
**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.



Isle of Man

Ellan Vannin

**LANDLORD AND TENANT (PRIVATE
HOUSING) BILL 2013**

Consultation draft



LANDLORD AND TENANT (PRIVATE HOUSING) BILL 2013

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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 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).

Consultation draft