

STATUTORY INSTRUMENTS

2006 No. 1459

The Private Tenancies (Northern Ireland) Order 2006

PART VI

MISCELLANEOUS

Offences

Prosecution of offences

68.—(1) A person who is guilty of an offence under Article ^{F1}. . . [^{F2}4A(4), 4B(5), 4C(3),]^{F3}5(7), 5ZA(3)]^{F4}, 5ZC(4)], [^{F5}11B(4),] 24(1), 33(5) or 50(2) or (3) or paragraph 1(2) of Schedule 2 shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) A person who is guilty of an offence under Article 28, 65(3) or 66(3) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Proceedings for any offence under this Order [^{F6}(including any offence created by regulations under Article 11G [^{F7}or 11I])] may be instituted by the appropriate district council.

Textual Amendments

- F1** Words in art. 68(1) repealed (30.6.2011) by [Housing \(Amendment\) Act \(Northern Ireland\) 2011](#) (c. 22), ss. 24, 25(1), [Sch.](#); S.R. 2011/241, [art. 2\(1\)](#), [Sch. 1](#)
- F2** Words in art. 68(1) inserted (28.4.2022 for specified purposes, 1.4.2023 in so far as not already in operation) by [Private Tenancies Act \(Northern Ireland\) 2022](#) (c. 20), [ss. 1\(3\)](#), 14(2)(a); S.R. 2023/20, [art. 2](#), [Sch.](#)
- F3** Words in art. 68(1) substituted (1.4.2023) by [Private Tenancies Act \(Northern Ireland\) 2022](#) (c. 20), [ss. 3\(5\)](#), 14(7); S.R. 2023/20, [art. 2](#), [Sch.](#)
- F4** Words in art. 68(1) inserted (1.4.2023) by [Private Tenancies Act \(Northern Ireland\) 2022](#) (c. 20), [ss. 4\(3\)](#), 14(7); S.R. 2023/20, [art. 2](#), [Sch.](#)
- F5** Word in art. 68(1) inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022](#) (c. 20), [ss. 8\(3\)](#), 14(2)(d)
- F6** Words in art. 68(3) inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022](#) (c. 20), s. 14(2)(e), [Sch. 2 para. 3](#)
- F7** Words in art. 68(3) inserted (28.4.2022 for specified purposes) by [Private Tenancies Act \(Northern Ireland\) 2022](#) (c. 20), s. 14(2)(f), [Sch. 3 para. 3](#)

[^{F8}Fixed penalty for certain offences

68A.—(1) This Article applies where on any occasion an authorised officer of a district council has reason to believe that a person (“P”) has committed—

- [an offence under Article 4A(4) or 4B(5), except one deemed to have been committed by ^{F9}(za) virtue of Article 4C(1);

- (zb) an offence under Article 4C(3);]
 - [an offence under Article 5(7), except one deemed to have been committed by virtue of
- ^{F10}(zc) Article 5ZA(1);
- (zd) an offence under Article 5ZA(3);]
 - [an offence under Article 5ZC(4);]
- ^{F11}(ze)
 - (a) an offence under Article 5B(10) or (11); ^{F12}...
 - [an offence under Article 11B(4);]
- ^{F13}(aa)
 - [an offence created by regulations under Article 11G (but this is subject to paragraph (1A))]
- ^{F14}(ab)
 - [an offence created by regulations under Article 11I; or]
- ^{F15}(ac)
 - (b) an offence under Article 65A(4).
- [
- ^{F16}(1A) This Article does not apply where—
 - (a) P has been convicted of an offence in respect of the granting of a private tenancy, or the letting out of a dwelling-house under a private tenancy, in breach of a prohibition imposed under Article 11G(1)(a) or (b) (“the initial offence”),
 - (b) an authorised officer has reason to believe that, after that conviction, P has committed an offence in respect of a prohibition imposed under Article 11G(1)(b) (“the continuing offence”), and
 - (c) it appears to the authorised officer that the continuing offence has been committed by P continuing to let out the dwelling-house under the tenancy in respect of which the initial offence was committed.]
- (2) The authorised officer may give P a notice in the prescribed form offering P the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.
- (3) A fixed penalty payable under this Article is payable to the district council whose officer gave the notice.
- (4) Where P is given a notice under this Article in respect of an offence—
 - (a) no proceedings may be instituted for that offence before the expiration of the period of 14 days, or such other period as may be specified in the notice, following the date of the notice; and
 - (b) P may not be convicted of that offence if P pays the fixed penalty before the expiration of that period.
- (5) A notice under this Article must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.
- (6) A notice under this Article must also state—
 - (a) the period during which, by virtue of paragraph (4), proceedings will not be taken for the offence;
 - (b) the amount of the fixed penalty; and
 - (c) the person to whom and the address at which the fixed penalty may be paid.

(7) The fixed penalty payable to a district council under this Article in respect of an offence under Article 5B(11) in relation to a tenancy deposit received or required by a landlord is an amount equal to three times the amount of that tenancy deposit.

(8) The fixed penalty payable to a district council under this Article in respect of an offence under Article [^{F17}4A(4), 4B(5), 4C(3),]^{F18}[^{F18}5(7), 5ZA(3),]^{F19}[^{F19}5ZC(4),] 5B(10) [^{F20}, 11B(4)] or 65A(4) [^{F21} or an offence created by regulations under Article 11I] is an amount determined by the council, being an amount not exceeding one-fifth of the maximum fine payable on summary conviction of that offence.

[^{F22}(8A) The fixed penalty payable to a district council under this Article in respect of an offence created by regulations under Article 11G is an amount determined by the council, being an amount not exceeding one-fifth of the amount prescribed as the maximum fine for that offence; but this is subject to paragraphs (8B) and (8C).

(8B) Paragraph (8C) applies where—

- (a) P grants a private tenancy, or continues to let out a dwelling-house under a private tenancy, in breach of a prohibition imposed under Article 11G(1)(a) or (b) (“the initial breach”),
- (b) P is given a fixed penalty notice under this Article in respect of an offence on the grounds of the initial breach,
- (c) P pays the fixed penalty stated in the notice,
- (d) an authorised officer has reason to believe that, after payment of the fixed penalty, P has committed an offence in respect of a prohibition imposed under Article 11G(1)(b) (“the continuing offence”), and
- (e) it appears to the authorised officer that the continuing offence has been committed by P continuing to let out the dwelling-house under the tenancy in respect of which the initial breach was committed.

(8C) Where this paragraph applies, the penalty payable is an amount determined by the council, being an amount not exceeding one-five-hundredth of the amount prescribed as the maximum fine for that offence for every day or part of a day for which it appears to the officer that the letting has continued after payment (and, accordingly, the penalty payable may exceed one-fifth of the amount prescribed as the maximum fine for that offence).]

(9) In any proceedings a certificate which—

- (a) purports to be signed on behalf of the clerk of the council, and
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(10) A district council may use amounts paid to it in pursuance of notices under this Article only for the purposes of its functions under this Order or such other of its functions as may be prescribed.

(11) In this Article “authorised officer”, in relation to a district council, means an officer of the council who is authorised in writing by the council for the purposes of this Article.]

Textual Amendments

F8 Art. 68A inserted (30.6.2011) by [Housing \(Amendment\) Act \(Northern Ireland\) 2011 \(c. 22\), ss. 8, 25\(1\)](#); S.R. 2011/241, [art. 2\(1\)](#), Sch. 1

F9 Art. 68A(1)(za)(zb) inserted (28.4.2022 for specified purposes, 1.4.2023 in so far as not already in operation) by [Private Tenancies Act \(Northern Ireland\) 2022 \(c. 20\), ss. 1\(4\)\(a\), 14\(2\)\(a\)](#); S.R. 2023/20, [art. 2](#), Sch.

Status: Point in time view as at 01/04/2023.

Changes to legislation: There are currently no known outstanding effects for the The Private Tenancies (Northern Ireland) Order 2006, Cross Heading: Offences. (See end of Document for details)

- F10** Art. 68A(1)(zc)(zd) inserted (1.4.2023) by Private Tenancies Act (Northern Ireland) 2022 (c. 20), **ss. 3(6)(a)**, 14(7); S.R. 2023/20, art. 2, Sch.
- F11** Art. 68A(1)(ze) inserted (1.4.2023) by Private Tenancies Act (Northern Ireland) 2022 (c. 20), **ss. 4(4)(a)**, 14(7); S.R. 2023/20, art. 2, Sch.
- F12** Word in art. 68A(1)(a) omitted (28.4.2022 for specified purposes) by virtue of Private Tenancies Act (Northern Ireland) 2022 (c. 20), **ss. 8(5)(a)**, 14(2)(d)
- F13** Art. 68A(1)(aa) inserted (28.4.2022 for specified purposes) by Private Tenancies Act (Northern Ireland) 2022 (c. 20), **ss. 8(5)(b)**, 14(2)(d)
- F14** Art. 68A(1)(ab) inserted (28.4.2022 for specified purposes) by Private Tenancies Act (Northern Ireland) 2022 (c. 20), s. 14(2)(e), **Sch. 2 para. 4(a)**
- F15** Art. 68A(1)(ac) inserted (28.4.2022 for specified purposes) by Private Tenancies Act (Northern Ireland) 2022 (c. 20), s. 14(2)(f), **Sch. 3 para. 4(a)**
- F16** Art. 68A(1A) inserted (28.4.2022 for specified purposes) by Private Tenancies Act (Northern Ireland) 2022 (c. 20), s. 14(2)(e), **Sch. 2 para. 4(b)**
- F17** Words in art. 68A(8) inserted (28.4.2022 for specified purposes, 1.4.2023 in so far as not already in operation) by Private Tenancies Act (Northern Ireland) 2022 (c. 20), **ss. 1(4)(b)**, 14(2)(a); S.R. 2023/20, art. 2, Sch.
- F18** Words in art. 68A(8) inserted (1.4.2023) by Private Tenancies Act (Northern Ireland) 2022 (c. 20), **ss. 3(6)(b)**, 14(7); S.R. 2023/20, art. 2, Sch.
- F19** Word in art. 68A(8) inserted (1.4.2023) by Private Tenancies Act (Northern Ireland) 2022 (c. 20), **ss. 4(4)(b)**, 14(7); S.R. 2023/20, art. 2, Sch.
- F20** Word in art. 68A(8) inserted (28.4.2022 for specified purposes) by Private Tenancies Act (Northern Ireland) 2022 (c. 20), **ss. 8(6)**, 14(2)(d)
- F21** Words in art. 68A(8) inserted (28.4.2022 for specified purposes) by Private Tenancies Act (Northern Ireland) 2022 (c. 20), s. 14(2)(f), **Sch. 3 para. 4(b)**
- F22** Art. 68A(8A)-(8C) inserted (28.4.2022 for specified purposes) by Private Tenancies Act (Northern Ireland) 2022 (c. 20), s. 14(2)(e), **Sch. 2 para. 4(c)**

Status:

Point in time view as at 01/04/2023.

Changes to legislation:

There are currently no known outstanding effects for the The Private Tenancies (Northern Ireland) Order 2006, Cross Heading: Offences.