlord was required to perform significant changes to a property to comply with energy efficiency standards, which rendered the property uninhabitable during refurbishments.
273. Officials confirmed that the 2006 PTO required tenants to admit landlords where the landlord has a duty to perform work to a property. Officials proposed that energy efficiency improvements should fall under the definition of such duties, aiding landlords to complete work on properties.
274. Officials also noted that the proposals will permit the gradual completion of energy efficiency alterations rather than suddenly obligating a landlord to complete numerous time-consuming changes.
275. Officials assured Members that the proposals are intended to prevent landlords issuing notices to quit to tenants in order to perform energy efficiency related alterations to their properties.

276. Officials noted that the revised Schedule would allow the Department to establish a system that would deliver the policy objectives of greater energy efficiency ratings in the private rented sector while avoiding any shocks to supply which could increase housing stress.
277. At the meeting on 9 December, Officials informed the Committee that an advance draft of the amended Schedule 2 was available from the OLC and that the Committee would receive it soon. The Committee reiterated the need to expedite the draft amendment, noting the approaching completion date for the Bill and the Committee's dismay that the documents were not available.
278. At the meeting on 16 December 2021, Departmental Officials outlined the key points of the amended Schedule 2. The Committee did not take a position on this at the meeting and requested a written breakdown of each amendment and what it does.
279. At the meeting on 21 December 2021, Officials informed Members that the Committee would receive an updated EFM in due course. The Committee welcomed this development and in advance of that the Department subsequently provided a table outlining each amendment to Schedule 2 and its purpose.

## **Clause 10 – Electrical Safety Standards Regulations**

280. At the meeting on 30 November, the Committee noted the necessity of adding a time limit to electrical safety checks and recommended that it tied in with landlord registration in multiples of 3 or 6 years, stating that it would ensure tenants' safety, as well as improving the overall standard of rented properties.
281. Members also queried the apparent omission of fixed wiring checks, electrical installation condition reports (EICR), and Portable Appliance Testing (PAT).
282. Officials responded that Schedule 3 placed the burden of ensuring the rented property is protected on the landlord. They commented that the decision was taken to exclude obligatory PAT in the legislation as this requirement is not legislated for in private dwellings.

283. At the meeting on 9 December, Officials informed the Committee that further work with industry experts and stakeholder groups was required regarding the frequency of electrical safety testing in regulations outlined in Schedule 3. Officials proposed that this detail would therefore not be covered in the Bill.
284. Officials confirmed that electrical appliances provided by the landlord are covered in this Bill, and that electrical safety testing would apply to appliances provided by the landlord.
285. Officials confirmed that the frequency of electrical testing is not in the Bill, but that it would be in the regulations.
286. The Committee enquired whether the Department would seek to add confirmation that electrical safety checks had been conducted to the landlord registration scheme. Officials confirmed that they had considered this as part of a declaration of fitness. Officials outlined the Department's future intent to review the landlord registration scheme, including the intention to transfer to councils and to have new legislation. The new legislation would include requirements for property fitness standards, including electrical safety checks and smoke and carbon monoxide alarms, to be met to the satisfaction of the council at the point of landlord registration.

## **Clause 11 – Validity requirements for notice to quit**

287. At the meeting on 25 November, Officials informed the Committee that the Department for Communities was very shortly commencing a Notice-to-Quit (NTQ) consultation, with the aim of producing evidence detailing the optimum length for NTQ orders as the Minister was not content with the Bill as drafted in that regard.
288. At the meeting on 30 November, the Committee queried how NTQ orders would be enforced and the requirement for comparable legislation ensuring tenants must give similar notices or face financial consequences.

289. The Committee raised concerns surrounding the plight of families with children as parents could need to arrange alternative schools and perhaps a longer NTQ period should be considered for families.
290. Officials informed the Committee that the Minister intended to conduct a short 8-week consultation period on NTQ to better inform the Bill. Officials did not have an exact date for the completion of the consultation period, but believed it would conclude after the Committee Stage of the Bill had finished.
291. The Committee highlighted that its deliberations on this Clause would be severely hampered by the fact that the Department commenced a consultation around enhancing the clause at an advanced stage of the Committee's deliberations. The consultation will not end until after the Committee has reported on the Bill and this situation is extremely unusual and meant the Committee could only consider the clause as drafted, knowing that changes are likely to be proposed by the Minister later in the Bill's legislative process.
292. Officials noted that the Coronavirus Emergency Regulations had been extended until May 2022 requiring all landlords to provide their private tenants with 12 weeks' NTQ.
293. The Committee questioned whether the Bill would address NTQ periods for tenancies of less than 12 months, enabling students or workers seconded to a particular location to end their tenancies, rather than being locked into a 12-month contract regardless of the NTQ period.
294. Officials confirmed that tenancies will be sub-categorised:
- Tenancies up to 12 months;
  - Tenancies from one year to ten years;
  - Tenancies of ten years and above.
295. At the meeting on 2 December, Officials informed the Committee that the Department had launched the consultation period on 1 December to inform policy around the NTQ. The consultation will address the NTQ for tenancies that

are under 12 months; notices for over 12 months and up to 10 years; and it is consulting on options for 8, 12 or 26 weeks.

296. Officials informed the Committee that the consultation period will close on 25 January with the report being published after that date. Officials agreed to keep the Committee informed at every stage of the Departmental consultation.
297. At the meeting on 9 December, Officials reiterated that the current NTQ of 12 weeks was brought into effect by the Coronavirus Emergency Regulations. Officials noted that, while 12 weeks was a seemingly arbitrary period of time, many of the emergency legislations introduced during the initial Covid-19 outbreak were for 12-week periods.
298. The Committee repeated its dismay that the Department's consultation period on NTQ would conclude after the completion of the Committee Stage of the Bill. The Committee noted that it was considering recommending a 12-month NTQ period, regardless of the length of the tenancy.
299. Officials noted that Clause 11, as drafted, introduces a number of amendments to Article 14, as well as inserting new Article 14A. It will provide extra protection for tenants and extend the mandatory NTQ period for landlords to provide to tenants to eight weeks after the first 12 months until the tenancy is 10 years old. The NTQ for tenancies longer than 10 years will remain unchanged at 12 weeks.
300. Officials confirmed that cases where a notice by a landlord is issued for a tenant to quit a dwelling house under a tenancy will have to be provided in the prescribed form and contain prescribed information that will subsequently be set by the Department in regulations.
301. Officials elaborated that in cases where a tenant is giving such a notice, it will need to be in writing, with the relevant period being;
- Four 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.

302. Officials confirmed that the Department was not considering additional time for older tenants, or renters with families or disabilities as it believed it would be difficult to incorporate the characteristics of the tenant or household into legislation. Officials noted the Department's desire to extend protections for everyone, not just tenants with particular reasons for taking longer.
303. Officials confirmed that the Department was intending to have the outcome of the consultation and potential regulations pertaining to NTQ in time for the Consideration Stage of the Bill for MLAs to consider.
304. The Committee asked the Officials for clarification pertaining to longer NTQ periods and how these may be deemed to be outside the competence of the legislation.
305. Officials clarified that if there were no exemptions, it could be considered to be outside the competence of the Bill, on Article 1 of Protocol 1 Rights, which relate to the free enjoyment of a property. Officials elaborated that any proposed exemptions which would extend NTQ periods, such as for families, could be beyond the Bill's competence, and this was the reason for the Department's consultation on the issue.
306. The Committee queried that, as it was currently drafted, Clause 11(5) amended Article 14 of the 2006 PTO, which already mentions up to six months. The Committee enquired how this was not outside the scope of the Bill?
307. Officials responded that the Bill as drafted stated that NTQ periods should be eight weeks in all circumstances. The power to extend up to six months existed, for exemptions in certain specific cases.
308. The Committee noted that a person cannot qualify for a homelessness statement until four weeks after they have been evicted, and enquired whether the Department consultation considered aligning the definition of homelessness with NTQ.
309. Officials confirmed that the definition of homelessness was defined in legislation. The definition of homelessness and NTQ could not therefore be

aligned as the Bill could not cause a consequential amendment in another piece of legislation.

310. After discussions with the Assembly Bill Office the Committee agreed to request its own legal advice on whether or not longer NTQ periods may be deemed to be outside the competence of the legislation.

311. At the meeting on 16 December 2021, Departmental Officials outlined that it wished to reserve its position on any amended NTQ period until the outcome of its recently launched consultation, which closes on 25 January 2022.

312. Officials then discussed with the Committee its own proposed potential amendment, similar to the Private Tenancies (Coronavirus Modifications) Act 2021, regarding

- Applicability for all tenancies irrespective of length (or using tenancy length similar to that currently in the draft bill);
- The same period for both Landlords and Tenants (or notices given by Landlords only); and
- A universal 12-week period (i.e. no exempt cases or different notices for particular types of cases).

313. The Committee did not take a position on Clause 11 as it was awaiting the views of Assembly Legal Services as to whether amendments of the type proposed by the Committee would engage Article 1 of Protocol 1 of the European Court of Human Rights and the potential consequences of this.

314. The Officials also highlighted that it was difficult to provide a definitive response to the Committee's request for a timeline in advance of the outcome of the NTQ consultation and the reasons for that.

315. At the meeting on 21 December 2021, Members were reminded that the Departmental Officials had informed the Committee on 16 December 2021 that the Department was conducting a consultation on Clause 11, scheduled to conclude on 25 January 2022. Officials noted that, considering the active consultation period, the Department would reserve its opinion until after this

date. The Committee noted that it was waiting for advice from the Assembly Legal Services before deciding on its potential amendment and that it would make a decision at the meeting on 11 January 2022 when it would be in receipt of this advice.

316. The Committee also agreed to invite the ESR to attend the Committee meeting on 11 January 2022 to provide advice on the Delegated Powers in the Bill as drafted and on the new Schedule 2.
317. At the meeting on 11 January 2022, the Committee was briefed by the Examiner of Statutory Rules and was content to note that the Examiner did not consider any of the delegated powers to be inappropriate in the Bill or any of the amendments.
318. The Committee reiterated its frustration that the consultation would conclude after the end of Committee Stage and asked the Officials about the ongoing consultation on this issue and whether the results of the consultation would be published in advance of the Consideration Stage of the Bill. The Officials stated that, whilst they were not in control of when Consideration Stage would be scheduled, it was their intention to publish the results of the consultation in advance of this stage.
319. The Committee agreed that it would not seek to amend Clause 11 as drafted and whilst it would respect the consultation process and await the outcome of the consultation, it did not feel that the Department had respected the Committee Stage of this Bill by conducting a consultation when the Committee would not know the outcome by the end of Committee Stage.
320. Although not part of this Bill, the Committee asked about the definition of homelessness and whether this would need to be reviewed as Members remain concerned about the current definition. The Departmental Officials agreed to provide a briefing on this issue at a future Committee meeting.

## **NEW CLAUSE 11A - Payment options for tenants: power to make provision and duty to consult**

321. As stated above (paragraphs relating to Clause 3), at the meeting on 11 January 2022, the Committee considered the text of the new Departmental proposed Clause 11A, which deals with the Committee's concerns regarding offering a choice of payment method to tenants. Members asked the Officials whether the 18-month timescale to conduct the preparatory work, run a standard 12-week consultation and report to the Assembly was standard or whether it could be done any quicker. The Officials informed the Committee that this timescale was standard practice and that they were concerned about rushing this as other regulations would also need to be brought forward for this Bill and they may consider a longer than 12-week consultation period.
322. Members also asked whether a future Committee could be provided with a timeline for the introduction of regulations that would flow from this Bill and the Officials agreed to provide this at a future date.
323. The Committee raised no objections to the proposed new clause, felt it was a good solution to the issue they had raised regarding choice of payment options and did not wish to pre-empt the outcome of any consultation.

## **Clause 12 – Interpretation**

324. At the meeting on 30 November, no issues were raised in connection to Clause 12.
325. At the meeting on 9 December, no issues were raised in connection to Clause 12.

## **Clause 13 – Commencement**

326. At the meeting on 30 November, Officials noted the desire to expedite reforms, but Officials also reiterated the need for thorough consultation with landlords and letting agents, and tenants' representatives.
327. Officials informed the Committee of the Department's intention to move the landlord's registration scheme to local councils with councils subsequently

receiving the registration fee. Officials confirmed this would occur in the second phase of reforms.

328. At the meeting on 9 December, Officials raised the issue of resourcing for local councils. Officials elaborated on the Department's longer-term plans to move the landlord register to councils, enabling councils to receive the income from the landlord registration scheme. This would result in councils which were better resourced and allow them to successfully fulfil their enforcement functions.
329. Officials confirmed that landlord registration fees would be set in conjunction with the councils, as they set the fee for HMOs.
330. Officials informed the Committee that further research and analysis was required on the landlord registration scheme regarding fees, whether the registration period should change from three years to five; and how Councils would collect property inspection fees.
331. Officials confirmed that the landlord registration fee would also be used to fund the mediation pilot and the landlord helpline.

## **Clause 14 – Short title**

332. At the meeting on 30 November, no issues were raised in connection to Clause 14.
333. At the meeting on 9 December, no issues were raised in connection to Clause 14.

## **Deliberations on Text of Departmental Amendments**

334. At the meeting on 11th January 2022 the Committee considered the final text of the proposed Departmental amendments to Clauses 3, 7 (both requested by Committee).
335. It also considered the final draft revised Schedule 2 (with related amendments to Schedule 3).
336. In addition, as discussed at the meeting on 21st December 2021, the Department provided the text of an amendment for a new enabling Clause 11A 'Payment options for tenants: power to make provision and duty to consult' as an alternative to the proposed new Clause 2A the Committee were considering to provide for landlords to offer a range of rent payment options for tenants. 11A proposes a duty to consult on choice of methods of payments for tenants and, if necessary after consultation, to make regulations.
337. The text of these amendments can be found in Appendix 2.

## **Clause by Clause Scrutiny of the Bill**

338. Having considered the written and oral evidence received on the Bill, the Committee undertook its formal Clause-by-Clause consideration at its meeting on 11 January 2022 – see Minutes of Proceedings in Appendix 1 and Minutes of Evidence in Appendix 2.

339. Information on the Committee's deliberations on the individual Clauses in the Bill and additional provisions can be found in the previous section of this report.

### **Clause 1 - Tenant to be given notice regarding certain matters**

340. The Committee was content with the clause as drafted by the Department.

### **Clause 2 - Tenant to be given notice regarding certain past matters**

341. The Committee was content with the clause as drafted by the Department.

### **Clause 3 - Tenant to be provided with a rent receipt for payment in cash**

342. The Committee was content with the clause as amended by the Department.

### **Clause 4 - Limit on tenancy deposit amount**

343. The Committee was content with the clause as drafted by the Department.

### **Clause 5 - Increase in time limits for requirements relating to tenancy deposits**

344. The Committee was content with the clause as drafted by the Department.

### **Clause 6 - Certain offences in connection with tenancy deposits to be continuing offences**

345. The Committee was content with the clause as drafted by the Department.

### **Clause 7 - Restriction on rent increases**

346. The Committee was content with the clause as amended by the Department.

### **Clause 8 - Fire, smoke and carbon monoxide alarms, etc.**

347. The Committee was content with the clause as drafted by the Department.

### **Clause 9 - Energy efficiency regulations**

348. The Committee was content with the clause as drafted by the Department.

### **Clause 10 - Electrical safety standards regulations**

349. The Committee was content with the clause as drafted by the Department.

### **Clause 11 - Validity requirements for notices to quit given by landlords and tenants**

350. The Committee did not come to a position and decided to reserve its position on this clause until the outcome of the consultation is known. However, Members re-iterated their frustration that they felt unable to propose any amendments to this Clause despite the evidence they had received, as they wished to respect the important consultation process. As the consultation does not conclude until after the end of the Committee Stage, they again stated that the Department had put the Committee in a very difficult position in respect of this Clause.

### **New Clause 11A - Payment options for tenants: power to make provision and duty to consult**

351. The Committee was content with the clause as drafted by the Department.

### **Clause 12 – Interpretation**

352. The Committee was content with the clause as drafted by the Department.

### **Clause 13 – Commencement**

353. The Committee was content with the clause as drafted by the Department.

## **Clause 14 - Short title**

354. The Committee was content with the clause as drafted by the Department.

## **Schedule 1 - Tenant to be given notice regarding certain past matters**

355. The Committee was content with Schedule 1 as drafted by the Department.

## **Schedule 2 - Energy efficiency regulations**

356. The Committee was content with Schedule 2 as amended by the Department.

## **Schedule 3 - Electrical safety standards regulations**

357. The Committee was content with Schedule 3 as amended by the Department.

## **Long Title**

358. The Committee was content with the Long Title of the Bill.

## Links to Appendices

### Appendix 1: Memoranda and Papers from the Department for Communities

[View Memoranda and Papers supplied to the Committee by the Department](#)

### Appendix 2: Memoranda and Papers from Others

[View Memoranda and Papers supplied to the Committee by other individuals or organisations](#)

### Appendix 3: Minutes of Proceedings

View Minutes of Proceedings of Committee meetings related to the report:

- [Minutes of Proceedings 23 September 2021](#)
- [Minutes of Proceedings 30 September 2021](#)
- [Minutes of Proceedings 21 October 2021](#)
- [Minutes of Proceedings 02 November 2021](#)
- [Minutes of Proceedings 09 November 2021](#)
- [Minutes of Proceedings 16 November 2021](#)
- [Minutes of Proceedings 18 November 2021](#)
- [Minutes of Proceedings 23 November 2021](#)
- [Minutes of Proceedings 25 November 2021](#)
- [Minutes of Proceedings 30 November 2021](#)
- [Minutes of Proceedings 02 December 2021](#)
- [Minutes of Proceedings 09 December 2021](#)
- [Minutes of Proceedings 16 December 2021](#)

- [Minutes of Proceedings 21 December 2021](#)
- [Minutes of Proceedings 11 January 2021](#)
- [Minutes of Proceedings 12 January 2021](#)

## **Appendix 4: Minutes of Evidence**

[View Minutes of Evidence from evidence sessions related to the report.](#)

## **Appendix 5: Written submissions**

[View written submissions received in relation to the report.](#)

## **Appendix 6: Research Papers**

Research Papers produced by the Assembly's Research and Information Service (RaISe) in relation to the report:

- [21 September 2021 – Private Tenancies Bill](#)

## **Appendix 7: List of Witnesses that gave evidence to the Committee**

- Eleanor Murphy, Northern Ireland Assembly Research and Information Service
- Kate McCauley, Housing Rights
- Kerry Logan, Housing Rights
- Faith Westwood, Housing Rights
- Claire Maddison, Renters' Voice
- Jenni Millar, Renters' Voice
- Glenn Willis, Renters' Voice
- Justin Cartwright, Chartered Institute of Housing
- Heather Wilson, Chartered Institute of Housing

- Jordan Buchanan, PropertyPal
- Ellen Fearon, National Union of Students- Union of Students Ireland
- Pat Austin, Fuel Poverty Coalition Northern Ireland
- Jamie Miller, Fuel Poverty Coalition Northern Ireland
- Richard Smyth, Landlord Association Northern Ireland
- Paddy Gallagher, Northern Ireland Fire and Rescue Service
- Geoff Somerville, Northern Ireland Fire and Rescue Service
- Martyn Allen, Electrical Safety First
- Daryl McIntosh, Propertymark
- Grainia Long, Northern Ireland Housing Executive
- Siobhan McCauley, Northern Ireland Housing Executive
- Eamonn Hunt, Tenancy Deposit Scheme Administrators
- Daren King, Tenancy Deposit Scheme Administrators
- Kate Mutter- Bowen, Tenancy Deposit Scheme Administrators
- Alison MacDougall, Tenancy Deposit Scheme Administrators

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Committee for Communities

Dr Janice Thompson

Northern Ireland Assembly

Parliament Buildings

Ballymiscaw

Stormont

Belfast BT4 3XX

Telephone: 028 90 521369

Email: [Committee.Communities@niassembly.gov.uk](mailto:Committee.Communities@niassembly.gov.uk)

Twitter: @NIA\_Communities

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