



Isle of Man
Government

Reiltys Ellan Vannin



Landlord and Tenant (Private Housing) Bill Consultation

February 2013

Department of Social Care
Rhyenn Kiarail y Theay

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1. EXECUTIVE SUMMARY

The Department of Social Care (DSC) is bringing forward proposals for a new piece of legislation - the Landlord and Tenant (Private Housing) Bill. The Bill aims to achieve a fair and reasonable balance between the rights of landlords and tenants under private rented tenancies.

The new legislation will:

- Require landlords of rented dwellings, who are not exempt, to be registered;
- Require landlords, and their rented dwellings to comply with minimum standards made by the DSC
- Require landlords, who do not themselves meet the minimum standards, to use a letting agent to manage the tenancy of their properties
- Allow the Department of Social Care to enforce those minimum standards

This consultation exercise is seeking views on the contents of the Landlord and Tenant (Private Housing) Bill 2013.

Please note that the Bill will make registration mandatory but, in order to give landlords sufficient time to prepare, the DSC is introducing a voluntary Landlord Registration Scheme.

Details of the voluntary scheme are available at:

www.gov.im/socialcare/housing/

2. ABOUT THE CONSULTATION

The purpose of this consultation exercise is to invite comments on the proposed provisions of the Landlord and Tenants (Private Housing) Bill 2013. The draft Bill is contained in Appendix 1 of this document.

It is not a referendum but an information, views and evidence gathering exercise to allow the Department to take an informed decision on the final content of the proposed draft Bill. In any consultation exercise the responses received do not guarantee changes will be made to what has been proposed.

Comments should be submitted by 5pm on Friday **3rd May 2013** in writing, by post, email or via our online survey:

Landlord and Tenant (Private Housing) Bill 2013 Consultation
Department of Social Care
4th Floor,
Markwell House,
Market Street,
Douglas
IMI 2RZ

Tel: (01624) 687044

Email: Landlord.registration@gov.im

Online Survey: www.smart-survey.co.uk/s/LandlordBill

To ensure that the process is open and honest, and in line with the Government's Code of Conduct on Consultation, responses can only be accepted if you provide your name with your response.

Unless specifically requested otherwise, any responses received may be published either in part or in their entirety. Please mark your response clearly if you wish your response and name to be kept confidential. Confidential responses will be included in any statistical summary and numbers of comments received.

When submitting your views please indicate whether you are responding on behalf of an organisation.

Electronic copies of this document are also available at:

www.gov.im/socialcare/consultations.gov

Paper copies of the consultation document are available at:

- The Department of Social Care, Markwell House, Market Street, Douglas.
- Tynwald Library, Legislative Buildings, Finch Road, Douglas

The consultation period ends at 5pm of Friday 3rd May 2013

2.1 List of persons and organisations to be consulted

- Tynwald Members
- Attorney General
- Local Authorities
- Chief Officers of Government Departments Statutory Boards and Offices
- Local Authorities

- Isle of Man Chamber of Commerce
- Isle of Man Trade Union Council
- Isle of Man Law Society
- Isle of Man Constabulary
- Isle of Man Fire and Rescue Service
- Positive Action Group
- Relevant Professional Bodies
- Council of Voluntary Organisations
- Graih
- Kemmyrk

2.2 Steps which will be taken following consultation

Following consultation, the next steps in the process will be as follows:

- The Department will review comments received from consultees.
- A summary of the responses received will be published within 3 months of the closing date for this consultation, and will be made available on the Government website or by contacting the Department.
- The Department will prepare the Bill for introduction into the Legislative Branches;
- Once the Bill becomes law new Regulations will be submitted to Tynwald for approval.

2.3 Government Code of Practice on consultation

It is the intention to carry out this consultation in accordance with the Isle of Man Government Code of Practice on Consultation. The Code sets out the following six criteria:

- *Consult widely throughout the process, allowing a minimum of 6 weeks for a minimum of one written consultation at least once during the development of the legislation or policy.*
- *Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.*
- *Ensure your consultation is clear, concise and widely accessible.*
- *Give feedback regarding the responses received and how the consultation process influenced the policy.*
- *Monitor your Department's effectiveness at consultation.*
- *Ensure your consultation follows best practice, including carrying out an Impact Assessment if appropriate.*

2.4 Comments or complaints

If you wish to comment on the conduct of this consultation or make a complaint about the way the consultation has been carried out please write to:

Mrs Y. Mellor
 Chief Executive
 Department of Social Care
 Markwell House
 Market Street
 Douglas
 IM1 1RZ
 Email: ceo.dsc@gov.im

3. BACKGROUND

3.1 Overview

In 2012 the Department of Social Care held a policy consultation on proposals for a Landlord Registration Scheme.

The consultation detailed why registration of private landlords was required and set out that the Scheme aimed to improve the lower end private sector rental market by introducing:

- Minimum standards of decency for accommodation
- Minimum tenancy management standards

Whilst minimising the burden of compliance to landlords.

The consultation set out what would be required under the Scheme including: the registration process; and the proposed minimum standards for inspection.

Following the policy consultation the minimum standards have been finalised and are contained, for information, in Appendix 2 of this document.

3.2 Development of the Landlord and Tenant (Private Housing) Bill

Following the policy consultation, taking into account the comments received, the Department drafted the primary legislation required for the mandatory introduction of the Landlord Registration Scheme.

This consultation seeks views on this legislation - the Landlord and Tenant (Private Housing Bill) – details of which can be found below.

3.3 Voluntary Landlord Registration Scheme

Alongside the development of this legislation the DSC is introducing a voluntary landlord registration scheme to provide private landlords with the opportunity to prepare for the introduction of the new Bill.

Details of the voluntary scheme can be found by:

- Visiting our website: www.gov.im/socialcare/housing/
- Emailing: landlord.registration@gov.im
- Calling: (01624) 685187
- Picking up a paper copy from:
 - The Department of Social Care, Markwell House, Market Street, Douglas
 - Tynwald Library, Legislative Buildings, Finch Road, Douglas
 - The Welcome Centre, Sea Terminal, Douglas

4. INFORMATION ON THE BILL

4.1 What does the Bill aim to do?

The purpose of the legislation is to achieve a fair and reasonable balance between the rights of landlords and tenants under private-rented tenancies.

4.2 How will the Bill achieve this?

The Bill will do this by:

- Requiring landlords of rented dwellings (who are not exempted) to be registered.
- Requiring landlords, certain letting agents and rented dwellings to comply with minimum standards made by DSC.
- Requiring landlords, who do not themselves, meet the minimum standards, to use a letting agent to manage the tenancy of their properties.
- Empowering the DSC to inspect rented dwellings and enforce those minimum standards.
- Creating offences for landlords who fail to register or fail to meet the minimum standards.

The legislation will make it illegal for a landlord to operate unless they and their properties are registered.

4.3 Who will be affected?

All private rented tenancies will be included except for:

- Business premises, agricultural holdings or a farm businesses.
- Properties approved for use under the "Homestay" Scheme.
- A lodger where the landlord lives in the same premises.
- Tenancies where a landlord is closely related to a tenant – a spouse, parent or grandparent, brother or sister, child or grandchild, or cousin aunt or uncle.

Public sector tenancies are not affected as they already have standards for decency in place set out in existing legislation.

4.4 What will the Minimum Standards contain?

The legislation refers to a set of minimum standards and allows the Department to take enforcement action against those standards. These standards will be published in a separate public document rather than being contained in the primary legislation.

This allows the standards to bring together, rather than duplicate, existing legislation, creating a scheme which is easy to use and which should not place an additional burden on landlords, other than completing one form to register their property/properties.

The Department of Social Care consulted on the proposed minimum standards in a public consultation in 2012; as a result of the comments received some amendments have been made. The revised standards are contained, for information, in Appendix 2.

5. DESCRIPTION OF THE BILLS PROVISIONS

Part 1 – Opening provisions

Division 1 –Introductory

Division 1 (*clauses 1 to 6*) provides for:

- The short title of the Bill;
- Commencement;
 - Two parts will commence by way of appointed day order to allow for the structured implementation. The rest of the Act commences on the announcement of Royal Assent to Tynwald.
 - This means that landlords will be able to formally become registered as soon as the Act comes into force, but that the legal requirement to do so or to comply with the minimum standards will not apply until Part 2, Division 1 and Part 3 commence by way of an appointed day order.
- The purposes of the Act,
- The privately-rented tenancies to which the Act will apply
- Exemptions from the Act.

Division 2 –Interpretation

Division 2 (*clauses 7 to 11*) provides for definitions and other interpretative matters.

Clause 8 incorporates into the Act the existing minimum standards published by DSC for the voluntary landlord registration scheme, and details how they can be amended.

Under *clause 8(3)*, there is the safeguard that Tynwald approval is required for any amendment to the minimum standards that prejudices, or might prejudice, anyone's right or interests.

PART 2 – LANDLORD REGISTRATION

Division 1 –Registration-related offences

Division 1 (*clauses 12 to 14*) creates offences for:

- Being an unregistered landlord
- The illegal management of a property (*clause 13*)
- The prevention of certain advertising in relation to dwellings (*clause 14*)

Division 2 – Civil consequences of not being registered

Division 2 (*clauses 15 to 19*) provides for the civil consequences between the landlord and tenant of the landlord not being registered as required and for remedies for those consequences. These include the tenant's right to terminate the tenancy if a landlord is not registered. Please note this consequence will not come into effect until the legal requirement to register is brought in.

Division 3 – Obtaining registration

Division 3 (*clauses 20 to 24*) provides for the process for a landlord to register, the procedure for deciding an application and what the Department must do following a decision. The Division also states the duration of registration.

Division 4 — Landlords register

Division 4 (*clauses 25 to 29*) makes provisions about the landlords register, access to it and for the bodies that DSC can give information from the register to. It also makes an offence if a landlord fails to notify the DSC of changes to their details.

Division 5 — Miscellaneous

Division 5 (*clauses 30 and 31*) provides for the renewal of registration and makes it an offence to knowingly or recklessly make a false or misleading statement to DSC in relation to registration.

PART 3 — COMPLIANCE WITH MINIMUM STANDARDS

Division 1 — Landlord's duty to comply

Division 1 (*clauses 32 and 33*) makes it an offence for a landlord not to ensure the rented dwelling complies, and continues to comply, with the minimum standards. However, there is a defence for acts caused by the tenant or if the tenant prevented compliance.

Division 2 — Notices to remedy noncompliance

Under Division 2 (*clauses 34 to 42*), DSC is empowered to give 'improvement notices' to a landlord if it reasonably believes a rented dwelling does not comply with the minimum standards.

An improvement notice can only be given after giving procedural fairness to the landlord and the tenant. Improvement notices also bind future landlords who may purchase the dwelling.

Under *clause 40*, it will be an offence to breach an improvement notice, but there is a defence for subsequent landlords in certain circumstances (*clause 41*).

Division 3 — Contravention action

Under Division 3 (*clauses 43 to 48*), DSC is empowered to suspend, cancel or disqualify a landlord in circumstances when they have given false or misleading information in order to become registered or failed to:

- meet the minimum standards,
- comply with an improvement notice

This can only take place after giving the landlord a right of appeal.

Clause 48 allows a disqualified landlord to apply for a cancellation of their disqualification subject to certain conditions.

Division 4 — Authorised officers and inspections

Division 4 (*clauses 49 to 53*) provides for the appointment of authorised officers to monitor or enforce compliance with the Act, and for their entry and other powers.

Those powers are linked to those of authorised officers under the Local Government Act 1985. However, there is an important exception that, under this Act, an authorised officer can only enter a privately-rented dwelling if its occupier consents or the entry is under a warrant (*clauses 52 and 53*).

PART 4 — APPEALS

Part 4 (*clauses 54 to 57*) provides for appeals to the High Bailiff against a decision made by DSC under the Act.

PART 5 — MISCELLANEOUS

Part 5 (*clauses 58 to 62*) provides for: certain evidentiary matters; a power of DSC to make required forms for use under the Act; a general regulation-making power for the Act; and for the negative Tynwald procedure to apply to regulations.

PART 6 — TRANSITIONALS

Part 6 (*clauses 63 to 65*) provides for: the Landlords Register under the DSC's voluntary Registration Scheme set up before the Bill comes into operation to become the landlords register; for a transitional provision about interpretation; and for interim registration fees until a regulation is made to prescribe them.

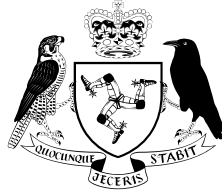
PART 7 — AMENDMENT OF LAND REGISTRATION ACT 1982

Part 7 (*clause 66*) amends the *Land Registration Act 1982* to make an improvement notice a Schedule 5 burden under that Act, the consequence of which is that under section 35 of that Act they will bind the land in question without the need for registration. This will allow prospective purchasers to be aware of an outstanding improvement notice on a property.

THE SCHEDULE

The Schedule is a list of all definitions for the Act. Terms defined in the body of the Act are signposted in the Schedule.

Appendix 1



Isle of Man

Ellan Vannin

LANDLORD AND TENANT (PRIVATE HOUSING) BILL 2013

LANDLORD AND TENANT (PRIVATE HOUSING) BILL 2013

Explanatory Memorandum

1. This Bill is promoted by the Department of Social Care (“DSC”). The purpose of the Act resulting from the Bill (“the Act”) is to achieve a fair and reasonable balance between the rights of landlords and tenants under privately-rented tenancies (other than for some exempted ones).

2. The core aspects of the Act are that it will:

- ⊗ Require landlords of rented dwellings who are not exempted to be registered.
- ⊗ Require landlords, certain letting agents and rented dwellings to comply with minimum standards made by DSC.
- ⊗ Empower DSC to enforce those standards.

PART 1 – OPENING PROVISIONS

Division 1 – Introductory

3. Division 1 (*clauses 1 to 6*) provides for the short title and the commencement and the purposes of the Act, the privately-rented tenancies to which the Act will apply and for exemptions from the Act.

4. Under *clause 2*, Part 2, Division 1 and Part 3 will commence by appointed day order. The rest of the Act therefore commences on the announcement of Royal Assent to Tynwald. The effect of this is that landlords will be able to formally become registered, but that the legal compulsion to do so or to comply with the minimum standards will not apply until Part 2, Division 1 and Part 3 are commenced.

Division 2 – Interpretation

5. Division 2 (*clauses 7 to 11*) provides for definitions and other interpretative matters. *Clause 8* incorporates into the Act the existing minimum standards published by DSC for the voluntary scheme, for how they can be amended. Under *clause 8(3)*, there is the safeguard that affirmative Tynwald approval is required for any amendment that prejudices, or might prejudice, anyone’s right or interests.

PART 2 – LANDLORD REGISTRATION

Division 1 – Registration-related offences

6. Division 1 (*clauses 12 to 14*) creates offences for certain landlords not to be registered, for certain landlords or letting agents to manage the letting of dwellings and for prohibitions on certain advertising in relation to dwellings

Division 2 – Civil consequences of not being registered

7. Division 2 (*clauses 15 to 19*) provides for the civil consequences as between the landlord and tenant of the landlord not being registered as required and for remedies for those consequences.

Division 3 – Obtaining registration

8. Division 3 (*clauses 20 to 24*) provides for the process for landlord registration and its duration.

Division 4 – Landlords register

9. Division 4 (*clauses 25 to 29*) makes provisions about the register, access to it and for the bodies that DSC can give information from the register to.

Division 5 – Miscellaneous

10. Division 5 (*clauses 30 and 31*) provides for the renewal of registration and makes it an offence to knowingly or recklessly make a false or misleading statement to DSC in relation to registration.

PART 3 – COMPLIANCE WITH MINIMUM STANDARDS

Division 1 – Landlord’s duty to comply

11. Division 1 (*clauses 32 and 33*) makes it an offence for a landlord not to ensure the rented dwelling complies, and continues to comply, with the minimum standards. However, there is a defence for acts caused by the tenant or if the tenant prevented compliance (the term “act” under relevant interpretation legislation including omissions).

Division 2 – Notices to remedy noncompliance

12. Under Division 2 (*clauses 34 to 42*), DSC is empowered to give ‘improvement notices’ to a landlord if it reasonably believes a rented dwelling does not comply with the minimum standards, after giving procedural fairness to the landlord and the tenant. Improvement notices also bind future landlords of the same dwelling.

13. Under *clause 40*, it will be an offence to contravene an improvement notice, but there is a defence for subsequent landlords in certain circumstances (*clause 41*). Also, an acquittal for the relevant contravention for an improvement notice has the effect of quashing the notice from the start (*clause 42*).

Division 3 – Contravention action

14. Under Division 3 (*clauses 43 to 48*), DSC is empowered to take suspension, cancellation or disqualification action against landlords contravening the Part, after affording procedural fairness.

Division 4 – Authorised officers and inspections

15. Division 4 (*clauses 49 to 53*) provides for the appointment of authorised officers to monitor or enforce compliance with the Act, and for their entry and other powers.

16. Those powers are linked to those of authorised officers under the Local Government Act 1985. However, there is an important exception that, under this Act, an authorised officer can only enter a privately-rented dwelling if its occupier consents or the entry is under a warrant (*clauses 52 and 53*).

PART 4 – APPEALS

17. Part 4 (*clauses 54 to 57*) provides for appeals on the merits against DSC’s decisions under the Act.

PART 5 – MISCELLANEOUS

18. Part 5 (*clauses 58 to 62*) provides for certain evidentiary matters, a power of DSC to make required forms for use under the Act, a general regulation-making power for the Act and for the negative Tynwald procedure to apply to regulations.

PART 6 – TRANSITIONALS

19. Part 6 (*clauses 63 to 65*) provides for the landlords register under DSC’s voluntary registration scheme set up before the Act to become the landlords register, for a transitional provision about interpretation and for registration fees until a regulation is made to prescribe them.

PART 7 – AMENDMENT OF LAND REGISTRATION ACT 1982

20. Part 7 (*clause 66*) amends the *Land Registration Act 1982* to make an improvement notice a Schedule 5 burden under that Act, the consequence of which is that under section 35 of that Act they will bind the land in question without the need for registration.

THE SCHEDULE

21. The Schedule is a list of all definitions for the Act. Terms defined in the body of the Act are signposted in the Schedule.

22. It is not envisaged the Act will have any significant cost implications and the Act will be funded from registration fees. The Act is not expected to increase Government expenditure or reduce its income.

23. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.

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LANDLORD AND TENANT (PRIVATE HOUSING) BILL 2013

A **Bill** for an Act about landlord registration and minimum standards for privately-rented tenancies; and for connected purposes.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows: —

PART 1 — OPENING PROVISIONS

DIVISION 1 — INTRODUCTORY

1 Short title

The short title of this Act is the Landlord and Tenant (Private Housing) Act 2013.

2 Commencement

(1) The following commence on the day the Department of Social Care (“**DSC**”) by order appoints —

- (a) Part 2 (landlord registration), Division 1 (registration-related offences); and
- (b) Part 3 (compliance with the minimum standards).

(2) Before making the order, DSC must consult the Department of Environment, Food and Agriculture.

3 Purpose of Act and its achievement

(1) The purpose of this Act is to achieve a fair and reasonable balance between the rights of landlords and tenants under privately-rented tenancies not exempted under section 5.

(2) The purpose is achieved mainly by —

- (a) requiring landlords to be registered;
- (b) requiring landlords, certain letting agents and rented dwellings to comply with certain standards; and
- (c) provisions to enforce the standards.

4 Application of Act

(1) This Act applies to a lease or other agreement (other than a public tenancy) under which a person is, for the payment of rent, granted a right to exclusively occupy —

- (a) a dwelling; or
- (b) a part of a dwelling (with or without the right to use another part of the dwelling).

(2) However, this Act does not apply to a privately-rented tenancy exempted under section 5.

(3) For subsection (1), it does not matter —

- (a) what the agreement is called;
- (b) whether it is written or oral; or
- (c) whether there are separate agreements for different components of the rent or for other terms.

(4) A lease or agreement mentioned in subsection (1) (other than a public tenancy) is a “**privately-rented tenancy**”.

(5) A dwelling or part of a dwelling mentioned in subsection (1) is a “**rented dwelling**”.

(6) This Act applies despite the terms of any privately-rented tenancy.

(7) If a term of a privately-rented tenancy and a provision of this Act conflict, the term is of no effect to the extent of the conflict.

(8) In this section —

“lease” includes an agreement for a lease or tenancy; and

“public tenancy” means a lease —

(a) granted by DSC, a local authority or a joint board established under section 7 of the *Local Government Act 1985* (“**LGA 1985**”) performing functions under an Act as follows, or a scheme under any of those Acts —

(i) the *Housing Act 1955*;

(ii) the *Ramsey Town Act 1970*;

(iii) the *Housing (Miscellaneous Provisions) Act 1976* (the “1976 Act”); or

(iv) the *Housing (Miscellaneous Provisions) Act 2011*; or

(b) under which an approved housing association under the 1976 Act is the landlord.

5 Exemption of certain privately-rented tenancies from Act

(1) For section 4(2), a privately-rented tenancy is exempted —

(a) if the rented dwelling is, or forms part of —

(i) business premises under the *Tenancy of Business Premises Act 1971*;

(ii) an agricultural holding under the *Agricultural Holdings Act 1969*; or

(iii) a farm business premises under the *Agricultural Tenancies Act 2008*;

(b) if the tenant is a lodger and —

(i) the building that the rented dwelling comprises or forms part of continues to be landlord’s main place of residence; and

(ii) the landlord has no more than one other lodger in the building;

(c) if the rented dwelling is used by the tenant under —

(i) the scheme known as the ‘The Isle of Man Homestay Scheme’ conducted by the Department of Economic Development for races under the *Road Races Act 1982*; or

(ii) another scheme (whatever called) that is similar to that scheme;

(d) if the landlord and the tenant are closely related;

(e) if the landlord is acting as a personal representative and —

(i) is not a disqualified person; and

- (ii) has not so acted for more than 6 months; or
- (f) if another prescribed circumstance applies to the landlord or the tenancy.

(2) If, because of an exemption under subsection (1), this Act does not apply to a landlord for a particular privately-rented tenancy, the landlord is an “**exempt landlord**” for the rented dwelling.

(3) In this section, “closely related” means that the tenant is the landlord’s —

- (a) spouse;
- (b) parent or grandparent;
- (c) brother or sister;
- (d) child or grandchild; or
- (e) cousin, aunt or uncle.

6 Relationship with other Acts applying to privately-rented tenancies

(1) This Act does not prevent another Act applying for a privately-rented tenancy.

Example:

Part 3, Division 2 (improvement notices) does not prevent the giving of notices under Part I (provisions for securing the repair, maintenance and sanitary condition of houses) or III (abatement of overcrowding) of the Housing Act 1955 or of the powers of inspection of local authorities for a rented dwelling.

(2) However, if there is an inconsistency between a provision of this Act and a provision the other Act, the provision of this Act prevails to the extent of the inconsistency.

DIVISION 2 — INTERPRETATION

7 “Landlord” and “tenant”

- (1) A “**landlord**” is an owner of a rented dwelling.
- (2) A “**tenant**” is a person who, under a privately-rented tenancy, is granted the right of occupancy of a rented dwelling.
- (3) To avoid any doubt, the terms do not include a sub-lessor or sub-lessee of a rented dwelling.

8 “Minimum Standards”

(1) The “**minimum standards**” are the requirements of the part of the registration document headed “Standards for Registration”, subject to any amendment from time to time under subsection (2).

Note:

On the enactment of this Act, the minimum standards were available on the Government website.

- (2) DSC may amend the minimum standards by publishing the following for public viewing, free of charge, on the Government website or another website DSC considers is appropriate for that purpose —
 - (a) the text of amendment and the minimum standards as amended by the amendment; and
 - (b) a note about when the publication was first made.

(3) However, if the amendment prejudices, or might prejudice, anyone's right or interests, the affirmative Tynwald procedure applies to the amendment as if the text of the amendment were a statutory document.

(4) In this section —

“amendment”, of the minimum standards, includes a remake of them, either as part of a remake of the registration document, of another similar document or as a separate document; and

“registration document” means the document published by DSC titled “Landlord Registration Scheme 2013”.

9 Compliance with the minimum standards

(1) A person “**complies**” with the minimum standards as a landlord or prospective landlord only if the person complies with all of the personal requirements under the standards for a person to be a landlord.

(2) A person “**complies**” with the minimum standards as a letting agent only if the person complies with all of the personal requirements under the standards for a person to be a letting agent.

(3) A dwelling “**complies**” with the minimum standards only if —

(a) it complies with all requirements under the minimum standards to the extent the requirements apply to the dwelling; and

(b) the landlord has complied with all requirements under the minimum standards for the dwelling as a rented dwelling.

10 Definitions generally

The Schedule has other definitions for this Act.

11 Provision to put into context certain references to defined terms

The following apply for this Act, subject to any intention to the contrary —

(a) in a provision about a particular privately-rented tenancy or rented dwelling, a reference to the landlord or the tenant is a reference to the particular one under the tenancy;

(b) in a provision about a particular privately-rented tenancy, a reference to the dwelling is a reference to the particular one the subject of the tenancy, and vice versa;

(c) in a provision about a particular registration application or registration, a reference to the dwelling is a reference to all dwellings the subject of the application or registration; and

(d) in a provision about an improvement notice or other notice by DSC, a reference to the dwelling is a reference to the particular one the subject of the notice.

PART 2 — LANDLORD REGISTRATION

DIVISION 1 — REGISTRATION-RELATED OFFENCES

12 Offence: being an unregistered landlord

(1) A person must not become, or continue to be, a landlord for a rented dwelling unless the person is registered for the dwelling.

Maximum penalty (summary) —

- (a) generally, £20,000; or
 - (b) if the offence was committed in a circumstance of aggravation, custody of no more than 6 months or a fine.
- (2) However, subsection (1) does not apply if the person is an exempt landlord for the rented dwelling.

(3) In this section —

“circumstance of aggravation” means any of the following—

- (a) the defendant —
 - (i) was previously registered for the dwelling, which registration was cancelled or suspended under section 44; or
 - (ii) is a disqualified person; or
- (b) the conviction is a second or subsequent conviction for an offence against this section.

13 Offences: illegal management by or for noncompliant landlord

(1) This section applies to a registered person if the landlords register records that only a particular nominated agent can manage the letting of the dwelling.

Note:

For when this happens, see section 22(5) (deciding application).

(2) The person must not do any act to manage the letting of the dwelling.

Maximum penalty (summary) — £20,000.

(3) The person must not authorise or allow anyone other than the nominated agent to do any act to manage the dwelling.

Maximum penalty (summary) — £20,000.

14 Offences relating to advertising

(1) A person must not publish an advertisement to let a dwelling unless the person is —

- (a) registered for the dwelling; or
- (b) the nominated agent of a person who is registered for the dwelling.

Maximum penalty (summary) — £5,000.

(2) A person who is registered for a dwelling or that person’s nominated agent must not publish an advertisement to let the dwelling unless the advertisement bears the relevant registration number.

Maximum penalty (summary) – £5,000.

(3) In this section –

“advertisement” means an advertisement in any form or medium, wherever published (whether inside or outside the island);

Example:

Posting or otherwise making available from inside or outside the Island a notice on the internet that a dwelling is available for rent.

“publish” includes –

(a) publish on the internet; and

(b) cause to be published; and

“relevant registration number” means the registered person’s registration number for the dwelling given under section 23(1).

DIVISION 2 – ADDITIONAL CIVIL CONSEQUENCES OF NOT BEING REGISTERED

15 Application of Division

(1) This Division applies if, in contravention of section 12, a person becomes, or continues to be, a landlord for a rented dwelling without being registered for it.

(2) This Division applies whether or not the landlord has been charged with, or convicted of, an offence relating to the contravention.

16 Privately-rented tenancy generally not affected

Subject to the other provisions of this Division, the contravention does not, of itself, affect the validity of the privately-rented tenancy.

17 Tenant may terminate tenancy

(1) The tenant may, at any time after discovering the contravention, give the landlord one month’s notice terminating the privately-rented tenancy on the ground of the contravention.

Note:

For service of the notice, see section 13 of the Landlord and Tenant Act 1954.

(2) To remove any doubt, the termination is still effective even though the landlord becomes registered or becomes an exempt landlord for the dwelling during the period of the notice.

18 Notice of contravention by DSC and its effects

(1) DSC may, at any time, give the landlord a notice of the contravention.

(2) Subsections (3) to (5) apply if the landlord does not become registered for the dwelling during the period (the “contravention period”) that —

(a) starts 6 months from when the notice was given; and

(b) ends when the contravention ends.

(3) The landlord is not entitled to —

(a) claim, sue for, recover or retain rent for the dwelling that is attributable to all or part of the contravention period (“excluded rent”); or

(b) terminate the privately-rented tenancy because of a failure to pay excluded rent.

(4) However, subsection (3) does not apply —

(a) to an amount that is a charge for a service provided in connection with the right to occupy the dwelling;

(b) if the landlord becomes, and continues to be, registered or an exempt landlord for the dwelling; or

(c) to anyone else who —

(i) becomes the landlord for the dwelling; and

(ii) becomes, and continues to be, registered or an exempt landlord for the dwelling.

(5) Also, subsection (3) does not affect a right of the landlord to terminate the tenancy on a ground other than failure to pay excluded rent.

(6) In this section —

“rent”, for the dwelling, includes an amount (whatever called) that, other than for this section, might be claimable for or as an occupation rent for the dwelling

(whether claimed in restitution, as an occupation rent or otherwise); and

“terminate” the privately-rented tenancy includes requiring the tenant to give up occupancy of the dwelling.

19 Tenant’s right to recover amounts

(1) This section applies if the tenant pays the landlord an amount to which the landlord is not entitled under section 18(3).

(2) The tenant may recover the amount from the landlord as a debt.

(3) A court convicting the landlord for the contravention may order the landlord to pay the amount to the tenant.

DIVISION 3 — OBTAINING REGISTRATION

20 Applicants

(1) The owner of a dwelling who is not a disqualified person may apply to be registered as the landlord for the dwelling (a “**registration application**”).

(2) To remove any doubt, subsection (1) applies even if the owner is only a prospective landlord.

(3) A letting agent of the owner may make a registration application for the owner only if the agent complies with the minimum standards as a letting agent.

(4) A single registration application may be made for more than one dwelling.

21 Application details

- (1) A registration application must —
 - (a) be made to DSC, in the required form if there is one;
 - (b) state —
 - (i) the dwelling;
 - (ii) that the applicant is the owner of the dwelling;
 - (iii) details of the applicant and of any letting agent appointed for the dwelling (the applicant's "**nominated agent**"); and
 - (iv) any other prescribed information about prescribed matters;
 - (c) be accompanied by a statutory declaration by the applicant that, on the making of the application —
 - (i) the applicant does or does not comply with the minimum standards as a landlord or prospective landlord;
 - (ii) any nominated agent complies with the minimum standards as a letting agent; and
 - (iii) the dwelling complies with the minimum standards; and
 - (d) be accompanied by the prescribed fee.
- (2) If the declaration is that the applicant does not comply with the minimum standards as a landlord or prospective landlord, the application must also —
 - (a) state why the applicant does not; and
 - (b) do either or both of the following —
 - (i) include a nominated agent for the dwelling; or
 - (ii) seek registration without a nominated agent and give reasons why the applicant seeks registration without one.

22 Deciding application

- (1) DSC must consider each registration application and decide whether to grant the applicant registration.
- (2) DSC may refuse registration if it considers the dwelling does not comply, or may not continue to comply, with the minimum standards.
- (3) Subsections (4) and (5) apply if DSC considers the dwelling complies with the minimum standards, but the applicant as a landlord or prospective landlord does not.
- (4) DSC may grant registration only if the applicant has a nominated agent or it considers special circumstances justify the applicant letting the dwelling without an agent.
- (5) If DSC does not consider there are any special circumstances, a decision to grant registration must record that only the nominated agent can manage the letting of the dwelling.
- (6) In considering the matters under this section, DSC may have regard to —

- (a) the applicant's history of compliance with the minimum standards for any rented dwelling as a landlord; and
 - (b) if there is a nominated agent, the agent's history of ensuring the agent's principals comply with the minimum standards as landlords.
- (7) For subsection (6), the applicant's history may be established by reference to a contravention of any other relevant Act.

23 Procedure following decision

- (1) If DSC decides to grant a registration application, it must —
- (a) register the applicant as the landlord of the dwelling;
 - (b) include in the landlords register —
 - (i) details of the applicant;
 - (ii) any nominated agent of the applicant; and
 - (iii) if the decision includes any record required under section 22(5), that record.
 - (c) give the registration a unique number; and
 - (d) give the applicant notice of the decision and the number.
- (2) If DSC makes a decision as follows it must give the applicant an appeal notice about the decision —
- (a) a decision to refuse to grant registration; or
 - (b) a decision that —
 - (i) the applicant does not comply with the minimum standards as a landlord or prospective landlord; and
 - (ii) no special circumstances mentioned in section 22(4) apply.
- (3) To remove any doubt, subject to Part 3, Division 3 (contravention action) a prospective landlord may be registered and continue to be so.

24 Duration of registration

- Registration continues for 3 years, but —
- (a) ceases for a particular dwelling if the registered person —
 - (i) surrenders the registration for the dwelling by notice to DSC; or
 - (ii) ceases to own the dwelling; and
 - (b) is subject to section 45 (effect of suspension, cancellation or disqualification).

DIVISION 4 — LANDLORDS REGISTER

25 The register

- (1) DSC must keep a register containing details of —
- (a) registration applications and the information required to be included in it under section 23, as changed from time to time under this Division;
 - (b) improvement notices; and
 - (c) notices under section 36 (notice of noncompliance).
- (2) DSC may —
- (a) include in the landlords register any other information it considers appropriate; and
 - (b) keep the landlords register in any form it considers appropriate, including in electronic form.

(3) If, under this Act, there is a change to information kept in the registers, DSC must amend the information to reflect the change.

26 Appointment or change of nominated agent after registration

(1) If a registered person does not have a nominated agent for a dwelling, the person may appoint a letting agent for the dwelling only by a notice to DSC.

(2) If a registered person has a nominated agent for a dwelling, the landlord may change the landlord's nominated agent for the dwelling only by a notice to DSC.

(3) A notice under this section must be accompanied by or include a statutory declaration by the landlord that the agent complies with the minimum standards as a letting agent.

(4) If there is a required form for a notice or statutory declaration under this section, the notice or declaration must be in that form.

27 Requirement to notify DSC of changes to details

(1) Subsection (2) applies if —

- (a) a registered person's details change; or
 - (b) there is a change to the details of a registered person's nominated agent.
- (2) The landlord must give DSC notice of the change as soon as practicable.

Maximum penalty (summary) — £ 5,000.

(3) If a registered person ceases to be the owner (or, if there is more than one, an owner) of the relevant building, the person must give DSC a notice of that fact as soon as practicable.

Maximum penalty (summary) — £ 5,000.

(4) If there is a required form for a notice under this section, it must be in that form.

28 Access to information in landlords register

If a person asks DSC for information from the landlords register DSC must give it if DSC is satisfied —

- (a) the information relates to the person or to a privately-rented tenancy to which the person is the landlord or the tenant; or
- (b) the person has an appropriate interest in obtaining the information.

Examples of persons with an appropriate interest:

1. A purchaser, or proposed purchaser, from the owner of the dwelling.
2. An applicant, or proposed applicant, for a privately-rented tenancy of the dwelling.

29 DSC's notification powers

DSC may give information from the landlords register to —

- (a) another Department;
- (b) a Statutory Board;
- (c) a local authority; or
- (d) an authority under a law of the United Kingdom performing functions similar to DSC's functions under this Act.

DIVISION 5 – MISCELLANEOUS

30 Renewal of registration

(1) A registered person may apply to renew the registration.

(2) Divisions 3 and 4 apply for the application as if it were a registration application, and with any other necessary changes.

31 False or misleading statements

A person must not, in relation to an application under this Part, give DSC a document or information that is false or misleading in a material particular if the person –

(a) knows it is false or misleading in a material particular; or

(b) is reckless as to whether it is false or misleading in a material particular.

Maximum penalty (summary) – £20,000.

PART 3 – COMPLIANCE WITH MINIMUM STANDARDS

DIVISION 1 – LANDLORD’S DUTY TO COMPLY

32 Offence: landlord’s failing to ensure compliance

A landlord must ensure the rented dwelling complies, and continues to comply, with the minimum standards (the “**standards offence**”).

Maximum penalty (summary) – £20,000.

33 Defence: tenant’s act

In a proceeding for the standards offence, it is a defence for the landlord to prove –

(a) the contravention of the minimum standards in question was caused by an act of the tenant; or

(b) the tenant prevented the landlord from complying with the minimum standards.

DIVISION 2 – NOTICES TO REMEDY NONCOMPLIANCE

SUBDIVISION 1 – POWER TO GIVE NOTICE

34 Power to give improvement notice

(1) This section applies if DSC reasonably believes a rented dwelling does not comply with the minimum standards (the “**contravention**”).

(2) DSC may, after complying with Subdivision 2, give the landlord a notice (an “**improvement notice**”) requiring the landlord to remedy the contravention within a stated reasonable period.

(3) To remove any doubt, this section applies whether or not the landlord has been charged with, or convicted of, the standards offence in relation to the contravention.

35 Improvement notices: content requirements

(1) An improvement notice must –

(a) be in the required form (if there is one);

(b) state –

(i) the landlord’s name;

(ii) the rented dwelling;

(iii) the contravention of the minimum standards required to be remedied; and

- (iv) the period (the “**required period**”) within which the contravention must be remedied; and
- (c) include, or be accompanied by, an appeal notice about the decisions to take the action and to fix the required period.
- (2) An improvement notice may, but need not, state the steps DSC recommends for remedying the contravention.

SUBDIVISION 2 – PROCEDURAL FAIRNESS BEFORE GIVING NOTICE

36 Notice of noncompliance

- (1) Before giving an improvement notice, DSC must give the landlord a notice (a “noncompliance notice”) stating –
 - (a) the landlord’s name;
 - (b) the address of the rented dwelling;
 - (c) that DSC believes the rented dwelling does not comply with the minimum standards;
 - (d) reasons for the belief; and
 - (e) that the landlord may, within a stated period after the notice is given (the “submission period”), make submissions to DSC about the proposal.
- (2) The stated period must end at least 28 days after the improvement notice is given.
- (3) DSC may, but need not, give the tenant a copy of the noncompliance notice.

37 Considering submissions

- (1) Before deciding whether or not to give the landlord an improvement notice, DSC must consider any submissions the landlord made to DSC within the period stated in the notice.
- (2) To avoid any doubt, subsection (1) does not prevent DSC considering written or oral submissions from the tenant in question.
- (3) DSC must give the landlord notice of the decision.
- (4) DSC may, but need not, give the tenant a copy of notice of the decision and, if the decision is to give an improvement notice, the improvement notice.

SUBDIVISION 3 – COMPLIANCE WITH IMPROVEMENT NOTICES

38 Compliance

- (1) Subsections (2) and (3) apply if an improvement notice states steps DSC recommends (“recommended steps”) for remedying the contravention the subject of the notice.
- (2) The recipient of the notice is taken to have complied with it if all of the recommended steps are taken within the required period.
- (3) Subsection (2) does not prevent the recipient from remedying the contravention in another way.
- (4) If there are no recommended steps, the recipient must decide all steps necessary to remedy it and take those steps.

39 Improvement notice binds subsequent landlords

(1) Unless it is withdrawn, an improvement notice binds its recipient and any subsequent landlord of the rented dwelling from time to time (a “**subsequent landlord**”).

(2) To remove any doubt, subsection (1) applies even if the required period ended before the subsequent landlord became the owner of the rented dwelling.

40 Offence: contravention of improvement notice

The recipient of an improvement notice and any subsequent landlord must not contravene the notice.

Maximum penalty (summary) — £20,000.

41 Defence for subsequent landlord

(1) This section applies to a proceeding for an offence against section 40 if the defendant is a subsequent landlord.

(2) It is a defence for the defendant to prove that the defendant —

(a) did not know of the notice;

(b) took all reasonable steps to find out whether any improvement notice had been given for the relevant land; and

(c) took all reasonable steps to comply with the notice after finding out about it.

(3) In this section, “reasonable steps” includes an appropriate search of the landlords register.

42 Effect of acquittal for relevant contravention

(1) If the recipient of an improvement notice is acquitted of the standards offence in relation to the contravention the subject of the notice, the notice is taken never to have had any effect.

(2) However, subsection (1) does not invalidate or otherwise affect any action taken by DSC relating to the notice.

DIVISION 3 — CONTRAVENTION ACTION

SUBDIVISION 1 — GENERAL

43 Application of Division

(1) This Division applies if DSC considers a registered person has committed —

(a) an offence against section 31 (false or misleading statements) in the obtaining of the registration; or

(b) an offence against this Part.

(2) This Division applies whether or not the person has been charged with, or convicted of, the offence.

(3) However, if the person is acquitted of the offence, this Division ceases to apply, and is taken to never have applied to the person.

44 DSC's powers

(1) Subject to complying with Subdivision 2, DSC may decide to do any or all of the following (“**contravention action**”) —

- (a) suspend or cancel the person’s registration for —
 - (i) a particular dwelling; or
 - (ii) all dwellings for which the person is registered; or
- (b) disqualify the person from being registered for any dwelling.

(2) To avoid any doubt, disqualification may be decided even if the person is not, or has ceased to be, a landlord for the dwelling for which this Division applies, or for any dwelling.

(3) DSC must give the person an appeal notice about the decision.

(4) The decision takes effect when the notice is given, or on a later day of effect stated in the notice.

45 Effect of suspension, cancellation or disqualification

(1) This section applies for the person’s registration if contravention action is taken.

(2) During the period of a suspension, the registration is ineffective for all rented dwellings to which the suspension applies.

(3) On cancellation, the registration ends and ceases to have any further effect for all rented dwellings to which the cancellation applies.

(4) On disqualification, the registration ends.

Note:

For other effects of disqualification, see sections 5(1)(e)(i), 12(1)(b) and (3) and 20(1)(b)(iii).

(5) This section is subject to sections 48 (re-qualification) and 56(4) (appeal nature and procedure).

SUBDIVISION 2 — PROCEDURAL FAIRNESS REQUIREMENTS

46 Notice of contravention action

(1) DSC must give the person a notice stating —

- (a) the contravention action proposed;
- (b) the reasons for the proposed action; and
- (c) that the person may, within a stated period after the notice is given (the “**submission period**”), make submissions to DSC about the proposed action.

(2) The stated period must be at least 28 days.

(3) DSC must give any tenant of the person of whom it is aware a copy of the notice.

47 Considering submissions

(1) DSC must consider any submissions made to it by the person or any tenant of the person within the period stated in the notice given under section 46.

- (2) If DSC decides not to proceed with contravention action, it must give —
 - (a) a notice of the decision to the person; and
 - (b) a copy of that notice to any tenant of the person of whom DSC is aware.

SUBDIVISION 3 — CANCELLATION OF DISQUALIFICATION

48 Re-qualification

- (1) A disqualified person may apply to DSC for the cancellation of the disqualification (a “re-qualification application”).
- (2) However —
 - (a) a person cannot make a re-qualification application within 3 years after the disqualification; and
 - (b) if a person has already made a re-qualification application that has been refused (the “earlier application”), the person cannot make a re-qualification application, unless —
 - (i) more than a year has passed since the making of the earlier application; or
 - (ii) DSC is satisfied there has been an appropriate relevant and material change in the person’s circumstances since that time.
- (3) A re-qualification application must be in the required form (if there is one) and state all dwellings for which the applicant wishes to obtain registration.
- (4) DSC must consider and decide each re-qualification application.
- (5) DSC may grant a re-qualification application only if it is satisfied all of the dwellings stated in the application comply, or are likely to comply, with the minimum standards.
- (6) If DSC decides to refuse a re-qualification application, it must give the applicant an appeal notice about the decision.

DIVISION 4 — AUTHORISED OFFICERS AND INSPECTIONS

49 Appointment and functions

DSC may, by notice, appoint an appropriate person as an authorised officer to monitor or enforce compliance with this Act.

50 Issue of identity card

- (1) DSC must give each authorised officer an identity card.
- (2) The identity card must —
 - (a) contain the signature of the individual who authorised the issue of the card;
 - (b) identify the person as an authorised officer for this Act; and
 - (c) state an expiry date for the card.

51 Proof of authorisation

In exercising a power under this Division in relation to another person in that person’s presence, an authorised officer must —

- (a) produce the authorised officer’s identity card for the person’s inspection before exercising the power; or
- (b) have the identity card displayed so it is clearly visible to the person while exercising the power.

52 General powers

(1) This Part is a relevant enactment for section 35 of LGA 1985 (powers to enter on land).

(2) However, despite section 35 of LGA 1985, an authorised officer can only enter a privately-rented dwelling if its occupier consents or the entry is under a warrant obtained under section 35.

(3) The following provisions of LGA 1985 apply for this Part as if references in them to a local authority were a reference to DSC and a reference to an authorised person were a reference to an authorised officer —

- (a) sections 36 to 41 and 46 to 49 (which concern enforcement powers and the recovery of expenses and charges); and
- (b) and Part VII of LGA 1985 (legal proceedings).

53 Powers on entry

(1) This section applies when an authorised officer enters premises under section 35 of LGA 1985, with the consent of its occupier or if the entry was under a warrant obtained under that section.

(2) The authorised officer may do any or all of the following to monitor or enforce compliance with this Part —

- (a) inspect, examine or film any part of the premises or anything at the premises;
- (b) take an extract from, or copy, a document at the premises, or take the document to other premises to copy;
- (c) remain at the premises for as long as is necessary to achieve the purpose; or
- (d) a step necessary to exercise a power under paragraphs (a) to (c).

(3) If the authorised officer takes a document from the premises to copy it, the officer must copy and return the document to the premises as soon as practicable.

(4) In this section, “film” includes photograph, videotape or otherwise record an image.

PART 4 — APPEALS

54 Appeal right to High Bailiff

Subject to section 55, a person who is given, or who is entitled under this Act to be given, an appeal notice about a decision of DSC (the “**original decision**”) may appeal against the decision to the High Bailiff.

55 Starting appeal

(1) Unless the rules of court otherwise provide, an appeal may only be started within 28 days after the appellant is given notice of the original decision or any longer period the High Bailiff allows.

(2) Also, an appeal may be started only if it is made under the rules of court.

56 Appeal nature and procedure

(1) An appeal is to be —

- (a) by way of rehearing anew; and
- (b) decided under the rules of court.
- (2) Unless the High Bailiff otherwise orders, an appeal does not operate to stay the effect of the original decision pending the deciding of the appeal.
- (3) On hearing the appeal the High Bailiff may —

- (a) confirm, vary or reverse the original decision, and for that purpose has the same powers as the person who made the original decision; and
- (b) make an order as to the costs of the appeal.

- (4) A variation or reversal of the original decision —

- (a) is taken for this Act, other than this Part, to be and to have always been the original decision; but
- (b) does not affect its previous operation or anything done or suffered under it.

57 Further appeal

A further appeal from a decision of the High Bailiff lies to the Staff of Government Division, under rules of the court, on a question of law.

PART 5 — MISCELLANEOUS

58 Appointment and authority

In a proceeding under or relating to this Act the following must be presumed, unless a party to the proceeding, by reasonable notice, requires proof of it —

- (a) a person's appointment as an authorised officer; and
- (b) DSC's or an authorised officer's power to do anything under this Act.

59 General evidentiary provisions

(1) This section applies to a proceeding under or relating to this Act.

(2) A certificate signed, or purporting to be signed, by the chief executive of DSC, or that person's delegate, stating any of the following matters is evidence of the matter —

- (a) that a stated document is a copy of, or an extract from or part of, the minimum standards, the landlords register or a notice or another document under this Act;
- (b) that on a stated day, or during a stated period, a person was or was not —
 - (i) a registered person, either at all or for a particular dwelling; or
 - (ii) a disqualified person; and
- (c) that on a stated day a stated person was given a stated notice.

60 Form-making power

(1) DSC may make forms for use under this Act.

(2) Each form so made is the “**required form**” for the purpose for which it is made.

(3) A required form may be made in combination for use under this Act and another Act.

61 General regulation-making power

(1) DSC may make regulations for the purpose of this Act.

(2) Regulations may —

(a) provide for consequential, incidental or supplemental matters DSC considers are necessary or convenient for the purposes;

(b) impose fees for this Act; and

(c) create offences for contraventions of the regulations and impose penalties of no more than £ 5,000 for the offences.

62 Negative Tynwald procedure applies to regulations

The negative Tynwald procedure applies to regulations under this Act.

PART 6 — TRANSITIONALS

63 Voluntary registration scheme becomes the landlords register

(1) On the passing of this Act, the register DSC keeps under the voluntary scheme for the registration of landlords before the passing (whatever called) becomes the landlords register.

(2) Any registration number given for a landlord’s registration for a rented dwelling under the voluntary scheme is taken to be the landlord’s registration number recorded in the landlord’s register.

64 Interpretation

(1) The Interpretation Bill 2013 and the Legislation Bill 2013 as introduced (subject to any amendments of them by the Keys and the Council) apply to this Act as if both were Acts that had been fully commenced on the passing of this Act.

(2) This section expires if both Bills are enacted and their resulting Acts have been fully commenced.

65 Interim registration fees

(1) The following fees apply until a fee is prescribed under section 21(1)(d) —

(a) for a registration application, £55; and

(b) an additional fee of £11 for each rented dwelling —

(i) the subject a registration application; or

(ii) of a registered person that the person seeks to include in the registration.

(2) This section expires when a regulation under section 21(1)(d) commences.

PART 7 — AMENDMENT OF LAND REGISTRATION ACT 1982

66 Amendment

In Part I of Schedule 5 of the *Land Registration Act 1982* insert —

13A. An improvement notice under the *Landlord and Tenant (Private Housing) Act 2013*.

SCHEDULE

[Section 10]

DEFINITIONS

“**authorised officer**” means a person holding an appointment under section 49.

“**letting agent**”, for a dwelling, means a person appointed by the owner of the dwelling to manage the letting of the dwelling.

“**appeal notice**”, for a decision, means a notice stating —

- (a) the decision and the reasons for it;
- (b) that, under section 54, the recipient may appeal against the decision to the High Bailiff; and
- (c) how to appeal.

“**complies**”, with the minimum standards, see section 9.

“**contravention action**” see section 44(1).

“**DSC**” see section 2(1).

“**details**”, for a person, means the person’s name and address for service of notices under this Act.

“**disqualified person**” means a person who is disqualified under section 44(1)(b) which disqualification has not been cancelled under section 48.

“**dwelling**” includes a proposed dwelling.

“**exempt landlord**” see section 5(2).

“**improvement notice**” see section 34(2).

“**landlord**” see section 7(1).

“**landlords register**” means the landlords register DSC keeps under section 25.

“**LGA 1985**” see section 4(8), definition “public tenancy”, paragraph (a).

“**manage**”, the letting of a dwelling, means to personally do any or all of the following —

- (a) bring together, or take steps to bring together, a prospective landlord and tenant for the purpose of entering into a privately-rented tenancy for the dwelling;
- (b) negotiate the terms of a privately-rented tenancy for the dwelling;
- (c) receive rent from the tenant;
- (d) enter the dwelling for any purpose; or
- (e) initiate any contact the tenant, or a prospective tenant, in relation to the letting of the dwelling.

“**minimum standards**” see section 8(1).

“**nominated agent**”, for a registered person or an applicant for registration—

- (a) generally, see section 21(1)(b)(iii); or
- (b) if a registered person has given a notice under section 26, the letting agent most recently appointed or changed under that section as the person’s nominated agent.

“**notice**” means a notice in writing.

“**original decision**” see section 54.

“**owner**”, of a dwelling, means the person who owns the land on which the dwelling is located, and includes —

(a) a joint or part owner or a trustee of the dwelling; and

(b) anyone else in actual receipt of rents of the dwelling other than as a letting agent.

Example for paragraph (b):

A mortgagee of land subject to a tenancy who has entered into possession of the land and who is receiving rents personally.

“**prescribed**” means prescribed under regulations made by DSC.

“**privately-rented tenancy**” see section 4(4).

“**recipient**”, for a provision about a notice, means the person to whom the notice has been given.

“**registered**”, for a provision about a person—

(a) generally means the person is recorded in the landlords register as a landlord; and

(b) for a provision about a particular dwelling, means the person is recorded in the landlords register as its landlord.

“**registration application**” see section 20(1).

“**rent**” means any amount payable by, and any other consideration that must pass from, a tenant to a landlord for —

(a) the right to occupy (with or without furniture) a rented dwelling as a residence; and

(b) for any service provided by or for the landlord to the tenant in connection with the occupancy.

“**rented dwelling**” see section 4(5).

“**required form**” see section 60(2).

“**required period**”, for a provision about an improvement notice, see section 35(1)(b)(iv).

“**standards offence**” see section 32.

“**submissions**” means written submissions.

“**subsequent landlord**” see section 39(1).

“**tenant**” see section 7(2).

Appendix 2

MINIMUM STANDARDS FOR LANDLORD REGISTRATION

The Landlord and Tenant (Private Housing) Bill refers to a set of minimum standards that will be applied to the landlord and their property/properties and allows the Department to take enforcement action against those standards.

Landlords will have to confirm they meet these standards in order to register and they will be taken into account by Environmental Health Officers in any inspection of a property.

The Department of Social Care consulted on the proposed minimum standards in a public consultation in 2012; as a result of the comments received some amendments were made.

The revised standards are contained below:

1. Personal Requirements - Landlords must be 'fit and proper persons'

Landlords operating within the private sector may have contact with vulnerable tenants. Therefore, property owners who have committed violent, sexual or drugs related offences, practiced unlawful discrimination or contravened any provision of Housing or Landlord and Tenant law within the past 3 years may not be granted registration, or may be required to appoint a letting agent with full management rights and responsibilities of all dwellings in their portfolio in order to continue to rent their properties out.

Standards for Registration: Personal Requirements	
Please answer <u>YES</u> if the statement is True, or <u>NO</u> if the statement is False	YES or NO
The use of "I/We" in the following statements refers to the landlord and, where appointed, the letting agent acting on their behalf.	
I/We have not committed or been convicted of any offence involving fraud, dishonesty, violence, sexual offences or drugs within the 3 years preceding the date of this application.	
I/We have not contravened or been convicted of any provision of the law relating to Housing, or Landlord and Tenant law within the 3 years preceding the date of this application.	

2. Letting or Managing the property

Landlords and letting agents should deliver best practice at all times when letting their properties to ensure tenants are getting value for money and feel safe and secure in their homes. Landlords must provide correct documents and information to their tenants at the beginning of the tenancy, ensuring both parties are aware of their responsibilities on or before tenancy commencement.

The landlord or letting agent should ensure that they have adequate insurance and if applicable, permission granted from a mortgage provider to let the property.

Kemmyrk is a registered Manx charity who have compiled a landlords information pack to assist landlords, which you may find useful. There is a small fee for membership which allows access to their website and downloadable documents which include: a standard tenancy agreement; a useable inventory document; and documents relating to good practice for retaining and return of tenants deposits.

If you wish to seek legal advice, you should contact the Isle of Man Law Society for details of an Advocate.

<p>Standards for Registration: Letting the Property</p> <p>Please answer YES if the statement is True, or NO if the statement is False</p> <p>The use of "I/We" in the following statements refers to the landlord and, where appointed, the letting agent acting on their behalf.</p>	<p>YES or NO</p>
<p>In letting and managing the accommodation I/We ensure that no person or group of persons receives: less favourable treatment because of their race, colour, nationality, ethnic or national origin; or on the grounds of their gender, marital status, disability, age, sexual orientation or religion; or is disadvantaged by conditions or requirements which are not justified.</p>	
<p>I/We do not advertise vacant properties in a manner that discriminates against prospective Tenants because of their entitlement to Social Security benefits.</p>	
<p>I/We can demonstrate that I/We have permission from the mortgage lender where appropriate for my property (s) to be used for letting.</p>	
<p>I/We can demonstrate that I/We have buildings and third party insurance in respect of the properties listed on pages 4 & 5 and any continuation sheets of this application.</p>	
<p>I/We do not let accommodation to more people than it will be suitable for under relevant Acts, and assess this before the tenancy commences.</p>	

<p>I can demonstrate that I/ We give tenants clear and accurate details of;</p> <ol style="list-style-type: none"> 1. The 'accommodation to-let' particulars 2. The rent, service charges, utility and domestic rate liabilities of both parties 3. Any other charges for which the tenant is responsible 	
<p>I/ We advise the tenant of the possibility of property inspections being undertaken .</p>	
<p>I/ We do not take payments from any prospective tenant to place their name on an accommodation (waiting) list.</p>	
<p>I/ We can demonstrate that the deposit and any rent payment is only taken at the point at which the tenancy agreement is signed, or afterwards.</p>	
<p>I/ We can demonstrate that the tenant is given a written document (the tenancy agreement) setting out the terms of the let and notice to quit period.</p>	
<p>I/ We include the name and address of the landlord and/or letting agent in the tenancy agreement</p>	
<p>I/ We can demonstrate that tenancy agreements are properly executed by the signatures of the landlord (or letting agent) and tenant and one witness (who must include their address).</p>	
<p>The tenancy agreement that I/ We provide to tenants sets out, in clear, fair and lawful terms, the rights and responsibilities of both the landlord and the tenant and includes provisions for all of the following:</p> <ol style="list-style-type: none"> 1. The rent due and period of payment; 2. The method of payment; 3. Any review period for changing the rent; 4. The responsibility of the tenant for service charges, rates, utility costs and any other charges for which the tenant is responsible; 5. A statement of the repair and maintenance duties of both parties; 6. A statement of the standard of cleaning and of the condition in which the property should be kept, wear and tear excepted, throughout the tenancy; 7. A statement that the tenant must not act in an anti-social manner. That is to say, in a manner that has caused or is likely to cause harassment, alarm or distress to one or more persons not of the same household as himself. 	
<p>I/ We can demonstrate that, where a deposit is required, it is proportional and is no more than equivalent of two months rent. That the tenant receives a written statement of what the deposit (or guarantee) covers; and what will be required to be done, or be in place, for the full deposit to be refunded at the end of the tenancy.</p>	

I/We can demonstrate that deposits or the proportion outstanding are returned within one month of the end of the tenancy.	
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3. Management of the Tenancy

Landlords are required to declare that they deliver and will continue to deliver ongoing good practice in the management of tenancies, ensuring they keep up to date written records of all rent payments, complaints and repairs reported.

If you wish to seek legal advice regarding the management of your tenancy, you should contact the Isle of Man Law Society for details of an Advocate.

<p>Standards for Registration: Management of the Tenancy</p> <p>Please answer <u>YES</u> if the statement is True, or <u>NO</u> if the statement is False</p> <p>The use of "I/We" in the following statements refers to the landlord and, where appointed, the letting agent acting on their behalf.</p>	<p>YES or NO</p>
<p>I/We can demonstrate that occupancy records are held relating to each property consisting of the names, dates of arrival/departure and forwarding addresses of all tenants and make this information available to authorised users under data protection legislation.</p>	
<p>I/We can demonstrate that a rent book or other similar document is issued in accordance with the Provisions of the Landlord and Tenant (Miscellaneous Provisions) Act 1976, and each payment made is receipted. Where rent is paid by direct bank transfer I/We can produce a rent statement on a periodic basis or as requested by the tenant.</p>	
<p>I/We can demonstrate that the procedures I/We use for giving notice to quit and seeking possession of my/our accommodation are in accordance with relevant Acts.</p>	
<p>I/We can demonstrate that if on return of the deposit, a deduction is made, the tenant receives a written statement identifying the reason (s) for the deduction (s).</p>	
<p>I/We can demonstrate that at the start of the tenancy, the tenant is provided with an inventory and basic property condition survey. The tenant is given seven days to check and agree with the landlord the inventory and condition of the property. A revised inventory is given to the tenant when there is an agreed change to the contents of the original inventory.</p>	
<p>At the end of the tenancy I/We check the inventory and invite the tenant to attend the inventory check at a mutually convenient time.</p>	

<p>At the outset of the tenancy I/We advise the tenant in writing of the way or ways that any complaint relating to the property or tenancy should be registered.</p>	
<p>I/We keep records of complaints relating to the property or tenancy made by the tenant or a third party and record the outcome of the complaint.</p>	
<p>I/We seek to resolve any dispute linked to the tenancy or property in question promptly and lawfully.</p>	

4. Property Condition

Each property must comply with specified basic standards of decency. If you require further information on standards of decency, and how to ensure your property/properties maintain this standard during and between tenancies please contact the Department of Environment, Food and Agriculture or the Isle of Man Fire Service.

<p>Standards for Registration: Property Condition</p> <p>Please answer <u>YES</u> if the statement is True, or <u>NO</u> if the statement is False</p> <p>The use of "I/We" in the following statements refers to the landlord and, where appointed, the letting agent acting on their behalf.</p>	<p>YES or NO</p>
<p>I/We declare that the tenants accommodation, or the property within which it is located is in all respects reasonably fit for human occupation and meets all of the following standards:</p> <ol style="list-style-type: none"> 1) Is structurally stable; 2) Is wind and watertight; 3) Is substantially free from rising or penetrating damp; 4) Is in full compliance with Fire Safety and, where applicable, Flat Regulations; 5) The structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order; 6) Has satisfactory provision for natural and artificial lighting, for ventilation and for heating; 7) Has an adequate piped supply of wholesome water available within the house; 8) Has a sink provided with a satisfactory supply of both hot and cold water within the house; 9) Has a WC available for the exclusive use of the occupants of the house and suitably located within the house; 10) Has a fixed bath or shower and a wash-hand basin, each provided with a satisfactory supply of both hot and cold water, suitably located within the accommodation; 11) Has an effective system for the drainage and disposal of foul and surface water; 12) Has satisfactory facilities for the cooking, preparation and storage of food within the house; 13) Has satisfactory access to all external doors and outbuildings; 14) Has satisfactory provision for detecting fires; 15) Has satisfactory thermal insulation; 16) The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water comply with the relevant statutory requirements , have been inspected and serviced where appropriate and are in a reasonable state of repair and in proper working order; 17) Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair, have been Portable Appliance 	

<p>Tested (PAT) where appropriate and are in proper working order; and 18) Any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they were designed.</p>	
<p>I/We declare that the accommodation has secure window locks and secure (lockable) front and rear (where appropriate) access doors that do not prejudice means of escape in the case of fire.</p>	
<p>I/We declare that at point of letting all rooms in the accommodation will be clear of domestic refuse and available for use by the tenant.</p>	

5. Property Maintenance

A landlord or letting agent is expected to respond to repair requests in a reasonable and timely manner.

If you wish to seek further advice on your responsibilities as a landlord in terms of property maintenance, you should contact the Isle of Man Law Society who can provide you with details of an Advocate, or contact the Department of Environment, Food and Agriculture.

Standards for Registration: Property Maintenance Please answer <u>YES</u> if the statement is True, or <u>NO</u> if the statement is False The use of "I/We" in the following statements refers to the landlord and, where appointed, the letting agent acting on their behalf.	YES or NO
I/We take all reasonable steps to ensure the maintenance of the common areas and structural elements of the building.	
I/We ensure we meet my/our duty to repair and maintain the property, both at the start, and at all times during the tenancy. This includes the duty to make good any damage caused by carrying out this work.	
I/We upon notification or awareness of a repair and/or maintenance issue I/We will complete the repair within a reasonable timeframe.	
I/We ensure that if access to a tenanted property is required for inspection or repair, it is arranged by mutual agreement between the landlord or letting agent (as applicable) and the tenant.	
I/We always give at least 24 hours advance notice of a requirement to access a tenanted property except where an emergency repair is required.	
I/We provide the tenant with a contact name and telephone number(s) for both emergency and non-urgent repair requests to be made.	

Appendix 3

Department of Social Care Impact Assessment of Provisions for the Registration of Landlords

IMPACT ASSESSMENT OF: LANDLORD AND TENANT (PRIVATE HOUSING) BILL

DEPARTMENT: DEPARTMENT OF SOCIAL CARE

DATE: 9 January 2013

VERSION NUMBER: 3

RELATED PUBLICATIONS:

Agenda for Change

Department of Social Care Delivery Plan 2012 - 2013

Responsible Officer: Sam McCauley

Email Address: sam.mccauley2@gov.im

Telephone number: 695794

SUMMARY: INTERVENTION AND OPTIONS

What is the Bill intended to do?

Provide Government with powers to address issues of "decency" of private sector accommodation not currently captured within existing legislative provision.

Nature of Problem

In the Isle of Man there is currently no requirement for private sector Landlords to register their landlord activities or their property portfolio.

Isle of Man 2001 Census data indicated that around 14% of residents on the Island live in private sector accommodation. A significant proportion of the private rental sector provides an acceptable and appropriate housing solution for many on the Island. However at the lower end of the rental market a considerable number of private sector rented properties across the Island are known to be in poor repair and do not achieve standards of basic decency.

Many of these properties are known to be occupied by vulnerable individuals and families as evidenced by submissions of support from health/welfare professionals, made on behalf of their clients, in respect of promoting their clients' access to public sector housing.

Furthermore the work the Department carries out with Third Sector Partners has identified there are also a number of landlords operating on the IOM who target vulnerable groups with few housing options and do not always operate strictly within the confines of current landlord and tenant legislation, with their tenants often too afraid of being made homeless to raise a formal complaint.

The types of issues Environmental Health Officers encounter when inspecting these premises are:

- No proper tenancy agreement
- No rent book
- Lack of awareness/understanding of Landlord & Tenants Act
- Inadequate heating
- Lack of insulation
- Low quality 'well used' furnishings, white goods etc.
- Old, shabby and/or broken kitchen and/or bathroom facilities
- Basically fit properties kept at a minimum standard but not providing decent accommodation
- Landlords who claim not to know the actual numbers of persons occupying their premises and condoning potential overcrowding
- Tenants who claim not to know who their landlord is

Currently most of these Landlords fall outside the provisions of existing Environmental Health powers which focus more on the structure of the property rather than quality or decency of accommodation.

Purpose of Proposal

The purpose of the scheme is to radically improve the lower end private sector rental market by enforcing minimum standards in letting and obliging those not providing this minimum service to improve, or leave the sector.

The actual owner of the property must be registered. If a letting agent is being used this must also be declared and identified but it is fundamental to the Scheme that the actual person responsible for the property is identified and held accountable.

The scheme will also give protection to Landlords with regard to a small number of Landlords who are subject to spurious complaints from Tenants who have their own agenda for example to try and obtain extra points for social housing.

Means by which it is to be achieved

Retain the status quo

This is not considered an acceptable option given the nature of the problems and the risks identified in this paper.

Introduce Guidance

The Department is seeking Council approval to begin a voluntary registration scheme commencing from early 2013 which would remain in place until the proposed legislation comes into effect.

This will be a first step to addressing the nature of the problem above but will not provide the legal powers required to create an effective mechanism to tackle the problem of sub-standard housing in the private rented sector.

Introduce Legislation

This is the preferred option as primary legislation is required to provide the legal

basis for the mandatory introduction of the Scheme.

It is proposed that a series of standards would be applied to the landlord and their property portfolio, in a similar manner to the Scottish system of registration.

The standards proposed have been developed in consultation with Environmental Health Officers from the Department of Environment Food and Agriculture, and our partners in the sector and address a basic level of accommodation. They include the property being watertight and damp free, providing decent kitchen and bathing facilities and adequate heating and insulation provision etc.

The standards also address basic tenancy management issues; the provision of a rent book or similar document, protection and return of deposits, tenant privacy, and operation within the law with enhanced protection against harassment and unlawful eviction.

The revised standards (following public consultation) are set out in full in **Appendix One** of this report.

It is proposed that each period of registration would last three years and would involve a relatively simple process of self declaration and self assessment by the Landlord against the published standards. However, on making their declarations the Landlord will be made aware that their statements would be subject to audit which may result in enforcement action if the Landlord has not declared truthfully. The Landlord would also be made aware that if their claims are found to be fraudulent then their registration and therefore their ability to legally function as a Landlord could potentially be withdrawn.

Inspections could be carried out, as is the current practice, on receipt of a complaint and longer term on a random percentage basis. Environmental Health Officers (EHO's) could initially target Landlords where there is existing evidence that they have poor quality stock. If a Landlord's property is found to be in a non-decent condition the scheme would allow EHO's to inspect all the remaining Landlord's properties in their portfolio and identify what is required to bring them up to standard.

Properties found not to meet the standards would be subject to penalties such as improvement notices, where the Landlord is given a fixed period of time in which to improve their properties to an agreed condition. Any tenants currently residing in the property would not be evicted (provided that the property is not seriously unfit for habitation). Failure to respond appropriately to such notices would result in a fine and possibly closure of the property within a reasonable timescale to allow existing tenants to find alternative accommodation.

Once the legislation is in place Landlords who fail to address the issues within any given time frame would be removed from the Register thereby making it illegal for them to continue to operate as a Landlord.

Given the scale and scope of the private rental market it is proposed that the scheme be introduced on a phased basis to give Landlords sufficient notice of the implications of the Scheme. This process began in early 2012 with an initial policy

consultation.

The Department is seeking Council approval to begin a Voluntary Registration Scheme commencing from early 2013 this will be in place until the Bill receives Royal Assent and is implemented in early 2014. This gives Landlords sufficient time to address outstanding issues and understand the implications of the Scheme.

Ministerial sign off for Options stage

I have read the Impact Assessment and I am satisfied that given the available evidence, it represents a reasonable view of the likely costs and impact of the preferred option.

Signed Responsible Minister _____

Date _____

SUMMARY: ANALYSIS AND EVIDENCE

IMPACT OF PROPOSAL

Resource Issues - Financial (including manpower)

Statement

The Landlord and Tenants (Private Housing) Bill will not require any additional monies. The additional administrative resources required that are identified below will be met through existing resources and fees levied by the Department in respect of the Scheme.

The Scheme would require administration resources to manage the registration process, maintain the database and give advice to Landlords on the registration process. However as it is proposed that registration would last three years, after the initial set up, the process would not be too onerous to manage. Furthermore in order to minimise administration costs and resources it would be the legal responsibility of the Landlord to maintain their registration.

Under the current structure it is proposed that responsibilities and functions would be jointly shared by the DSC Housing division taking responsibility for administration and maintaining the register and the DEFA Environmental Health division continuing to be responsible for enforcement and taking legal action where required.

Likely Financial Costs

New Staff	Salary - lowest point on the scale	Salary + 20% pension costs + 15% on costs + Employer's
------------------	-------------------------------------------	---------------------------------------------------------------------------

		contracted-out National Insurance contributions
1 part time administrative officer (approx 2.5 days a week)	£12,505	£17,734
TOTAL		£17,734

Other Costs

The Manx homelessness charity Kemmyrk have agreed to work in partnership to develop model tenancy agreements and other housing management documentation such as model inventories and terms and conditions for the handling and repayment of deposits. This set of pro-forma documents will assist Landlords and facilitate the registration process.

It is proposed that these documents will be signposted on DSC's website and form part of a registration pack which each Landlord will receive upon registration. Where possible these would be electronic but some cost may be incurred for printing and postage if paper copies are requested and is estimated below.

Estimated cost of Registration Packs: £1,000 per annum

One off costs

Total cost for one full-time administrative officer for six months only. (This post will deal with any work created by the initial registration process.)	£12,933
Publicity	£1000
TOTAL	£13,933

Average Annual (excluding one-off)

Total: £18,734

Likely Financial Benefits

Fees

Indicative figures from other jurisdictions demonstrate an estimation of the income that could be raised from the proposed registration. For example the Scottish

Executive has set fees of £55 per Landlord and £11 per property so a Landlord with a large portfolio will pay the £55 fee plus the appropriate multiple of the £11 fee. Registration lasts 3 years. The fees are charged to cover the cost of running the registration scheme.

The exact number of properties that would be required to register is not known. The 2001 IOM Census indicated that the private rented sector accounted for approximately 14% of tenure type on the IOM which would translate into approximately 7000 properties.

It is estimated if similar charges to those levied in Scotland are applied this equates to an income in the region of £32,000 per annum if each registration lasts for a three year period (this is based on an assumption that every Landlord has an average of 20 properties).

However the most recent House Condition Survey conducted in 2007/8 suggested that the private rented sector accounted for a larger proportion of tenure type, approximately 17%, so these estimates of income are potentially quite conservative.

Estimation of additional registration fees : £32,000 per annum

Tax Income

The introduction of registration for private Landlords may also provide further revenue by helping to identify smaller Landlords who are not declaring their rental income for tax purposes.

Please note however the DSC has no data on the potential numbers and therefore are unable to estimate the revenue that could potentially be raised so a figure has not been included at this stage.

Average Annual (excluding one off): £32,000

If the proposal introduces provisions that will require enforcement or monitoring who will undertake this and what is the likely annual cost

Current inspection and enforcement provisions lie with the Department for Environment, Food and Agriculture (DEFA) and are undertaken by Environmental Health Officers. This will not change with the introduction of this legislation and it is not anticipated that this legislation would result in a need for increased resources within DEFA.

The DSC has worked closely with DEFA to develop this legislation. In discussion it was determined that the properties the registration scheme will identify as needing actions are properties that Environmental Health Officers (EHO's) are already aware of, or would wish to be aware of in terms of their existing role and responsibilities.

The enhanced powers the legislation will give EHO's, particularly in respect of "decency standards" rather than basic fitness standards contained within current Environmental Health legislation would enable EHO's to take action across a range of unsatisfactory housing conditions which they are currently unable to address. The lack of enforcement powers in this area results in time consuming and costly repeat

visits.

For example currently, where premises are revealed to be in disrepair, but not so as to be non-decent, informal action may result in a large number of visits to advise and check on compliance. It is envisaged that the proposed enhanced powers may result in a reduction in the number of visits. Necessary works may be completed more quickly as Landlords will fear the loss of registration and as a consequence, income.

With the proposed enhanced powers issues will be more effectively remedied in initial visits, so in practice it is likely that the EHOs will be able, with the same staff resource and costs, to actually target more problem properties than they are currently able to.

The operation of the Scheme would dovetail with existing requirements under Flats and HMO legislation and the information required in respect of this could be shared to serve both purposes rather than duplicated.

Whilst there is likely to be increased activity in the short term this would be managed within existing resources and, in the longer term there should be improvement in the private rented stock which should significantly reduce the activity of the Environmental Health Officers.

The proposals have been formally submitted to the Chief Executive of the DEFA who has confirmed that the Department is agreeable to its Environmental Health Officers carrying out the investigative and enforcement functions under the above legislation.

Annual Cost: No increase in current DEFA resources.

Are there any costs or benefits that are not financial i.e. social

A comprehensive Register of Landlords will provide a valuable resource in a number of areas:

- Government statistics and policy development;
- Points of contact for potential tenants and housing agencies, neighbours, local authorities and enforcement agencies such as Environmental Health etc.;
- Assisting agencies in dealing with range of issues complicated by ownership by absentee landlords; and
- If a landlord's property is found to be in a non-decent condition it would allow Environmental Health to inspect all the landlord's properties to determine the state of the whole portfolio and bring them up to standard.

The scheme will also bring a number of social benefits. Government is able to provide public sector tenants with decent living conditions and ensure that tenants are treated equitably and fairly as a matter of Tynwald and Government policy. In contrast there is no regulation, in terms of basic decency standards, which applies to private rented sector.

It has long been recognised that poor housing conditions negatively impact on both physical and mental health and can lead to the exacerbation of a wide range of social welfare problems.

This legislation will help to encourage a better quality of housing at the lower end of the private rental sector and give Environmental Health Officers the enforcement powers to ensure that those small proportion of Landlords who are unwilling to provide a decent level of accommodation to their tenants are unable to operate on the Island.

Has Treasury Concurrence been given for the preferred option

Date of Treasury Concurrence:

1st February 2012

Key Assumptions / Sensitivities / Risks

Without the introduction of this legislation there will continue to be an inefficient use of Environmental Health resources. The lack of enforcement powers would mean continued repeat visits to landlords who are well known to Officers. This proves both costly and time consuming for Officers.

A wider risk is that the DSC pays the rent to many of the private sector Landlords who are providing poor quality homes to some of the Island's most vulnerable residents. Calculations contained in the Housing Policy Review Update report published in October 2010 showed that in the region of £79,000 per week or over £4.1 m per annum is being paid to private sector Landlords by the Government specifically for housing. Given that these individuals and families qualify for benefit assistance and therefore must have low incomes (and potentially a raft of other social welfare issues) then it is very likely, especially as there is an upper limit on what benefits will cover in terms of housing costs (approx. £118p.w.), that a large proportion of these people are living in the very poorest quality accommodation on the Island.

Furthermore the DSC feels that it is pertinent to address the lack of legal powers in this area to increase public confidence in the private rental sector. The DSC is currently considering a wide range of options in relation to the provision of affordable housing. The public therefore need to feel confident that where accommodation is not available to them in the public sector the private sector will provide accommodation of a decent standard.

Approximate date for legislation to be implemented if known

Subject to the responses to the consultation exercise and Council of Ministers approval, it is envisaged that the Bill will be introduced into the Branches in April 2013. This would result in full implementation from early 2014.

Link to Government Strategic Plan

This Bill meets many policy aims and objectives stated in the Strategic Plan.

One of the four strategic themes of the plan is "to introduce and enforce legislation and regulations which provide for the protection, safety and personal development of the individual whilst minimising the burden of compliance to employers and the community at large".

One of the main purposes of the provisions in the Landlord and Tenant (Private Housing) Bill is to help ensure the protection and safety of private sector Tenants. However, in constructing the Bill due credence will be given to ensure that a correct balance is obtained between the risks and responsibilities for both individuals and Landlords.

Link to Department Aims and Objectives

One of the Department's aims is to provide affordable and appropriate housing that meets the key needs of the community and the DSC stated in the 2011- 12 service delivery plan that we would "develop proposals for a Landlord Registration Scheme for the private rented sector and conduct public consultation on the proposals."

SUMMARY: CONSULTATION

Consultation in line with Government standard consultation process

Yes

Date

Consultation: 27 February 2012 - Friday 27 April 2012

Statement:

The policy consultation was launched on 27 February 2012 and ran for over 8 weeks. The closing date for comments was Friday 27 April 2012. This exceeded the Government minimum requirement of 6 weeks.

The consultation received 134 responses in total.

The consultation process included the following components:

- The public consultation which included the publication of the consultation document in print form and on the Government website. There was an opportunity for the public to response to particular questions and/or give an open response.
- Consultation document was sent to all other Departments, Statutory Boards and Offices and relevant others.
- Consultation document was sent to all known Landlords.

The Department will be running a separate consultation on the draft Landlord and Tenant (Private Housing) Bill.

EVIDENCE BASE:

Private Sector House Condition Survey

During 2007/08 a survey of the private sector housing stock on the Isle of Man was carried out by the then Department of Local Government and Environment and the findings of the survey were published. Similar surveys have been conducted approximately every five years since 1984. The random sample of houses represented 4% of private sector dwellings on the Island.

Full internal and external inspections of each property were carried out by Environmental Health Officers/Technicians from the Environment Safety and Health Directorate (ESHD). The information collected from this random sample is accepted as being statistically representative of the whole private sector housing stock on Island.

The main purpose of the survey is to assist Departments in the identification of problems and trends relating to the condition of the private sector housing stock. The survey also permits comparison with previous surveys and acts as an indicator as to the efficacy of current policies related to the private sector housing stock.

According to the Survey results, although there was a decrease from the last survey 3.9% of the Island's private sector housing stock was considered unfit for human habitation. The survey also revealed that 10.4% of the housing stock, whilst not unfit for human habitation, was in serious disrepair.

Environmental Health Operational Experience

Environmental Health Officers routinely inspect houses and/or flats where the accommodation and facilities meet the basic standards of fitness but are of very low quality; where the sole purpose is to provide regular income for Landlords but there is no evidence of financial investment to the quality of the premises.

The properties they inspect lack routine maintenance, repair or decoration and the fittings are old and decrepit. Such premises are ordinarily ill heated (or lack heating altogether) and have no thermal insulation. Others that have heating systems that are not regularly serviced, are inefficient at best and expensive for Tenants to use due to lack of insulation. Any necessary remedial works are only carried out to a very basic standard, are of low quality and only completed after many informal visits simply to avoid prosecution. Many are subject to excessive cold and suffer the consequential condensation, dampness and mould growth thus exhibiting a link to ill health.

Health & Welfare Professional/Third Sector Experience

Health and welfare professionals and agencies working with vulnerable people and charities such as Kemmyrk and Graih who work with the homeless and people in housing difficulty regularly report to the DSC Housing Division and Environmental Health their experiences of clients who reside in properties such as those described above, and such conditions are frequently raised as issues in professional Support for Housing need submissions.

Appendix 4



Isle of Man
Government

Reiltys Ellan Vannin

Landlord and Tenant (Private Housing) Bill 2013 - Consultation Questionnaire

Introduction

Welcome to the Isle of Man Landlord and Tenant (Private Housing) Bill 2013 Consultation Questionnaire. Your views are really important and we hope that you will take the time to fill in this questionnaire which takes approximately 15 minutes to complete.

This questionnaire should be read alongside the draft Landlord and Tenant (Private Housing) Bill and consultation documents which can be found at:
www.gov.im/socialcare/consultations.gov

Confidentiality

To ensure that the process is open and honest and in line with the Government's Code of Conduct on Consultation, responses can only be accepted if you provide your name with your response. Unless specifically requested, any responses received may be published either in part or in their entirety. Please mark your response clearly if you wish your response and name to be kept confidential. Confidential responses will only be included in any statistical summary and numbers of comments received.

*** 1) Do you wish your response to remain confidential?**

Yes No

Contact Information

*2) Please fill in your name, address, and contact details

* Title:	<input type="text"/>
	*
* First name:	<input type="text"/>
	*
* Last name:	<input type="text"/>
	*
* Address line 1:	<input type="text"/>
	*
* Address line 2:	<input type="text"/>
	*
* Town:	<input type="text"/>
	*
* Postcode	<input type="text"/>
	*
Email	<input type="text"/>
Phone Number	<input type="text"/>

About You

*3) Who are you completing this questionnaire as? (Please tick only one box)

- Landlord
- Tenant
- Letting Agent
- Third Sector Organisation
- Other

If other please specify

Part 1 - Opening Provisions

4) Do you find the purposes of the proposed Bill to be fair to the Tenant?

- Yes
- No
- No view

If you answered no please explain why

5) Do you find the purposes of the proposed Bill to be fair to the Landlord?

- Yes
- No
- No view

If you answered no please explain why

6) Do you agree with the exemption of certain landlords and dwellings from the Bill?

- Yes
 - No
 - No view
-

7) Do you agree that landlords and their dwellings should comply with minimum standards?

- Yes
- No
- No view

Part 2 - Landlord Registration

8) Do you agree that the below offences and penalties are fair and realistic?

	Yes	No	No view
Being an unregistered landlord	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maximum penalty £20,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Illegal management of a private rented dwelling	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maximum penalty £20,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Prevention of certain advertising	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maximum penalty £20,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

9) Do you agree that a tenant should be able to terminate their tenancy if they discover their landlord is unregistered and therefore, under the Bill, operating illegally?

- Yes
 No
 No view
-

10) Do you agree with the process for making and deciding applications?

- Yes
 No
 No view

11) Do you agree with the proposal for registration to last for 3 years?

- Yes
- No
- No view

12) Do you agree that the public should be able to ask for details from the register if they have an appropriate interest? i.e. a prospective tenant.

- Yes
- No
- No view

13) Do you agree that the below offences and penalties are fair and realistic?

	Yes	No	No view
Failure to notify changes to registration details	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Maximum Penalty £5,000	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Making false or misleading statements	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Maximum Penalty £20,000	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Part 3 - Compliance with Minimum Standards

14) Do you agree that the below offences are fair and realistic?

	Yes	No	No view
Failure to comply with the minimum standards	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maximum penalty £20,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Failure to comply with an improvement notice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maximum penalty £20,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

15) Do you agree with the process for giving an improvement notice?

- Yes
- No
- No view

16) Do you agree that the Department of Social Care should have the power to suspend, cancel or disqualify a person's registration if: they have given false or misleading information in order to become registered; or once registered, failed to meet the minimum standards, or comply with an improvement notice?

- Yes
- No
- No view

17) Do you agree that subject to conditions a landlord should be able to have their disqualification cancelled?

- Yes
- No
- No view

18) Do you agree with the powers for authorised officers to enter and

inspect private rented dwellings?

- Yes
- No
- No view

Part 4 - Appeals

19) Do you agree with the process for appeals set out in Part 4 of the Bill?

- Yes
- No
- No view

Part 5 - Miscellaneous

20) Do you agree that the Department of Social Care should have the power to make regulations under the Bill?

- Yes
- No
- No view

21) Do you agree that regulations should be subject to approval by Tynwald?

- Yes
- No
- No view

Part 6 - Transitionals

22) Do you agree with the power to allow those landlords already registered under the voluntary scheme to be transferred so that they are not required to register again?

- Yes
- No
- No view

23) Do you agree with the stated interim fees for registration? These are £55 to register and then £11 for each additional property

- Yes
- No
- No view

Part 7 - Amendment of the Land Registration Act

24) Do you agree that there should be an amendment to the Land Registration Act as set out in Part 7? This will allow prospective purchasers to be aware of an outstanding improvement notice on a property.

- Yes
- No
- No view

Schedule

25) Do you agree with the definitions contained in the Schedule?

- Yes
- No
- No view

General Comments

26) We welcome your comments on the areas detailed above but please feel free to add any additional comments below

Thank You

Thank you for taking the time to complete this questionnaire on the Landlord and Tenant (Private Housing) Bill consultation.

Consideration will be given to your comments. A summary of the responses received will be published within 3 months of the closing date for this consultation, and will be made available on the Department of Social Care (www.gov.im/socialcare/consultations.gov) and Isle of Man Government (www.gov.im/Consultations.gov) websites.



Isle of Man
Government

Reiltys Ellan Vannin



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