

*These notes refer to the Private Tenancies Act (Northern Ireland)
2022 (c.20) which received Royal Assent on 27 April 2022*

Private Tenancies Act (Northern Ireland) 2022

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 11:

Validity requirements for notices to quit

Section 11 makes a number of amendments to Article 14 of the 2006 Order as well as inserting a new Article 14A.

It begins by substituting a new paragraph (1) into Article 14 which ensures that that Article will now only deal with notices to quit given by landlords (as opposed to dealing with notices to quit given by both landlords and by tenants) and provides that such notices will not be valid unless they are in the form prescribed by the Department, contain the information prescribed by the Department and are given a certain period of time before the notice is to take effect.

Paragraph (1A) (which sets out the periods of time before which the notice must be given) is amended to provide the following notice to quit periods:

- (a) 8 weeks, if the tenancy has not been in existence for more than 12 months;
- (b) 4 months, if the tenancy has been in existence for more than 12 months but not for more than 3 years;
- (c) 6 months, if the tenancy has been in existence for more than 3 years but not for more than 8 years;
- (d) 7 months, if the tenancy has been in existence for more than 8 years.

A new paragraph (3) gives the Department the power, by regulations, to amend those periods.

A new paragraph (4) explains that any such regulations under paragraph (3) can amend the periods in paragraph (1A) to provide different notice periods for different cases within the sub-paragraphs of that paragraph (e.g. in respect of the sub-paragraph dealing with tenancies in existence for more than 12 months but not more than 3 years, the regulations could provide notice periods of 10 weeks for tenancies between 12 months and 2 years, and 5 months for tenancies between 2 years and 3 years).

A new paragraph (5) allows the Department to prescribe by regulations different notice periods to those provided in paragraph (1A) for cases falling within the circumstances set out in new paragraph (6). The circumstances are that the tenant is in substantial arrears of rent; the tenant, or a member of the tenant's household, has engaged in serious anti-social behaviour in, or in the locality of, the dwelling-house; and the tenant, or a member of the tenant's household, is convicted of a relevant criminal offence. Under paragraph (9) the Department can, by regulations, add to the list of circumstances in paragraph (6).

Paragraph (7) provides, amongst other things, that regulations under paragraph (5) can make provision about the meaning of any expression used in paragraph (6) (circumstances in which the notice period can be different), or provide that any provision made by the regulations only applies to cases of a prescribed description that fall within the circumstances mentioned in paragraph (6).

Paragraph (8) sets out that the Department may not make regulations under paragraph (5) that come into effect before the end of the emergency period under the Private Tenancies (Coronavirus Modifications) Act (Northern Ireland) 2020; it also provides that that the Department must make regulations under paragraph (5) that come into effect within 2 years of this Act receiving Royal Assent.

The reason that the Department is put under a duty to exercise the power in paragraph (5) is that the new notice periods in paragraph (1A) do not come into effect until regulations under paragraph (5) are made. (See below on the commencement provisions for further detail on this.)

Subsection (6) of the section inserts a new Article 14A, which will deal with notices to quit to be given by a tenant, and provides that such notices will not be valid unless they are in writing and are given a certain period of time before the notice is to take effect.

Paragraph (2) of the new Article sets out the periods of time before which the notice must be given. 4 weeks' notice is required where the tenant has been in the house for 10 years or less, and 12 weeks' notice in all other cases.

Paragraph (3) states that paragraph (1) applies regardless of when the tenancy was granted.

The Article also gives the Department the power, by regulations, to alter the notice to quit period in relation to tenancies that have been in existence for more than 12 months but not more than 10 years to a period that is more than 4 weeks but not more than 12 weeks.

Paragraph (5) explains that any such regulations can provide that the notice to quit period is different for different cases (e.g. 4 weeks for tenancies between 12 months and 2 years, 8 weeks for tenancies between 2 years and 5 years and 12 weeks for tenancies between 5 years and 10 years).

Paragraph (6) ensures that any amendments made by the regulations are only relevant to those notices given after the amendment has come into operation. Notices already given will only have to comply with the rule in force at the time they were given.

Subsection (7) amends Article 72 (provisions concerning regulations) of the 2006 Order to provide that any regulations made under Articles 14 or 14A are subject to the draft affirmative procedure and, before being laid, to consultation with representatives of landlords, representatives of tenants and such other persons as the Department consider appropriate.

In consequence of the new paragraphs (1) and (1A) in Article 14, subsection (8) omits section 3 of the Housing (Amendment) Act (Northern Ireland) 2011. That subsection is the provision that provides the current versions of paragraphs (1) and (1A).

Subsections (9) and (10) introduce transitional provisions. Subsection (9) ensures that until the coming into operation of the requirement that a notice to quit given by a landlord must be in the prescribed form and contain the prescribed information, the notice to quit must be given in writing.

Subsection (10) ensures that until the coming into operation of the new paragraph (1A) in Article 14, the notice to quit periods for notice given by a landlord are as follows:

- (a) 4 weeks, if the tenancy has not been in existence for more than 12 months;
- (b) 8 weeks, if the tenancy has been in existence for more than 12 months but not for more than 10 years;
- (c) 12 weeks, if the tenancy has been in existence for more than 10 years.

Finally, subsection (11) provides that any amendments made by the section do not apply in relation to notices to quit given before the section comes into operation. The effect of this is that if a notice to quit, given before such commencement, complies with the rules in force at the time it was given, it will be valid.