

SCHEDULES

SCHEDULE 1

Section 2.

Tenant to be given notice regarding certain past matters

*Tenancies granted on or after 30 June 2011 but
before the coming into operation of section 1*

- 1.—(1) This paragraph applies where—
- (a) a private tenancy of a dwelling-house was granted on or after 30 June 2011 but before the commencement date; and
 - (b) the dwelling-house is let under that tenancy on the commencement date.
- (2) The landlord under the tenancy must, within 28 days after the commencement date, give to the tenant a notice—
- (a) in the prescribed form, and
 - (b) containing the prescribed particulars and other prescribed information relating to the tenancy.
- (3) Where a landlord has, between the granting of the tenancy and the commencement date, given the tenant a notice that substantially meets the requirements of sub-paragraph (2), the landlord is to be regarded as having complied with that sub-paragraph.
- (4) A tenant must not be required to make a payment in respect of any notice under sub-paragraph (2).
- (5) A landlord who fails to comply with sub-paragraph (2) is guilty of an offence.

*Variation of certain terms on or after 30 June 2011
but before the coming into operation of section 1*

- 2.—(1) This paragraph applies where—
- (a) on or after 30 June 2011 but before the commencement date, a prescribed term of a private tenancy of a dwelling-house was varied; and
 - (b) the dwelling-house is let under that tenancy on the commencement date; and it applies regardless of the date on which the tenancy was granted.
- (2) In sub-paragraph (1) “varied” includes varied by omission.

(3) The landlord under the tenancy must, within 28 days after the commencement date, give to the tenant a notice—

- (a) in the prescribed form, and
- (b) containing the prescribed particulars and other prescribed information relating to the tenancy.

(4) Where a landlord has, between the varying of the prescribed term and the commencement date, given the tenant a notice that substantially meets the requirements of sub-paragraph (3), the landlord is to be regarded as having complied with that sub-paragraph.

(5) A tenant must not be required to make a payment in respect of any notice under sub-paragraph (3).

(6) A landlord who fails to comply with sub-paragraph (3) is guilty of an offence.

*Continued failure by landlord to provide notice under
paragraph 1 or 2 after conviction or fixed penalty*

3.—(1) If a landlord is convicted of an offence under paragraph 1(5) or 2(6), and the failure continues for more than 14 days after the conviction, the landlord is deemed to have committed a further offence under that sub-paragraph in respect of that failure.

(2) Sub-paragraph (3) applies where—

- (a) a landlord fails to comply with paragraph 1(2) or 2(3),
- (b) the landlord is given a fixed penalty notice under paragraph 6 in respect of an offence under paragraph 1(5) or 2(6) on the grounds of that failure, and
- (c) the landlord pays the fixed penalty stated in the notice.

(3) If the failure to comply with paragraph 1(2) or 2(3) continues for more than 14 days after the landlord pays the fixed penalty, the landlord is guilty of an offence.

Punishment and prosecution of offences under this Schedule

4. A person who is guilty of an offence under paragraph 1(5), 2(6) or 3(3) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

5. Proceedings for an offence under paragraph 1(5), 2(6) or 3(3) may be instituted by the appropriate district council.

Fixed penalty notices

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

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- (a) an offence under paragraph 1(5) or 2(6), except one deemed to have been committed by virtue of paragraph 3(1), or
 - (b) an offence under paragraph 3(3).
- (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 paragraph is payable to the district council whose officer gave the notice.
- (4) Where P is given a notice under this paragraph 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 paragraph 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 paragraph must also state—
- (a) the period during which, by virtue of sub-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 paragraph in respect of an offence under paragraph 1(5), 2(6) or 3(3) 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.
- (8) 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.
- (9) A district council may use amounts paid to it in pursuance of notices under this paragraph only for the purposes of its functions under this paragraph or the 2006 Order, or such other of its functions as may be prescribed.
- (10) In this paragraph “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 paragraph.

Supplementary and interpretation

7. Regulations under paragraph 1, 2 or 6 are subject to negative resolution.
8. In paragraphs 1 and 2 “the commencement date” means the date on which section 1 comes into operation.
9. Any expression that is used in both this Schedule and the 2006 Order has the same meaning in this Schedule as in that Order.

SCHEDULE 2

Section 9.

Energy efficiency regulations

1. The 2006 Order is amended as follows.
2. After Article 11F (as inserted by section 8) insert—

*“Energy efficiency***Energy efficiency of dwelling-houses let under a private tenancy**

11G.—(1) The Department may by regulations provide that a person may not—

- (a) grant a private tenancy of a dwelling-house to which paragraph (2) applies;
 - (b) continue to let out under a private tenancy a dwelling-house to which paragraph (2) applies.
- (2) This paragraph applies to a dwelling-house—
- (a) in relation to which there is an energy performance certificate, and
 - (b) that falls below such level of energy efficiency (as demonstrated by the energy performance certificate) as is provided for by the regulations.
- (3) Regulations under paragraph (1) may provide for the granting to a person, in respect of a dwelling-house, of—
- (a) an exemption on the ground that the dwelling-house is of such description as is provided for in the regulations;
 - (b) an exemption that is to have effect for a period of time and is subject to the condition that specified works or measures for improving efficiency in the use of energy in the dwelling-house are carried out within that period (an “improvement exemption”);
 - (c) an exemption on such other grounds as may be provided for in the regulations.

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- (4) In paragraph (3)—
- (a) “exemption” means an exemption from a prohibition imposed under paragraph (1);
 - (b) “specified” means specified in the improvement exemption.
- (5) Regulations that provide for exemptions by virtue of paragraph (3) may include, in particular, provision—
- (a) for exemptions to be granted by a prescribed person or prescribed persons (the “authority”);
 - (b) about the making of applications to the authority (including provision about the evidence which must or may be provided with applications);
 - (c) for exemptions to have effect for a specified period of time (including provision for the authority to determine that period);
 - (d) for a limit on the estimated cost of works or measures that may be specified in an improvement exemption (including a limit set by reference to the value of the dwelling-house or any other prescribed circumstances);
 - (e) for the authority to maintain a publicly-accessible register of exemptions granted;
 - (f) about appeals to a prescribed person or body against decisions regarding exemptions (including provision about how such appeals may be disposed of and the effect of any exemption pending the determination of an appeal);
 - (g) about the inspection of dwelling-houses for the purposes of an application for an exemption or for the purposes of an appeal;
 - (h) in a case where an application or appeal is made in respect of a dwelling-house which is (on the date the application or appeal is made) let under a private tenancy, for the applicant or appellant to be exempt from a prohibition imposed under paragraph (1)(b) in respect of the dwelling-house pending the determination of the application or appeal;
 - (i) about the consequences of providing false or misleading information in an application to the authority or in proceedings on an appeal (including provision creating criminal offences or invalidating exemptions);
 - (j) for a person who acquires an estate in a dwelling-house which is (on the date of the acquisition) let under a private tenancy to be exempt from a prohibition imposed under paragraph (1)(b) in respect of that dwelling-house for a prescribed period of time.
- (6) The regulations may provide that if—

- (a) a person is granted an improvement exemption, and
- (b) the person complies with prescribed conditions regarding the giving of notice to any tenant of the dwelling-house, or with such other conditions as may be prescribed,

works or measures specified in the exemption are to be regarded, for the purposes of Article 12, as works that the person is under a duty to execute.

(7) The regulations may also include such supplementary, incidental or consequential provision as the Department considers appropriate, including provision modifying any statutory provision.

(8) In this Article—

“private tenancy” does not include a protected tenancy or a statutory tenancy;

“energy performance certificate” means—

- (a) an energy performance certificate within the meaning given by the Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008, or
- (b) such other statutory document issued for the purpose of determining or recording the energy performance or efficiency of a dwelling-house as may be prescribed.

(9) In paragraph (8) “statutory document” has the meaning given by section 1(e) of the Interpretation Act (Northern Ireland) 1954.

Private tenancy energy efficiency regulations: power to create offences

11H.—(1) Regulations under Article 11G may provide that a person who breaches a prohibition imposed under paragraph (1) of that Article is guilty of an offence.

(2) Regulations under Article 11G may provide that a person commits an offence if—

- (a) the person is granted an improvement exemption;
- (b) the person fails, without reasonable excuse, to carry out the works or measures specified in the exemption within the period of time so specified;
- (c) Article 11G(2) applies to the dwelling-house immediately after the expiration of that period of time; and
- (d) at any time during which the exemption had effect, the person—
 - (i) granted a private tenancy of the dwelling-house, or
 - (ii) continued to let the dwelling-house out under a private tenancy that was granted before the exemption had effect.

(3) The regulations may provide for inspections of a dwelling-house in respect of which an exemption has been granted by virtue of Article 11G(3)(b), for the purpose of investigating whether an offence created by virtue of this Article has been committed.

(4) The regulations may set out circumstances in which a person is, or is not, to be regarded as having a reasonable excuse for the purposes of an offence created by virtue of paragraph (2) (including circumstances where a person ceases to hold an estate in the dwelling-house).

(5) Any offence created by regulations under Article 11G—

- (a) is not to be triable on indictment or punishable with imprisonment;
- (b) is not to be punishable with a fine exceeding level 5 on the standard scale (but, in the case of an offence in respect of a prohibition imposed under Article 11G(1)(b), this is subject to paragraphs (6) to (9)).

(6) Paragraphs (7) and (8) apply where regulations under Article 11G create an offence in respect of a prohibition imposed under Article 11G(1)(b).

(7) The regulations must provide that where—

- (a) a person is 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 conviction”),
- (b) after the initial conviction, the person continues to let out the dwelling-house under the tenancy, and
- (c) the person is convicted of an offence in respect of that continued letting in breach of a prohibition imposed under Article 11G(1)(b) (“the continuing offence”),

the continuing offence is to be punishable with a fine not exceeding one-hundredth of level 5 on the standard scale for every day or part of a day for which the letting continues after the initial conviction.

(8) The regulations must also provide that where—

- (a) a person 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),
- (b) the person is given a fixed penalty notice under Article 68A in respect of an offence on the grounds of that breach,
- (c) the person pays the fixed penalty stated in the notice,
- (d) after payment of the fixed penalty, the person continues to let out the dwelling-house under the tenancy in breach of a prohibition imposed under Article 11G(1)(b), and

- (e) the person is convicted of an offence in respect of that continued breach (“the post-payment offence”),

the post-payment offence is to be punishable with a fine not exceeding one-hundredth of level 5 on the standard scale for every day or part of a day for which the breach continues after payment.

(9) A fine imposed by virtue of paragraph (7) or (8) may exceed level 5 on the standard scale.”.

3. In Article 68(3) (prosecution by appropriate district council), after “this Order” insert “(including any offence created by regulations under Article 11G)”.

4. In Article 68A (fixed penalty for certain offences)—

(a) in paragraph (1), after sub-paragraph (aa) (as inserted by section 8) insert—

“(ab) an offence created by regulations under Article 11G (but this is subject to paragraph (1A))”;

(b) after paragraph (1) insert—

“(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.”;

(c) after paragraph (8) insert—

“(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,

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- (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).”.

5. In Article 72 (provisions concerning regulations)—

- (a) in paragraph (3), before “14” (as inserted by section 11) insert “11G,”;
- (b) after paragraph (5) (as inserted by section 7) insert—
 - “(6) Before making regulations under Article 11G, the Department must consult—
 - (a) the Department for the Economy and the Department of Finance,
 - (b) district councils,
 - (c) such persons as appear to the Department to be representative of landlords,
 - (d) such persons as appear to the Department to be representative of tenants, and
 - (e) such other persons as the Department considers appropriate (which may include landlords or tenants).”.

SCHEDULE 3

Section 10.

Electrical safety standards regulations

1. The 2006 Order is amended as follows.
2. After Article 11H (as inserted by Schedule 2) insert—

“Electrical safety standards

Electrical safety standards for dwelling-houses let under a private tenancy

11I.—(1) The Department may by regulations impose duties on the landlord of a dwelling-house let under a private tenancy for the purposes of ensuring that electrical safety standards are met during the period when the dwelling-house is let under the tenancy.

(2) “Electrical safety standards” means standards specified in, or determined in accordance with, the regulations in relation to—

- (a) the installations in the dwelling-house for the supply and use of electricity, or
- (b) electrical fixtures, fittings or appliances provided by the landlord.

(3) The duties imposed on the landlord may include duties to ensure that a qualified person has checked that the electrical safety standards are met.

(4) The regulations may make provision about—

- (a) how and when checks are carried out;
- (b) who is qualified to carry out checks.

(5) The regulations may require the landlord to undertake works as a result of checks carried out by the qualified person.

(6) The regulations may require the landlord—

- (a) to obtain a certificate from the qualified person confirming that electrical safety standards are met;
- (b) to give a copy of the certificate to the tenant, or a prospective tenant, or any other person specified in the regulations;
- (c) where the electrical safety standards are not met, to obtain from the qualified person a written description of the works required to meet the standards.

(7) Regulations under this Article are referred to in Articles 11J and 11K as “electrical safety standards regulations”.

Electrical safety standards regulations: power to create an offence

11J.—(1) Electrical safety standards regulations may provide that a landlord who fails to comply with a duty imposed under Article 11I(1) is guilty of an offence.

(2) Any offence created by virtue of paragraph (1)—

- (a) is not to be triable on indictment or punishable with imprisonment;

- (b) is not to be punishable with a fine exceeding level 5 on the standard scale.

Electrical safety standards regulations: other enforcement

11K.—(1) Electrical safety standards regulations may make provision, for the enforcement of a duty imposed under Article 11I(1)—

- (a) under which a landlord may be required to take remedial action;
- (b) under which a district council may, with the consent of the tenant, arrange for a person to enter the dwelling-house and take remedial action.

(2) Regulations made by virtue of paragraph (1) may include, in particular, provision about procedural matters.

(3) Regulations made by virtue of paragraph (1) that make provision in connection with paragraph (1)(a) may include, in particular, provision enabling the landlord to make representations against any requirement to take remedial action.

(4) Regulations made by virtue of paragraph (1) that make provision in connection with paragraph (1)(b) may include, in particular, provision—

- (a) about appeals against any proposed remedial action;
- (b) enabling a district council to recover from the landlord any costs incurred by it in taking remedial action (“remedial costs”);
- (c) enabling a district council to recover from any agent of the landlord any remedial costs, up to the total amount of money held by the agent on behalf of the landlord;
- (d) under which any remedial costs due under the regulations are deemed, until recovered, to be charged on and payable out of the estate of the landlord in the land in relation to which the costs were incurred and the estate in that land of any person deriving title from the landlord;
- (e) about the enforceability and registration of any charge created under the regulations;
- (f) about the application of costs recovered.”.

3. In Article 68(3) (prosecution by appropriate district council), after “11G” (as inserted by Schedule 2) insert “or 11I”.

4. In Article 68A (fixed penalty for certain offences)—

- (a) after paragraph (1)(ab) (as inserted by Schedule 2) insert—
 - “(ac) an offence created by regulations under Article 11I; or”;

- (b) in paragraph (8), after “or 65A(4)” insert “or an offence created by regulations under Article 11I”.
5. In Article 72 (provisions concerning regulations)—
- (a) in paragraph (2), for “paragraph (3)” substitute “paragraphs (3) and (3A)”;
 - (b) after paragraph (3) insert—
 - “(3A) Regulations under Article 11I(1) that contain provision mentioned in Article 11K(4)(d) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.”;
 - (c) after paragraph (6) (as inserted by Schedule 2) insert—
 - “(7) Before making regulations under Article 11I(1), the Department must consult—
 - (a) district councils,
 - (b) such persons as appear to the Department to be representative of landlords,
 - (c) such persons as appear to the Department to be representative of tenants, and
 - (d) such other persons as the Department considers appropriate (which may include landlords or tenants).
 - (8) In the case of regulations that contain provision mentioned in Article 11K(4)(d), the consultation must take place before the draft of the regulations is laid before the Assembly.”.