



# LANDLORD REGISTRATION (PRIVATE HOUSING) BILL 2020

## Index

Section	Page
<b>PART 1 – INTRODUCTORY</b>	<b>5</b>
1 Short title.....	5
2 Commencement.....	5
3 Interpretation.....	5
4 Meaning of “property management activity” .....	8
5 Amendment of definitions .....	9
<b>PART 2 – THE REGISTER AND REGISTRATION</b>	<b>9</b>
6 Register of relevant landlords.....	9
7 Requirement for a relevant landlord to be registered .....	9
8 Exceptions to the requirement to be registered.....	10
9 Applying for registration.....	12
10 Landlords registered under the voluntary registration scheme .....	13
11 Registration requirements .....	14
12 Application requirements: relevant landlords .....	15
13 Application requirements: rented dwellings.....	16
14 Determination of application: relevant landlords.....	17
15 Determination of application: rented dwellings .....	19
16 Personal conduct requirements .....	20
17 Personal conduct requirements: further investigation.....	21
18 Registration period, expiry and re-application .....	21
19 Changes during the registration period .....	22
20 Disclosure of registered status.....	24
21 Registration regulations.....	24
22 Access to information on the register .....	25
<b>PART 3 – MINIMUM STANDARDS</b>	<b>25</b>
23 Minimum standards.....	25
24 Compliance with minimum standards.....	26
<b>PART 4 – ENFORCEMENT</b>	<b>27</b>
<b>DIVISION 1: UNREGISTERED RELEVANT LANDLORDS</b>	<b>27</b>

25	Unregistered relevant landlords .....	27
26	Notice of non-registration .....	27
27	Disqualification of a relevant landlord .....	28
<b>DIVISION 2 – ENFORCEMENT OF MINIMUM STANDARDS</b>		<b>29</b>
28	Authorised officers acting under this Division .....	29
29	Application of provisions of the Local Government Act 1985 .....	29
30	Inspection of documents .....	30
31	Notice of non-compliance .....	30
32	Response to a notice of non-compliance .....	31
33	Improvement notices .....	32
34	Compliance with an improvement notice .....	33
35	Application of enforcement provisions in other legislation .....	34
<b>DIVISION 3 – BREACHES OF REGISTRATION REQUIREMENTS</b>		<b>34</b>
36	Application of Division .....	34
37	Offences for breach of property management activity restrictions .....	34
38	Duty to notify of changes affecting registration requirements and conditions of registration .....	35
39	Action on breach of requirement to have a landlord’s representative .....	35
40	Action regarding personal conduct requirements .....	36
<b>DIVISION 4 – REVOCATION OF REGISTRATION</b>		<b>38</b>
41	Grounds for revocation .....	38
42	Revocation of registration .....	39
43	Effect of revocation of registration .....	40
<b>DIVISION 5 – OTHER ENFORCEMENT PROVISIONS</b>		<b>40</b>
44	Occupier may terminate lease or licence .....	40
45	Circumstances when no rent is payable .....	41
46	Recovery of rent .....	42
47	Part 4 regulations .....	42
<b>PART 5 – APPEALS</b>		<b>43</b>
48	Decisions subject to appeal .....	43
49	Application and appeal to the Commissioners .....	43
50	Nature of appeals .....	45
51	Commissioners’ power to stay effect of outcome of appeal .....	45
<b>PART 6 – OCCUPANCY DEPOSIT REGULATION AND PROTECTION</b>		<b>46</b>
52	Meaning of “occupancy deposit” .....	46
53	Occupancy deposit protection schemes .....	46
54	Scheme provisions .....	46
55	Amount of occupancy deposits .....	47
<b>PART 7 – INFORMATION</b>		<b>47</b>
56	Monitoring of the private rented sector .....	47

57	Power to obtain documents and information.....	48
58	Disclosure and sharing of information .....	49
<b>PART 8 - GENERAL</b>		<b>50</b>
59	Data protection legislation not affected.....	50
60	General powers .....	50
61	Powers on entry .....	50
62	Landlord and tenant laws and other laws not affected.....	51
63	Statutory documents .....	51
64	False or misleading statements.....	52
65	Protection from liability .....	52
66	Guidance .....	52
<b>SCHEDULE</b>		<b>55</b>
<b>CONTENT OF THE REGISTER</b>		<b>55</b>





# LANDLORD REGISTRATION (PRIVATE HOUSING) BILL 2020

**A BILL** to provide for the registration of landlords of private rented dwellings; for the application and enforcement of standards for landlords and private rented dwellings; for the regulation and protection of occupancy deposits; for the monitoring of the private rented sector; 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 – INTRODUCTORY

### 1 Short title

The short title of this Act is the Landlord Registration (Private Housing) Act 2020.

### 2 Commencement

- (1) This Act (apart from section 1 and this section) comes into operation on such day or days as the Department may by order appoint and different days may be appointed for different provisions and for different purposes.
- (2) An order under subsection (1) may include such consequential, incidental, supplemental, transitional, transitory or savings provisions as the Department considers necessary or expedient in connection with the coming into operation of any provision of this Act.

### 3 Interpretation

In this Act —

“**authorised officer**” means an officer of —

- (a) the Department; or
- (b) the Department of Environment, Food and Agriculture,

authorised by the Department in writing to exercise the functions of authorised officers under this Act and an authorised officer so acting is acting in the name of, and on behalf of, the Department;

“**body corporate**” includes a limited liability company constituted under the *Limited Liability Companies Act 1996*;

“**the Commissioners**” means the Isle of Man Rent and Rating Appeal Commissioners;

“**data protection legislation**” has the meaning given in regulation 5(1) of the GDPR and LED Implementing Regulations 2018<sup>1</sup> as they have effect from time to time;

“**the Department**” means the Department of Infrastructure;

“**dwelling**” means a building or part of a building, which is occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it;

“**landlord**” means a person who, under a lease or a licence, grants an occupier the right to occupy a private dwelling or part of a private dwelling for a term in exchange for the payment of rent;

“**landlord’s representative**” is a person who is ordinarily resident in the Island and who is nominated by a relevant landlord to act for the landlord in relation to a lease or licence to which a rented dwelling is subject in the performance of a property management activity;

“**lease**” includes a tenancy, sub-lease or sub-tenancy and an agreement for a lease or tenancy, or sub-lease or sub-tenancy, whether or not in writing, but does not include a lease granting a leasehold estate for a term greater than 21 years, and a reference to a “**tenant**” is to be construed accordingly;

“**leasehold estate**” has the meaning given in section 79 of the *Land Registration Act 1982*;

“**licence**” means a licence, whether or not in writing, to occupy a rented dwelling, and a reference to a “**licensee**” is to be construed accordingly;

“**minimum standards**” means the minimum standards required of a relevant landlord and a rented dwelling set out in regulations made under section 23(1) (minimum standards), and a reference to the minimum standards in connection with a relevant landlord, or to the minimum standards in connection with a rented dwelling, means the minimum standards required of a relevant landlord or rented dwelling (as the case may be) as specified in those regulations;

“**notice of non-registration**” has the meaning given in section 26(1) (notice of non-registration);

---

<sup>1</sup> SD 2018/0145

**“occupier”** means a person granted by a landlord the right to occupy a private dwelling or part of a private dwelling under a lease or licence in exchange for the payment of rent;

**“personal conduct requirements”** are the standards of personal conduct that a relevant landlord or landlord’s representative is required to meet under section 11(1) (registration requirements) as determined by the Department in accordance with section 16 (personal conduct requirements) and 17 (personal conduct requirements: further investigation);

**“private dwelling”** means a dwelling that is not —

- (a) a public sector dwelling; or
- (b) a dwelling for which a lease is granted by an approved housing association (as that term is defined in the *Housing (Miscellaneous Provisions) Act 1976*), where the housing association has complied with terms and conditions imposed by, or arrangements made with, the Department under Part II of that Act;

**“property management activity”** has the meaning given in section 4 (meaning of “property management activity”);

**“public sector dwelling”** is a dwelling —

- (a) provided by —
  - (i) the Department;
  - (ii) a local authority;
  - (iii) local authorities acting jointly; or
  - (iv) a local authority acting jointly with the Department,as part of the statutory functions of the Department or the local authority with respect to the provision of housing accommodation; and
- (b) provided under a lease, licence or other agreement for a rent below market rate;

**“the register”** means the register established and maintained under section 6(1) (register of relevant landlords);

**“registration period”** is to be construed in accordance with section 18 (registration period, expiry and re-application);

**“registration requirements”** means the requirements described in section 11 (registration requirements);

**“relevant landlord”** means a landlord of a rented dwelling who is registered, or required to be registered, under section 7(1) (requirement for a relevant landlord to be registered);

**“rent”** means an amount payable by or on behalf of, or any other consideration due from, an occupier to a landlord under a lease or a licence for —

- (a) the right to occupy a dwelling; and
- (b) any service provided to the occupier by the landlord or on the landlord's behalf in connection with the occupier's occupancy of the dwelling other than the provision of the right to occupy in paragraph (a);

**“rented dwelling”** means a private dwelling or a part of a private dwelling that an occupier has a right to occupy for a term in exchange for the payment of rent under a lease or licence granted by a landlord;

**“scheme administrator”** means —

- (a) the person with whom arrangements are made under section 53(2) (occupancy deposit protection schemes) to administer and maintain a scheme made under section 53(1); or
- (b) if no such arrangements have been made, the Department; and

**“unregistered relevant landlord”** means a relevant landlord acting in contravention of section 7(1) (requirement for a relevant landlord to be registered).

#### 4 Meaning of “property management activity”

- (1) A “property management activity” is an activity —
  - (a) undertaken by a relevant landlord or a landlord's representative;
  - (b) in connection with an occupier's occupancy or intended occupancy of a rented dwelling; and
  - (c) in circumstances where the activity requires direct contact with the occupier or a member of the occupier's household.
- (2) A property management activity includes any of the following activities —
  - (a) arranging and conducting viewings with a prospective occupier;
  - (b) establishing the suitability of a prospective occupier by, amongst other things, the collection of information regarding the prospective occupier;
  - (c) preparing, or arranging the preparation of, the lease or licence ;
  - (d) arranging for the signing of the lease or licence;
  - (e) preparing, or arranging the preparation of, any inventory or schedule of condition in respect of the rented dwelling;
  - (f) collecting rent or other payments in respect of the rented dwelling;
  - (g) being the principal point of contact for the occupier in relation to matters arising in relation to the lease or licence;
  - (h) making arrangements with a person to carry out repairs or maintenance with respect to the rented dwelling;



- (i) making arrangements with the occupier to secure access to the rented dwelling for any purpose;
- (j) checking the contents or condition of the rented dwelling, or arranging for them to be checked; and
- (k) serving notice to terminate the lease or licence.

## **5 Amendment of definitions**

The Department may by order amend section 3 (interpretation) or 4 (meaning of “property management activity”).

Tynwald procedure — approval required.

# **PART 2 – THE REGISTER AND REGISTRATION**

## **6 Register of relevant landlords**

- (1) The Department must establish and maintain a register of relevant landlords registered under this Act.
- (2) The register must contain the information specified in the Schedule.
- (3) A register entry for a particular relevant landlord must be kept for 6 years after the registration has expired, after which it must be deleted from the register as soon as practicable.
- (4) The Department may keep the register in any form it considers appropriate, including in electronic form.
- (5) The Department may by order amend the Schedule.

Tynwald procedure — approval required.

## **7 Requirement for a relevant landlord to be registered**

- (1) A landlord of a rented dwelling must —
  - (a) be registered with the Department; and
  - (b) be registered in respect of the rented dwelling,in accordance with this Part unless an exception in section 8 (exceptions to the requirement to be registered) applies.
- (2) A relevant landlord who, without reasonable excuse, contravenes subsection (1) commits an offence.  
  
Maximum penalty (summary) — 6 months’ custody and a fine of 5 times level 5 on the standard scale.
- (3) A relevant landlord does not contravene subsection (1) —
  - (a) during the period permitted to the relevant landlord to apply to register under section 9(1) or (3) (applying for registration);

- (b) during the period between the expiry of an existing registration and the determination of an application for a new registration made as described in section 18(4) (registration period, expiry and re-application), where such an application has been properly made;
  - (c) with respect to an additional rented dwelling as described in section 13(7) (application requirements: rented dwellings), during the period permitted to the relevant landlord to apply to register that dwelling under section 13(8); or
  - (d) if the relevant landlord —
    - (i) has applied to the Department for the registration under section 9(1) or (3), or section 13(7), within the period permitted; and
    - (ii) the application has been properly made, during the period the application is being determined.
- (4) For the purposes of subsection (3)(b) and (d), in the event that the application is refused, the application is determined on the date the refusal notice takes effect (see sections 14(9) (determination of application: relevant landlords) and 15(8) (determination of application: rented dwellings)).

## 8 Exceptions to the requirement to be registered

- (1) A landlord is not a relevant landlord in respect of a rented dwelling if the rented dwelling is or forms part of —
- (a) residential accommodation provided by an employer for an employee if —
    - (i) it is necessary for the proper performance of the employee's duties that the employee should reside in the accommodation; or
    - (ii) the accommodation is provided for the better performance of the duties of the employment and the employment is a type of employment where it is customary for employers to provide residential accommodation for employees;
  - (b) an agricultural holding under section 1 of the *Agricultural Holdings Act 1969*;
  - (c) premises under a tenancy to which the *Tenancy of Business Premises Act 1971* applies; or
  - (d) land under a farm business tenancy within the meaning of section 1 of the *Agricultural Tenancies Act 2008*.
- (2) A landlord is not a relevant landlord in respect of a rented dwelling if the rented dwelling —

- (a) is or forms part of tourist premises registered under the *Tourist Act 1975*; and
  - (b) is occupied by a person who has been granted occupancy of the rented dwelling under a lease or licence for a period not exceeding 4 weeks of continuous occupation.
- (3) A landlord is not a relevant landlord in respect of a rented dwelling if —
  - (a) the landlord is an individual and every occupier of the rented dwelling is a close relative of the landlord; or
  - (b) the shared accommodation exception applies.
- (4) The shared accommodation exception applies in the following circumstances —
  - (a) the terms of the lease or licence granted by the landlord to an occupier provide for the occupier to share any accommodation with the landlord;
  - (b) immediately before the lease or licence described in paragraph (a) is made the landlord occupies as the landlord's only or principal home a dwelling which includes all or part of the shared accommodation; and
  - (c) a lease or licence of the accommodation shared with the landlord is granted to no more than 2 occupiers.
- (5) The shared accommodation exception applies only while the landlord continues to occupy the dwelling referred to in subsection (4) as the landlord's only or principal home.
- (6) A landlord is not a relevant landlord in respect of a rented dwelling for so long as the landlord diligently continues to pursue the recovery of possession of that dwelling if the landlord takes steps to recover possession of the rented dwelling within a period of 28 days beginning with the date the landlord's interest in the rented dwelling is assigned to the landlord.
- (7) The following are not relevant landlords —
  - (a) the Treasury as holder of *bona vacantia* property;
  - (b) a person acting as a personal representative of a deceased landlord with respect to a rented dwelling, for a period not exceeding 6 months beginning with the date of the death of the landlord;
  - (c) a person acting as a liquidator with respect to a rented dwelling, for a period not exceeding 6 months beginning with the date of the person's appointment as liquidator;
  - (d) a secured creditor who acquires lawful possession of a rented dwelling, for a period not exceeding 6 months beginning with the date possession is acquired.

- (8) In this section, “a close relative of the landlord” means —
- (a) a spouse or civil partner of the landlord;
  - (b) a person living with the landlord, or in a relationship with the landlord, which has the characteristics of a spouse or civil partner relationship;
  - (c) a parent, grandparent, child or grandchild of the landlord;
  - (d) a sister, brother, uncle, aunt, nephew or niece of the landlord.
- (9) For the purposes of subsection (8) —
- (a) a relationship of the half blood is to be treated as a relationship of the whole blood;
  - (b) a relationship by marriage or civil partnership is to be treated as a relationship by blood;
  - (c) a stepchild of a person is to be treated as the person’s child; and
  - (d) a person brought up or treated by another person as if the person were the child of the other person is to be treated as that person’s child.
- (10) In this section —
- (a) a “liquidator” means —
    - (i) a liquidator, provisional liquidator or receiver of a body corporate or foundation; or
    - (ii) a trustee in bankruptcy; and
  - (b) “employment” means any employment —
    - (i) under a contract of service or as an office-holder; or
    - (ii) under an apprenticeship,and the terms “employer” and “employee” have corresponding meanings.
- (11) The Department may by order amend this section.
- Tynwald procedure — approval required.

## 9 Applying for registration

- (1) For a person who is a relevant landlord on the coming into operation of section 7(1) (requirement for a relevant landlord to be registered), for the purposes of section 7(3)(a) and (d) the period permitted for the making of an application —
- (a) for registration as a registered relevant landlord; and
  - (b) for registration in respect of each rented dwelling for which the person is a relevant landlord,

is within 6 months beginning with the date section 7(1) comes into operation, unless section 10 (landlords registered under the voluntary registration scheme) applies.

- (2) Subsection (3) applies to a person who becomes a relevant landlord after section 7(1) comes into operation and who is not making an application —
  - (a) for a registration which has already been refused under section 14 (determination of application: relevant landlords) or 15 (determination of application: rented dwellings);
  - (b) for a registration following receipt of a notice issued under section 25 (unregistered relevant landlords) or 26 (notice of non-registration); or
  - (c) in respect of a registration already revoked to which section 43 (effect of revocation of registration) applies.
- (3) In the case of a person to whom this subsection applies, for the purposes of section 7(3)(a) or (d) the period permitted for the making of an application —
  - (a) for registration as a registered relevant landlord; and
  - (b) for registration in respect of each rented dwelling for which the person acts as a relevant landlord,is within 3 months beginning with the date the person becomes a relevant landlord.
- (4) Subsection (3) is subject to section 13(7) and (8) (application requirements: rented dwellings).

## **10 Landlords registered under the voluntary registration scheme**

- (1) This section applies to a relevant landlord who, immediately before the coming into operation of section 7(1) (requirement for a relevant landlord to be registered), is registered with the Department under the voluntary registration scheme.
- (2) Where this section applies—
  - (a) a relevant landlord will be treated as registered under this Act; and
  - (b) the rented dwellings for which the landlord is registered under the voluntary registration scheme will be treated as registered under this Act,immediately on the coming into operation of section 7(1).
- (3) To continue to be registered as described in subsection (2), a relevant landlord must, within 6 months of the coming into operation of section 7(1), —

- (a) make the declaration described in section 12(3) (application requirements: relevant landlords); and
  - (b) make the declaration described in section 13(6) (application requirements: rented dwellings) in respect of the rented dwelling for which the landlord is registered under the voluntary registration scheme.
- (4) If the relevant landlord complies with subsection (3), the relevant landlord will continue to be registered as described in subsection (2) until the date of expiry that would have applied under the voluntary registration scheme had section 7(1) not come into operation.
- (5) If the relevant landlord does not comply with subsection (3), the registration of the landlord will expire at the end of the 6 month period mentioned in that subsection.
- (6) Section 18(4) (registration, period, expiry and re-application) applies with respect to a re-application for a registration of a person registered under this section.
- (7) A relevant landlord registered under subsection (2) will be registered under this Act under the same unique registration number as granted under the voluntary registration scheme.
- (8) The voluntary registration scheme is revoked immediately on the coming into operation of section 7(1).
- (9) In this section, the “voluntary registration scheme” means the voluntary scheme for the registration of landlords of private dwellings introduced by the Department in 2013.

## 11 Registration requirements

- (1) The following are the requirements for registration of a relevant landlord—
  - (a) the relevant landlord must comply with the minimum standards;
  - (b) except in so far as section 10 (landlords registered under the voluntary registration scheme) applies, the application requirements in section 12 (application requirements: relevant landlords) must be satisfied;
  - (c) with respect to the personal conduct requirements —
    - (i) the Department must be satisfied that the relevant landlord meets the personal conduct requirements; or
    - (ii) if the Department is not satisfied that a relevant landlord meets the personal conduct requirements, the relevant landlord must nominate a landlord’s representative to undertake all the property management activities on the relevant landlord’s behalf;

- (d) if the relevant landlord is not ordinarily resident in the Island, the relevant landlord must nominate a landlord's representative to undertake all the property management activities on the relevant landlord's behalf; and
  - (e) with respect to the nomination of a landlord's representative by a relevant landlord, if the Department is not satisfied that the person nominated meets, or continues to meet, the personal conduct requirements, the landlord must nominate a different landlord's representative who the Department is satisfied meets those requirements.
- (2) The following are the registration requirements in respect of a rented dwelling —
  - (a) the relevant landlord must ensure that a rented dwelling for which registration is required complies with the minimum standards; and
  - (b) except in so far as section 10 (landlords registered under the voluntary registration scheme) applies, the relevant landlord must ensure that the application requirements in section 13 (application requirements: rented dwellings) are satisfied.

## **12 Application requirements: relevant landlords**

- (1) This section applies to an application for the registration of a relevant landlord.
- (2) An application must —
  - (a) include the information; and
  - (b) be accompanied by any documents and fee, specified in regulations made by the Department under section 21 (registration regulations).
- (3) An application must be accompanied by a declaration by the relevant landlord that —
  - (a) the relevant landlord complies with the minimum standards for a relevant landlord; and
  - (b) the information provided in and with the application is true and accurate to the best of the relevant landlord's knowledge and belief.
- (4) If a relevant landlord is not ordinarily resident in the Island, the application must also include the nomination of a landlord's representative to undertake all the property management activities on the landlord's behalf.

- (5) Where a relevant landlord has nominated a landlord's representative, whether to satisfy the requirements in subsection (4) or otherwise, the application must include —
- (a) any information concerning the landlord's representative as required by regulations made under section 21; and
  - (b) a declaration by the landlord's representative that —
    - (i) the landlord's representative acts, or will act, for the relevant landlord with respect to the particular rented dwelling or dwellings that are the subject of the related application under section 13 (application requirements: rented dwellings); and
    - (ii) the information provided by the landlord's representative under paragraph (a) is true and accurate to the best of the landlord's representative's knowledge and belief.

### **13 Application requirements: rented dwellings**

- (1) This section applies to an application for registration in respect of a rented dwelling.
- (2) A rented dwelling may not be registered unless the relevant landlord is registered under section 14 (determination of application: relevant landlords).
- (3) A relevant landlord must, at the same time as making an application for registration under section 12 (application requirements: relevant landlords), make an application under this section for registration in respect of each rented dwelling for which the relevant landlord is at that time a relevant landlord.
- (4) A rented dwelling that has been registered under this section forms a part of the registration of the relevant landlord of that dwelling.
- (5) The application must —
  - (a) include the information; and
  - (b) be accompanied by any documents and fee, specified in regulations made by the Department under section 21 (registration regulations).
- (6) An application must be accompanied by a declaration by the relevant landlord that each rented dwelling for which registration is required complies with the minimum standards.
- (7) An application may be made under this section for registration of an additional rented dwelling of a relevant landlord who is already registered in respect of another rented dwelling.



- (8) An application to which subsection (7) applies must be made within 42 days of the relevant landlord becoming a relevant landlord in respect of the rented dwelling to which the application relates.
- (9) If a landlord's representative is acting in respect of a rented dwelling for which an application is made under subsection (7), the application must —
  - (a) include the information concerning the landlord's representative required by regulations made under section 21; and
  - (b) be accompanied by the declaration required under section 12(5)(b) (application requirements: relevant landlords) in respect of the rented dwelling or dwellings that are the subject of the application.

#### **14 Determination of application: relevant landlords**

- (1) The Department must consider each application for registration properly made under section 12 (application requirements: relevant landlords) and determine whether to grant the registration in accordance with this section.
- (2) The Department may refuse to register a relevant landlord if it has reasonable grounds to consider that any of the registration requirements in section 11(1) (registration requirements) are not met or are not likely to be met during the registration period.
- (3) The Department must not register a relevant landlord if —
  - (a) it is not satisfied that the relevant landlord meets the personal conduct requirements; or
  - (b) the relevant landlord is not ordinarily resident in the Island, unless the conditions in subsection (4) are complied with.
- (4) The conditions mentioned in subsection (3) are —
  - (a) that the relevant landlord has nominated a landlord's representative;
  - (b) the Department is satisfied that the landlord's representative meets the personal conduct requirements;
  - (c) the landlord's representative agrees to undertake all the property management activities with respect to the rented dwelling or dwellings of the relevant landlord for which the landlord's representative has been nominated; and
  - (d) the landlord's representative has made the declaration required by section 12(5)(b).
- (5) The Department may grant registration to a relevant landlord subject to such other conditions as it considers appropriate to ensure that registration requirements in section 11(1) are satisfied.

- (6) If it grants registration, the Department must —
- (a) allocate to the registered relevant landlord a unique registration number;
  - (b) enter on the register the information required (as applicable) under the Schedule; and
  - (c) give notice to the relevant landlord and the landlord's representative (if any) of —
    - (i) the registration;
    - (ii) the registration number;
    - (iii) the conditions attaching to the registration (if any); and
    - (iv) if the registration has been granted under subsection (3), or subject to the conditions referred to in subsection (5), of the relevant landlord's right to appeal under Part 5 against the decision to grant registration on those terms.
- (7) Before refusing an application for registration, the Department must —
- (a) give notice to the relevant landlord of its intention to refuse registration and the reasons for the intended refusal;
  - (b) if the refusal is to be on the ground that the Department is not satisfied that a landlord's representative for the relevant landlord meets the personal conduct requirements, give notice to the landlord's representative of its intention to refuse registration and the reasons why it is not satisfied the representative does not meet those requirements; and
  - (c) consider any representations made by the relevant landlord and, if applicable, the landlord's representative before the end of the period of 7 days beginning with the date the landlord and the landlord's representative were notified under this subsection.
- (8) If the Department refuses an application for registration, it must give notice to the relevant landlord and the landlord's representative (if any) —
- (a) that the application has been refused and the reasons for the refusal;
  - (b) the effect of being a relevant landlord that is not registered;
  - (c) when the decision to refuse registration takes effect; and
  - (d) of the landlord's right to appeal against the decision under Part 5.
- (9) Subject to the Commissioners staying the decision under section 49(4) (application and appeal to the Commissioners), a decision by the Department to refuse a registration under this section takes effect on the expiry of the period permitted to a relevant landlord to make an appeal to the Commissioners in respect of the decision.

- (10) The Department must give a copy of a notice of a grant or refusal of registration under this section to —
- (a) an occupier of a rented dwelling to which the grant or refusal relates; and
  - (b) the landlord's representative (if any),
- but failure to provide a copy of a notice under this subsection does not affect the validity of the notice.

## **15 Determination of application: rented dwellings**

- (1) The Department must consider an application for registration properly made under section 13 (application requirements: rented dwellings) in respect of each rented dwelling to which the application relates and determine whether to grant the registration in accordance with this section.
- (2) The Department may refuse to register a rented dwelling if the Department has reasonable grounds to consider that the rented dwelling does not comply, or may reasonably be expected not to continue to comply during the registration period, with the minimum standards.
- (3) The Department may grant registration for a rented dwelling subject to such conditions as it considers appropriate to ensure that registration requirements in section 11(2) (registration requirements) are satisfied.
- (4) If the Department grants registration for a rented dwelling, it must —
  - (a) enter on the register the applicable information required in respect of the rented dwelling under the Schedule; and
  - (b) give notice to the relevant landlord, any landlord's representative and the occupier (if any) of a rented dwelling specified in the application of —
    - (i) the grant of registration;
    - (ii) any conditions attaching to the registration; and
    - (iii) if the registration has been granted subject to conditions under subsection (3), of the relevant landlord's right to appeal under Part 5 against the decision to impose a condition.
- (5) Before refusing an application for a registration under this section, the Department must —
  - (a) give notice to the relevant landlord of its intention to refuse the registration and the reasons why; and
  - (b) consider any representations made by the relevant landlord before the end of the period of 7 days beginning with the date the landlord was notified.

- (6) If the Department refuses an application for registration in respect of a rented dwelling, it must give notice to the relevant landlord —
  - (a) that the application has been refused and the reasons why;
  - (b) when the decision to refuse registration takes effect;
  - (c) the effect of being an unregistered relevant landlord for the rented dwelling; and
  - (d) of the landlord's right to appeal against the decision under Part 5.
- (7) A copy of the notice in subsection (6) must be provided to any landlord's representative named in the application and any occupier of the rented dwelling, but failure to provide a copy of the notice under this subsection does not affect the validity of the notice.
- (8) Subject to the Commissioners staying the decision under section 49(4) (application and appeal to the Commissioners), a decision by the Department to refuse a registration under this section takes effect following the expiry of the period permitted to a relevant landlord to make an appeal to the Commissioners in respect of the decision.

## 16 Personal conduct requirements

- (1) In deciding whether a person meets, or no longer meets, the personal conduct requirements, the Department must have regard to any evidence—
  - (a) which shows that the person has committed any offence involving fraud, dishonesty, violence, firearms or drugs, or any offence under the *Sexual Offences Act 1992*;
  - (b) which shows that the person has practised unlawful discrimination or harassment on the grounds of any characteristic which is a protected characteristic specified in section 5 of the *Equality Act 2017*;
  - (c) which shows that the person has victimised another person contrary to the *Equality Act 2017*, in or in connection with the carrying on of any business;
  - (d) which shows that the person has contravened any provision of, or committed an offence under, the law relating to housing or landlord and tenant (including this Act) within the 3 years prior to making a declaration under section 12(3) or (5) (application requirements: relevant landlords) or 13(6) (application requirements: rented dwellings);
  - (e) as to any conduct by the person outside the Island which would, if it had taken place in the Island, be conduct falling within any one of paragraphs (a) to (d); and
  - (f) of any other matter the Department considers relevant in the circumstances.

- (2) If a relevant landlord or a landlord's representative is a body corporate or foundation, the Department must be satisfied that the personal conduct requirements are met by –
  - (a) the relevant landlord or landlord's representative (as the case may be);
  - (b) each director, manager, secretary or other similar officer of the relevant landlord or landlord's representative (as the case may be) or each person purporting to act as such an officer;
  - (c) each member of the relevant landlord or landlord's representative, where its affairs are managed by its members; and
  - (d) the key officers of the relevant landlord or landlord's representative.
- (3) In this section, "key officer" in relation to a relevant landlord or a landlord's representative means a person who undertakes any property management activity as an officer of, or person otherwise employed directly or indirectly by, the relevant landlord or landlord's representative.
- (4) The Department may by order amend this section.  
Tynwald procedure – approval required.

## **17 Personal conduct requirements: further investigation**

- (1) The Department may, in deciding for the purposes of section 16 (personal conduct requirements) whether a person meets, or no longer meets, the personal conduct requirements, require the person to provide to the Department a criminal record certificate.
- (2) The Department may only require a criminal record certificate under subsection (1) if it has reasonable grounds to suspect that any information provided by the person in relation to the registration requirements mentioned in section 11(1)(c) or (e) (registration requirements) is, or has become, inaccurate.
- (3) In this section, "criminal record certificate" means a criminal record certificate within the meaning of section 113A of the Police Act 1997<sup>2</sup> (of Parliament) as it has effect in the Island<sup>3</sup>.

## **18 Registration period, expiry and re-application**

- (1) Except as provided for in section 10(4) (landlords registered under the voluntary registration scheme), a grant of registration of a relevant landlord is for a period of 5 years beginning with the date it was granted (the "registration period").

---

<sup>2</sup> 1997 c. 50

<sup>3</sup> Part 5 of the Police Act 1997 (of Parliament) was extended to the Island by SI 2010/764.

- (2) The period of registration for a rented dwelling is the registration period remaining to the applicable relevant landlord on the grant of registration of the relevant dwelling, but it expires earlier if the relevant landlord notifies the Department that the landlord surrenders the registration of, or no longer has an interest in, the dwelling.
  - (3) A registration of a relevant landlord, and of all the rented dwellings which are part of that landlord's registration, expires at the end of the registration period.
  - (4) A relevant landlord may apply for a new registration during the 3 months before the date a current registration would otherwise expire.
  - (5) An application for a new registration as described in subsection (4) is made and determined in accordance with sections 12 to 15 (application requirements, determination of application).
  - (6) If an application for a new registration as described in subsection (4) is granted, the new registration is granted from the day after the date the previous registration period expired.
  - (7) A registration of a relevant landlord (and in consequence any related registration of a rented dwelling) expires entirely and any application for registration that has not been determined is treated as having been withdrawn —
    - (a) in the case of a relevant landlord who is an individual, when the relevant landlord dies; or
    - (b) in the case of a relevant landlord that is a body corporate or foundation, when the relevant landlord is dissolved or otherwise ceases to exist.
  - (8) This section is subject to any revocation of registration under section 42 (revocation of registration) and to section 43 (effect of revocation of registration).
  - (9) The Department may by order amend subsection (1) to specify a different registration period.
- Tynwald procedure – approval required.

## **19 Changes during the registration period**

- (1) A registered relevant landlord must give notice to the Department in writing of the following matters—
  - (a) a change to any of the registered details of the landlord specified in paragraph 1(a) to (c) of the Schedule, where this does not affect the relevant landlord's compliance with the registration requirements mentioned in section 11(1)(d) (registration requirements);

- (b) a change to any of the registered details of the landlord's representative (if any) of the relevant landlord specified in paragraph 2(a) to (c) of the Schedule;
- (c) a change to any of the registered details of a rented dwelling specified in paragraph 3(a) to (d) of the Schedule;
- (d) an assignment of the landlord's interest in a rented dwelling for which the landlord is registered or that the landlord wishes to surrender the registration of a rented dwelling;
- (e) a nomination of a landlord's representative for a rented dwelling, where this is not a nomination —
  - (i) as a result of a notice received under section 39 (action on breach of requirement to have a landlord's representative) or 40 (action regarding personal conduct requirements); or
  - (ii) required to comply with the registration requirements in section 11(1) or a landlord's conditions of registration;
- (f) that a landlord's representative has ceased to act for the relevant landlord, where this does not affect the relevant landlord's compliance with the registration requirements or the conditions of the registration; and
- (g) any other change specified in regulations made by the Department.

Tynwald procedure – approval required.

- (2) A landlord's representative must give notice to the Department in writing of —
  - (a) a change to any of the matters specified in subsection (1)(b); and
  - (b) ceasing to act for the relevant landlord.
- (3) A person must comply with the notice requirements in this section within one month beginning with the day on which the person knew of the change.
- (4) A notice under this section must be accompanied by the fee (if any) specified by the Department in regulations made under section 21(2) (registration regulations).
- (5) A notice under subsection (1)(e) must include the information, documents and declaration under section 12(5)(a) and (b) (application requirements: relevant landlords).
- (6) A person who, without reasonable excuse, fails to comply with this section commits an offence.

Maximum penalty (summary) — a fine of level 4 on the standard scale.

- (7) The Department may by order amend this section.

Tynwald procedure – approval required.

## 20 Disclosure of registered status

- (1) A registered relevant landlord must, in all notices, advertisements or other documents issued by or on behalf of the landlord concerning the granting of a lease or licence for a rented dwelling or prospective rented dwelling, state —
  - (a) the fact that the landlord is registered;
  - (b) the landlord's registration number; and
  - (c) where applicable, the fact that the rented dwelling is registered as part of the relevant landlord's registration.
- (2) A person who, without reasonable excuse, fails to comply with subsection (1) commits an offence.

Maximum penalty (summary) — a fine of level 4 on the standard scale.

## 21 Registration regulations

- (1) The Department must make regulations specifying —
  - (a) the information required from a relevant landlord on applying for a registration;
  - (b) the information required from a landlord's representative in connection with an application for a registration; and
  - (c) any documents that must accompany an application for a registration.

Tynwald procedure – approval required.

- (2) The Department may make regulations specifying —
  - (a) the form in which an application for a registration must be made;
  - (b) any procedures to be followed with respect to an application for a registration;
  - (c) the form of, and any additional information to be included in, a notice issued under section 14 (determination of application: relevant landlords) or 15 (determination of application: rented dwellings);
  - (d) the form of, any additional information to be included in, or any procedures to be followed in connection with, a notice under section 19 (changes during the registration period) or the form in which the notice is to be given;
  - (e) any fee that is payable with respect to each relevant landlord or each rented dwelling of that landlord, or both —
    - (i) on the making of an application for registration; or
    - (ii) on an amendment of an entry on the register;
  - (f) any other matters the Department considers necessary or expedient to give effect to the proper functioning of the register



and registration application procedures and requirements under this Part.

Tynwald procedure – approval required.

- (3) The Department must publish any fees payable under regulations made under this section on its website or in any other manner it considers will bring the fees to the attention of those likely to be affected by them.

## **22 Access to information on the register**

- (1) A relevant landlord may, on request to the Department, be given access to all information on the register that concerns the landlord's entry on the register.
- (2) A landlord's representative may, on request to the Department, be given access to the following information held on the register –
  - (a) the landlord's representative's personal information; and
  - (b) information concerning a rented dwelling for which the landlord's representative acts as a landlord's representative.
- (3) The Department may make regulations specifying –
  - (a) any other information which may be accessed and by which persons;
  - (b) the terms on which information will be provided;
  - (c) the form in which requests for access to information on the register may be made;
  - (d) the means by which the register may be searched;
  - (e) any exceptions to the provision of information and the circumstances in which a request for access to information on the register may be refused;
  - (f) any procedures for appealing against a refusal of a request for access to information on the register;
  - (g) any fees payable for the provision of access to the register; and
  - (h) the form of any provision of information following a request.

Tynwald procedure – approval required.

## **PART 3 – MINIMUM STANDARDS**

### **23 Minimum standards**

- (1) The Department must make regulations for the purposes of section 11 (registration requirements), setting out the minimum standards required of –

- (a) a relevant landlord with respect to the management and operational matters involved in being a relevant landlord; and
  - (b) a rented dwelling with respect to the condition of the dwelling.
- Tynwald procedure – approval required.
- (2) Regulations made under subsection (1) may include, but are not limited to, the following matters and may be made with respect to the building, or any parts of the building, which is a rented dwelling or of which a rented dwelling forms part –
  - (a) matters which concern the safety of a rented dwelling;
  - (b) matters which concern the condition of a rented dwelling;
  - (c) minimum requirements with respect to a lease or licence;
  - (d) the provision of documentation and the keeping of records by a relevant landlord;
  - (e) the management by a relevant landlord of matters relating to maintenance and repair with respect to a rented dwelling; and
  - (f) the condition and inspection of any appliances or equipment in a rented dwelling, or of any of its fixtures and fittings, which are the responsibility of the relevant landlord.
- (3) Regulations made under subsection (1) may provide that a reference in the regulations to Manx legislation or to UK legislation that applies to the Island, or to a provision of Manx legislation or UK legislation that applies to the Island, is to be construed as a reference to the legislation or provision as amended from time to time.
- (4) Despite any provision in the *Landlord and Tenant Act 1954* applying to a relevant landlord, regulations made under subsection (1) may provide for it to be a minimum standard of a relevant landlord that a lease granted by the landlord in respect of a rented dwelling must be in writing.
- (5) The minimum standards are additional to, and do not otherwise affect, any existing statutory provisions concerning –
  - (a) a landlord or a tenant; or
  - (b) safety or other standards for dwellings or any type of housing.
- (6) The Department must bring the regulations to the attention of those likely to be affected by them in a manner the Department considers appropriate.

## 24 Compliance with minimum standards

- (1) A relevant landlord complies with the minimum standards only if the landlord complies with all the requirements of the minimum standards applicable to the relevant landlord.

- (2) A rented dwelling complies with the minimum standards only if it complies with all the requirements of the minimum standards to the extent that they apply to the dwelling.

## PART 4 – ENFORCEMENT

### DIVISION 1: UNREGISTERED RELEVANT LANDLORDS

#### 25 Unregistered relevant landlords

If the Department has reasonable grounds to believe that a person is an unregistered relevant landlord, it may issue a notice to the person containing the following matters –

- (a) that it has reasonable grounds to believe that the person is an unregistered relevant landlord;
- (b) the basis of those grounds;
- (c) that the person may –
  - (i) submit an application for a registration; or
  - (ii) make representations to the Department and provide any evidence or information in support of those representations on the question of whether the person is a relevant landlord,within 7 days of the date the notice was issued;
- (d) that if the person is an unregistered relevant landlord the person is committing an offence;
- (e) that if the Department is satisfied that the person is an unregistered relevant landlord, the Department may issue a notice of non-registration to –
  - (i) the person; and
  - (ii) the occupier of a rented dwelling in respect of which the person is an unregistered relevant landlord; and
- (f) the consequences of the issue of a notice of non-registration.

#### 26 Notice of non-registration

- (1) The Department may issue a notice (a “notice of non-registration”) to a person if –
- (a) it has issued a notice to the person under section 25 (unregistered relevant landlords);
  - (b) the person has not submitted an application for the registration specified in the notice within the period referred to in section 25(c);

- (c) the Department has considered any representations made by the person in respect of the notice or the period for making representations in respect of the notice has expired; and
  - (d) the Department is satisfied that the person is an unregistered relevant landlord.
- (2) A notice of non-registration must advise the recipient of the notice of the following matters —
  - (a) that the Department is satisfied the recipient is an unregistered relevant landlord in respect of a specified rented dwelling;
  - (b) the effect of being an unregistered relevant landlord for the rented dwelling;
  - (c) the date the notice takes effect;
  - (d) that the recipient must cease to act as an unregistered relevant landlord by seeking to be registered or by ceasing to be a relevant landlord;
  - (e) the rights of an occupier under section 44 (occupier may terminate lease or licence); and
  - (f) the right of the recipient to appeal, under Part 5, against the decision to issue the notice.
- (3) A copy of a notice of non-registration must be provided to the occupier of a rented dwelling to which the notice relates, with an explanation of the notice, its effects and how it affects the occupier, but failure to provide a copy of a notice under this subsection does not affect the validity of the notice.
- (4) A copy of a notice of non-registration must be provided to the landlord's representative (if any) acting for a relevant landlord in respect of the rented dwelling to which the notice relates.
- (5) A notice of non-registration takes effect on the date following the expiry of the period permitted for the making of an appeal against the notice under Part 5.
- (6) Subsection (5) is subject to section 49(4) (application and appeal to the Commissioners).

## **27 Disqualification of a relevant landlord**

- (1) This section applies if a court convicts a person of an offence under —
  - (a) section 7(2) (requirement for a relevant landlord to be registered);
  - (b) section 34(7) (compliance with an improvement notice); or
  - (c) section 37(1) or (2) (offences for breach of property management activity restrictions).

- (2) The court may (in addition to imposing a penalty under a section referred to in subsection (1)) by order disqualify the convicted person from applying for any registration under this Act for a period not exceeding 5 years.
- (3) A person may appeal against an order made under subsection (2) in the same manner as the convicted person may appeal against sentence.
- (4) If a person makes an appeal under subsection (3) —
  - (a) notice of the appeal must be provided to the Department; and
  - (b) the Department must be permitted to make submissions to the court regarding the appeal before the appeal is determined.
- (5) The court may stay the effect of an order made under subsection (2) pending the outcome of an appeal.
- (6) On an application by a person disqualified by an order under subsection (2), the court may by order revoke the order with effect from a date the court may specify, provided that the court is satisfied that there has been a change of circumstances justifying the revocation of the order.
- (7) An application may not be made under subsection (6) during the 12 months following the making of the order under subsection (2).
- (8) If the court makes an order under subsection (2) or subsection (6), a copy of the order must be provided by the court to the Department.

## DIVISION 2 – ENFORCEMENT OF MINIMUM STANDARDS

### 28 Authorised officers acting under this Division

When an authorised officer acting under this Division —

- (a) issues a notice;
- (b) takes enforcement action; or
- (c) receives any response to enforcement action,

the authorised officer must provide the Department with a copy of the notice issued, a record of the action taken and any response received.

### 29 Application of provisions of the Local Government Act 1985

- (1) Sections 37, 53 and 55 of the *Local Government Act 1985* apply for the purposes of this Division—
  - (a) as if a reference in those sections to a local authority were a reference to the Department; and
  - (b) as if an authorised officer were an officer of the Department.
- (2) Sections 38, 46, 47 and 49 of the *Local Government Act 1985* apply for the purposes of this Division —

- (a) as if a reference in those sections to a local authority were a reference to the Department; and
  - (b) as if the words “or occupier”, wherever occurring in those sections, were omitted.
- (3) Section 57 of the *Local Government Act 1985* applies for the purposes of this Division in respect of the enforcement of the minimum standards of a rented dwelling as if a reference in that section —
  - (a) to a local authority were a reference to the Department;
  - (b) to an owner were a reference to a relevant landlord; and
  - (c) to any enactment were a reference to this Division.

### 30 Inspection of documents

An authorised officer may, by giving a notice under section 57 (power to obtain documents and information), require a relevant landlord, or the landlord’s representative, to produce documents or other information that is necessary to evidence —

- (a) that the relevant landlord complies with the minimum standards;  
or
- (b) that the rented dwelling complies with the minimum standards.

### 31 Notice of non-compliance

- (1) An authorised officer may issue a notice of non-compliance to the relevant landlord if the authorised officer —
  - (a) considers that a relevant landlord or a rented dwelling does not comply with one or more of the applicable minimum standards; and
  - (b) is unable to agree the remedial action required, or the time period for such action to be taken, with the relevant landlord.
- (2) A notice of non-compliance must include —
  - (a) the name of the relevant landlord;
  - (b) the address of the rented dwelling (if applicable);
  - (c) an explanation why the authorised officer considers that the relevant landlord or rented dwelling does not comply with the minimum standards;
  - (d) an invitation to the relevant landlord to respond to the notice, within a stated period after the notice is given, by —
    - (i) making a submission explaining why the landlord does not consider remedial action is required; or
    - (ii) proposing action to remedy the non-compliance and the period within which the action can reasonably be taken;

- (e) a statement that, if the relevant landlord —
    - (i) does not respond to the notice;
    - (ii) does not make a submission or a proposal under paragraph (d); or
    - (iii) if a proposal that the authorised officer considers is satisfactory is made, does not carry out the remedial action proposed within the period agreed with the authorised officer,the authorised officer may issue an improvement notice under section 33 (improvement notices); and
  - (f) an explanation of the consequences of failing to comply with the minimum standards.
- (3) The authorised officer must give a copy of a notice of non-compliance to —
- (a) an occupier affected by the notice; and
  - (b) a landlord's representative acting for the relevant landlord or in respect of a rented dwelling to which the notice relates,
- but failure to provide a copy of the notice under this subsection does not affect the validity of the notice.

## **32 Response to a notice of non-compliance**

- (1) An authorised officer must consider any response to a notice of non-compliance from a relevant landlord and may consider any response from an occupier affected by the notice.
- (2) The authorised officer may —
  - (a) accept the landlord's submissions or proposed remedial action and agree with the landlord, where applicable, a reasonable period within which the remedial action must be taken; or
  - (b) issue an improvement notice to the relevant landlord.
- (3) An authorised officer must inform —
  - (a) the relevant landlord;
  - (b) any occupier of a rented dwelling to which the notice of non-compliance relates; and
  - (c) any landlord's representative acting for the relevant landlord or in respect of the rented dwelling to which the notice relates,of any decision taken by the officer under subsection (2).

### 33 Improvement notices

- (1) An authorised officer may issue an improvement notice to a relevant landlord if a notice of non-compliance has been issued to the relevant landlord and —
  - (a) the landlord has failed to respond to the notice of non-compliance;
  - (b) the landlord has failed to carry out the remedial action proposed in response to the notice of non-compliance within the agreed period; or
  - (c) the authorised officer is not satisfied with the landlord's response to the notice of non-compliance.
- (2) An improvement notice must include —
  - (a) the information in section 31(2)(a) to (c) (notice of non-compliance);
  - (b) the date of the notice of non-compliance issued under section 31(1);
  - (c) the date and outcome of the authorised officer's decision concerning any response made to the notice of non-compliance under section 32 (response to a notice of non-compliance);
  - (d) the reason why the improvement notice is issued and the contravention of the minimum standards that requires remedy;
  - (e) a statement of the period within which the relevant landlord must comply, or ensure that the rented dwelling complies, with the minimum standards specified in the improvement notice;
  - (f) a statement that a failure to comply with the improvement notice —
    - (i) is an offence; and
    - (ii) may result in revocation of the relevant landlord's registration, either in its entirety or in respect of a particular rented dwelling; and
  - (g) a statement that the relevant landlord has the right to appeal under Part 5 against —
    - (i) the decision to issue the improvement notice; and
    - (ii) the period specified in paragraph (e).
- (3) An improvement notice may include the action the authorised officer recommends for remedying the contravention of the minimum standards.
- (4) The authorised officer must give a copy of an improvement notice to —
  - (a) the occupier (if any) of a rented dwelling to which the notice relates; and



- (b) the landlord's representative (if any) acting for the relevant landlord or in respect of a rented dwelling to which the notice relates,

but failure to provide a copy under this subsection does not affect the validity of the notice.

- (5) The Department may by order amend subsection (2).

Tynwald procedure – approval required.

### **34 Compliance with an improvement notice**

- (1) If an improvement notice includes recommended action for remedying a contravention of the minimum standards, a relevant landlord is deemed to have complied with the notice if the landlord takes the recommended action within the required period.
- (2) Despite subsection (1), a relevant landlord may remedy a contravention of the minimum standards by taking action other than that recommended by the authorised officer.
- (3) If the authorised officer does not recommend remedial action, or a relevant landlord chooses to take different action to remedy the contravention of the minimum standards specified in the improvement notice, the landlord must take all the action necessary to remedy the contravention within the required period to comply with an improvement notice.
- (4) If an improvement notice concerns a rented dwelling that fails to comply with the minimum standards, the notice is effective against the relevant landlord who receives the notice and any subsequent relevant landlord of the dwelling, unless the notice is withdrawn.
- (5) Subsection (4) applies even if the required period for compliance with an improvement notice ended before a subsequent landlord became the relevant landlord of the rented dwelling.
- (6) An authorised officer may (whether on the application of the relevant landlord against whom an improvement notice is effective or otherwise) extend the period for compliance with the minimum standards specified in the improvement notice.
- (7) A relevant landlord against whom an improvement notice is effective commits an offence if the relevant landlord fails to comply with the notice.

Maximum penalty (summary) – 12 months' custody and a fine of 5 times level 5 on the standard scale.

- (8) In proceedings for an offence under subsection (7), it is a defence for a relevant landlord to prove that –

- (a) the contravention of the minimum standards to which the improvement notice relates was caused by the conduct of the occupier of the relevant rented dwelling; or
- (b) the occupier prevented the landlord from complying with the improvement notice.

### **35 Application of enforcement provisions in other legislation**

If a relevant landlord fails to comply with a notice to execute works with respect to a rented dwelling issued under any statutory provision (apart from a provision in or under this Act) relating to housing standards, the failure to comply is to be taken, for the purposes of section 41 (grounds for revocation), as if it were a failure to comply with an improvement notice in respect of the rented dwelling.

## **DIVISION 3 – BREACHES OF REGISTRATION REQUIREMENTS**

### **36 Application of Division**

This Division applies to —

- (a) the registration requirements in section 11(1)(c) to (e) (registration requirements); and
- (b) the conditions imposed on a relevant landlord's registration under section 14 (determination of application: relevant landlords).

### **37 Offences for breach of property management activity restrictions**

- (1) A registered relevant landlord commits an offence if the relevant landlord, without reasonable excuse, undertakes property management activity in breach of —

- (a) the registration requirements in section 11(1)(c) or (d); or
- (b) the conditions of the landlord's registration.

Maximum penalty (summary) — 6 months' custody and a fine of 5 times level 5 on the standard scale.

- (2) A registered relevant landlord commits an offence if the landlord, without reasonable excuse, —

- (a) permits a person other than the landlord's representative recorded on the landlord's register entry to undertake any property management activity; or
- (b) permits a landlord's representative to undertake any property management activity when notified by the Department that —
  - (i) it is not satisfied that the landlord's representative meets the personal conduct requirements; and

- (ii) its decision that it is not so satisfied has taken effect.

Maximum penalty (summary) — 6 months' custody and a fine of 5 times level 5 on the standard scale.

### **38 Duty to notify of changes affecting registration requirements and conditions of registration**

- (1) A registered relevant landlord must give notice to the Department of —
  - (a) the fact that a landlord's representative has ceased to act for the relevant landlord, where the landlord is required to nominate a landlord's representative to comply with —
    - (i) the registration requirements in section 11(1)(c)(ii) (registration requirements); or
    - (ii) the conditions imposed on the landlord's registration;
  - (b) the relevant landlord ceasing to be ordinarily resident in the Island; and
  - (c) any change in circumstance which causes the information provided by the landlord described in subsection (3) to become inaccurate.
- (2) A landlord's representative must give notice to the Department and to the relevant landlord for whom the landlord's representative acts of any change in circumstance which causes the information provided by the landlord's representative described in subsection (3) to become inaccurate.
- (3) The information referred to in subsections (1)(c) and (2) is the information provided by the relevant landlord or landlord's representative (as the case may be) under section 12 (application requirements: relevant landlords) to enable the Department to determine whether it is satisfied that the landlord or landlord representative meets the personal conduct requirements.
- (4) A notice under this section must be given as soon as practicable and in any event within 7 days beginning with the day on which the relevant landlord or landlord's representative (as the case may be) knew of the matter to which the notice relates.
- (5) A person who, without reasonable excuse, fails to comply with this section commits an offence.

Maximum penalty (summary) — a fine of level 4 on the standard scale.

### **39 Action on breach of requirement to have a landlord's representative**

- (1) If the Department becomes aware (whether by receipt of a notice under section 38(1)(a) or (b) (duty to notify of changes affecting registration requirements and conditions of registration) or otherwise) that a relevant

landlord does not have a nominated landlord's representative in circumstances where a landlord's representative is required in order to satisfy —

- (a) the registration requirements in section 11(1) (registration requirements); or
  - (b) the conditions of registration imposed on the relevant landlord, the Department must issue a notice to the relevant landlord.
- (2) The notice issued under subsection (1) must inform the relevant landlord that —
- (a) the relevant landlord is in breach of the registration requirements or the conditions of registration;
  - (b) the undertaking of any property management activity in breach of the registration requirements in section 11(1) or in breach of the landlord's conditions of registration is an offence and in consequence no such activity should be undertaken;
  - (c) the relevant landlord must rectify the breach by nominating a landlord's representative, and notifying the Department of the nomination, within the period specified in the notice; and
  - (d) failure to rectify the breach within the specified period may result in revocation of the landlord's registration.

#### **40 Action regarding personal conduct requirements**

- (1) On receipt of a notice under section 38(1)(c) or (2) (duty to notify of changes affecting registration requirements and conditions of registration), or if the Department otherwise has reasonable grounds to believe that the information described in section 38(3) is no longer accurate, the Department must decide whether it is satisfied that the relevant landlord or landlord's representative (as the case may be) continues to meet the personal conduct requirements.
- (2) Before making its decision, the Department may seek further information from the relevant landlord or, where the decision is in respect of a landlord's representative, the relevant landlord and the landlord's representative.
- (3) Before making a decision that it is not satisfied the personal conduct requirements are met, the Department must —
  - (a) inform the relevant landlord and (where the decision is in respect of a landlord's representative) the landlord's representative that it is no longer satisfied, on the evidence available to it, that the landlord or landlord's representative (as the case may be) meets the personal conduct requirements; and
  - (b) consider any representations made by the relevant landlord or landlord's representative (as the case may be) before the end of

the period of 7 days beginning with the date the landlord or the landlord's representative (as the case may be) was informed.

- (4) If the Department is not satisfied that the personal conduct requirements continue to be met by a relevant landlord, the Department must give notice to the relevant landlord that —
- (a) requires the relevant landlord to nominate a landlord's representative who meets the conditions in section 14(4) (determination of application: relevant landlords) as a condition of the continuance of the landlord's registration;
  - (b) requires the relevant landlord to nominate such landlord's representative within a specified period;
  - (c) advises the relevant landlord —
    - (i) that the undertaking by the landlord of any property management activity in breach of the registration requirement in section 11(1)(c)(ii) (registration requirements) is an offence;
    - (ii) that failure to comply with the requirements in paragraphs (a) and (b) may result in revocation of the landlord's registration;
    - (iii) of when the decision made under subsection (1) takes effect; and
    - (iv) of the relevant landlord's right to appeal the decision under Part 5.
- (5) If the Department is not satisfied that the personal conduct requirements continue to be met by a landlord's representative, the Department must give notice to the landlord's representative and the applicable relevant landlord —
- (a) that the undertaking of any property management activity by the landlord's representative is a breach of the registration requirements in section 11(1)(e);
  - (b) of the offence under section 37(2)(b) (offences for breach of property management activity restrictions);
  - (c) if the relevant landlord is required to nominate a landlord's representative to meet the registration requirements in section 11(1)(c)(ii), that the landlord must nominate a replacement landlord's representative within the period specified in the notice;
  - (d) if the relevant landlord is not required to nominate a landlord's representative to meet the registration requirements, that the landlord may nominate a replacement landlord's representative or undertake the property management activities without a landlord's representative;

- (e) that failure to comply with the requirements of the notice within the specified period may result in revocation of the relevant landlord's registration;
  - (f) of when the decision made under subsection (1) takes effect; and
  - (g) of the right of the relevant landlord to appeal the decision under Part 5.
- (6) Subject to the Commissioners staying the decision under section 49(4) (application and appeal to the Commissioners), a decision by the Department under subsection (1) that it is not satisfied that the personal conduct requirements are met takes effect following the expiry of the period permitted to a relevant landlord to make an appeal to the Commissioners.

#### DIVISION 4 – REVOCATION OF REGISTRATION

### 41 Grounds for revocation

- (1) Section 42 (revocation of registration) applies if the relevant landlord has—
- (a) made a declaration or provided information or a document in connection with the landlord's registration which is false, misleading or deceptive in a material particular, contrary to section 64 (false or misleading statements);
  - (b) failed to pay any fee in connection with the landlord's registration specified in regulations under section 21 (registration regulations);
  - (c) failed to comply with section 19 (changes during the registration period);
  - (d) failed to comply with an improvement notice, contrary to section 34(7) (compliance with an improvement notice);
  - (e) undertaken property management activity or permitted another to do so when prohibited under section 37 (offences for breach of property management activity restrictions);
  - (f) failed to comply with section 38(1) (duty to notify of changes affecting registration requirements) contrary to section 38(5);
  - (g) failed to comply with the requirements of a notice issued under section 39 (action on breach of requirement to have a landlord's representative);
  - (h) failed to comply with the requirements of a notice issued under section 40 (action regarding personal conduct requirements); or
  - (i) breached a condition of registration,
- whether or not the relevant landlord has been charged with, or convicted of, an offence in respect of a matter in this subsection.

- (2) Section 42 ceases to apply, and is taken never to have applied, to a relevant landlord with respect to a matter in subsection (1), if —
  - (a) the relevant landlord has been acquitted of an offence with respect to the matter; or
  - (b) any proceedings brought against the relevant landlord in relation to an offence with respect to the matter have been discontinued.

## **42 Revocation of registration**

- (1) Where this section applies, the Department may, subject to the provisions of this section, —
  - (a) revoke a relevant landlord's registration for a particular rented dwelling; or
  - (b) revoke a relevant landlord's registration in its entirety.
- (2) Before revoking a relevant landlord's registration under subsection (1) on any grounds other than those specified in section 41(1)(d) or (h) (grounds for revocation), the Department must —
  - (a) give notice to the relevant landlord, and any landlord's representative or occupier likely to be affected, of its intention to revoke the landlord's registration and the reasons why; and
  - (b) consider any representations made by the relevant landlord before the end of the period of 7 days beginning with the date the landlord was notified.
- (3) If the Department revokes a relevant landlord's registration under subsection (1), it must give notice to the relevant landlord of —
  - (a) its decision and the reasons for the decision;
  - (b) the date the decision takes effect;
  - (c) the effects of revocation for the landlord and any occupier of a rented dwelling affected by the revocation; and
  - (d) the landlord's right to appeal the decision under Part 5.
- (4) If the Department revokes a relevant landlord's registration under subsection (1), it must give notice of the revocation, the date the notice takes effect and the relevant landlord's right of appeal to —
  - (a) a landlord's representative recorded on the register as being nominated by the landlord for a rented dwelling affected by the revocation; and
  - (b) the occupier of a rented dwelling affected by the revocation,but failure to provide the notice under this subsection does not affect the validity of the notice of revocation under subsection (3).

- (5) The notice under subsection (3) and (4) must explain the effect of the revocation and the consequences of being an unregistered relevant landlord.
- (6) Subject to the Commissioners staying the effect of the notice under section 49(4) (application and appeal to the Commissioners), a revocation of registration under this section takes effect following the expiry of the period permitted to a relevant landlord to make an appeal to the Commissioners.

### **43 Effect of revocation of registration**

- (1) If a registration is revoked the registration ceases, or, if revoked only with respect to a particular rented dwelling, it ceases for the rented dwelling to which it applies.
- (2) A person who is a relevant landlord for a rented dwelling in respect of which registration has been revoked is an unregistered relevant landlord in respect of that dwelling.
- (3) A person whose registration has been revoked in its entirety —
  - (a) may not apply for registration as a relevant landlord for at least 12 months from the date that the revocation takes effect; and
  - (b) if an application is made following the period in paragraph (a) and is refused, may not make a further application for at least 12 months from the date the refusal takes effect.
- (4) A relevant landlord who is registered but whose registration has been revoked with respect to a particular rented dwelling may, at any time following the revocation, —
  - (a) invite an authorised officer to inspect the dwelling to assess whether it meets the minimum standards; and
  - (b) following such an inspection or otherwise, apply for registration in respect of the dwelling.

## **DIVISION 5 – OTHER ENFORCEMENT PROVISIONS**

### **44 Occupier may terminate lease or licence**

- (1) An occupier may terminate with immediate effect a lease or a licence in respect of a rented dwelling on the grounds that the landlord for the rented dwelling is an unregistered relevant landlord in respect of that dwelling.
- (2) An occupier's right under subsection (1) may be exercised —
  - (a) from the date of a disqualification order under section 27(2) (disqualification of a relevant landlord) in respect of the relevant landlord; or



- (b) from the date that any one of the following notices (a copy of which is provided to the occupier) takes effect —
  - (i) a notice under section 15(6) (determination of application: rented dwellings) that an application for the registration of the relevant landlord in respect of the rented dwelling has been refused;
  - (ii) a notice of non-registration under section 26(1) (notice of non-registration) which relates to the rented dwelling; or
  - (iii) a notice under section 42(4) (revocation of registration) that the relevant landlord's registration in respect of the rented dwelling is revoked.
- (3) A provision in a lease or licence —
  - (a) purporting to disapply, or to impose a penalty for exercising, an occupier's right to terminate a lease or licence under this section; or
  - (b) requiring notice of termination to be given where this section applies,is void and without effect.

#### **45 Circumstances when no rent is payable**

- (1) This section applies if—
  - (a) the Department issues a relevant notice;
  - (b) the notice has taken effect; and
  - (c) on the notice taking effect, the relevant landlord in receipt of the notice is an unregistered relevant landlord in respect of the rented dwelling to which the notice relates.
- (2) Where this section applies —
  - (a) despite the terms of a lease or licence for the rented dwelling to which the relevant notice relates, no rent is due or payable in respect of the rented dwelling from the date the relevant notice takes effect until the date this section ceases to apply; and
  - (b) the relevant landlord is not entitled to terminate the lease or licence of the rented dwelling or require an occupier to give up occupancy of the rented dwelling on the grounds of a failure to pay the rent during the period specified in paragraph (a).
- (3) Nothing in this section affects the right of a relevant landlord to terminate a lease or licence with an occupier on any grounds other than those mentioned in subsection (2)(b).
- (4) This section ceases to apply from the date the relevant landlord —
  - (a) is registered in respect of the rented dwelling; or

- (b) ceases to be a relevant landlord for that dwelling.
- (5) A relevant landlord must repay to an occupier any rent to which the relevant landlord is not entitled under this section, and if the landlord fails to do so, the rent is recoverable as provided in section 46 (recovery of rent).
- (6) The Department must, on issuing a relevant notice, inform all recipients of the notice of the effect of this section.
- (7) In this section —
  - (a) a “relevant notice” is one of the following notices —
    - (i) a notice under section 15(6) (determination of application: rented dwellings) that an application for registration in respect of a rented dwelling has been refused;
    - (ii) a notice of non-registration under section 26(1) (notice of non-registration); or
    - (iii) a notice of revocation of registration under section 42(4) (revocation of registration); and
  - (b) “rent” does not include an amount payable, or consideration due, for a service as specified in paragraph (b) of the definition of “rent” in section 3 (interpretation), where the amount payable, or consideration due, for a service is separately specified in the lease or licence.

#### **46 Recovery of rent**

If a relevant landlord receives rent to which the relevant landlord is not entitled under section 45 (circumstances when no rent is payable), that rent may be recovered from the landlord according to any statutory provision enabling its recovery, or otherwise as a debt.

#### **47 Part 4 regulations**

The Department may make such regulations as are necessary or expedient to give effect to this Part including to provide for —

- (a) the form of, and any additional information to be included in, a notice issued under this Part; and
- (b) any further procedural requirements with regard to the serving of a notice under this Part.

Tynwald procedure – approval required.

## PART 5 –APPEALS

### 48 Decisions subject to appeal

The following decisions are subject to an application and appeal by a relevant landlord under this Part —

- (a) a refusal to grant a registration of the relevant landlord under section 14 (determination of application: relevant landlords) or 18(5) (registration period, expiry and re-application);
- (b) a refusal to grant a registration of a rented dwelling under section 15 (determination of application: rented dwelling) or 18(5) as part of the relevant landlord's registration;
- (c) a decision to impose conditions on the registration of the relevant landlord or the registration of the relevant landlord in respect of a rented dwelling under section 14 or 15;
- (d) a decision to issue a notice of non-registration to the relevant landlord under section 26(1) (notice of non-registration);
- (e) a decision to issue an improvement notice under section 33(1) (improvement notices), or regarding the period within which such a notice must be complied with;
- (f) a decision to issue a notice under section 40(4) or (5) (action regarding personal conduct requirements); and
- (g) a decision to revoke the registration of the relevant landlord or the landlord's registration for a rented dwelling under section 42 (revocation of registration).

### 49 Application and appeal to the Commissioners

- (1) A relevant landlord who is not satisfied by a decision subject to appeal under this Part may appeal to the Commissioners against the decision.
- (2) An appeal to the Commissioners under this section —
  - (a) is by way of rehearing; and
  - (b) must be made and determined in accordance with rules of procedure.
- (3) Unless rules of procedure provide otherwise, an appeal to the Commissioners must be made within 21 days of the date of the notice of the decision.
- (4) The Commissioners may, on application by a relevant landlord, stay the effect of any decision for which an appeal is made under this Part pending the outcome of the appeal.
- (5) Notice of —
  - (a) an application to stay the effect of a decision; and

- (b) an appeal against a decision under this Part,  
must be copied by the Commissioners to the Department and the Department is a party to any proceedings before the Commissioners under this Part.
- (6) Rules of procedure may provide that a relevant landlord must give notice of the making of an application or appeal under this Part to any landlord's representative or any occupier of a rented dwelling to which the application or appeal relates.
- (7) Despite subsection (6), a notice of the making of an application or appeal under this Part must be given to an occupier of a rented dwelling to which the application or appeal relates when the application or appeal affects —
- (a) an occupier's rights under section 44 (occupier may terminate lease or licence); or
- (b) an occupier's liability to pay rent under section 45 (circumstances when no rent is payable).
- (8) On determination of an appeal under this section, the Commissioners may confirm, vary or revoke the decision appealed against.
- (9) Notice of the outcome of an application or appeal must, in accordance with rules of procedure, be given by the Commissioners to —
- (a) the relevant landlord;
- (b) the Department; and
- (c) the occupier of, and a landlord's representative (if any) for, a rented dwelling to which the application or appeal relates.
- (10) A notice under subsection (9) in respect of the outcome of an appeal must include a statement that the relevant landlord or the Department may appeal against the decision to the High Court on a question of law in accordance with subsection (12).
- (11) Without limiting subsection (12), a decision of the Commissioners on an appeal under this section is binding on the Department and the relevant landlord.
- (12) The Department or the relevant landlord may appeal to the High Court, in accordance with rules of court, from a decision of the Commissioners on a question of law.
- (13) In this section, "rules of procedure" means rules made under section 8 of the *Tribunals Act 2006* governing the procedure of the Commissioners for the purpose of enabling the Commissioners to carry out their functions under this Act.

**50 Nature of appeals**

- (1) Subject to subsection (2), in respect of an appeal against a decision to the Commissioners under this Part –
  - (a) unless the Commissioners order a stay of the effect of a decision under section 49(4) (application and appeal to the Commissioners), the making of an appeal does not stay the effect of the decision appealed against pending the outcome of the appeal; and
  - (b) a variation or revocation of the decision does not affect the previous operation of the decision or anything duly done or suffered under it.
- (2) In respect of an appeal to the Commissioners of a decision to issue a relevant notice, on a revocation or variation of the decision the Commissioners may determine the date from which rent is due or payable for the purposes of section 45 (circumstances when no rent is payable), which may be during the period the notice was in operation.
- (3) In this section, “relevant notice” has the same meaning as in section 45.

**51 Commissioners’ power to stay effect of outcome of appeal**

- (1) This section applies to an appeal against a decision described in section 48(1)(a), (b), (d) and (g) (decisions subject to appeal).
- (2) On confirming or varying a decision subject to an appeal to which this section applies, the Commissioners may stay the effect of the outcome of the appeal if they are satisfied that, in all the circumstances of the case and having regard to the matters specified in subsection (3), it is equitable to do so.
- (3) The matters to which the Commissioners must have regard under subsection (2) are –
  - (a) the length of the remainder of a lease or licence granted by the relevant landlord making the appeal in respect of a rented dwelling to which the appeal relates;
  - (b) the circumstances of –
    - (i) the relevant landlord making the appeal; and
    - (ii) an occupier of a rented dwelling to which the appeal relates,on the outcome of the appeal taking effect; and
  - (c) the application of section 45 (circumstances when no rent is payable) on the outcome of the appeal taking effect.
- (4) The Commissioners may stay the effect of the outcome of an appeal under this section for a maximum period of 3 months.

## PART 6 – OCCUPANCY DEPOSIT REGULATION AND PROTECTION

### 52 Meaning of “occupancy deposit”

In this Part, an “**occupancy deposit**” means any money paid by or on behalf of an occupier that is intended to be held (by a relevant landlord or otherwise) as security for —

- (a) the performance of any obligation of the occupier; or
- (b) the discharge of any liability of the occupier,

arising under or in connection with a lease or licence granted by a relevant landlord in respect of a rented dwelling.

### 53 Occupancy deposit protection schemes

- (1) With the concurrence of the Treasury, the Department may make a scheme for the purpose of safeguarding occupancy deposits.

Tynwald procedure – approval required.

- (2) The Department may, with the concurrence of the Treasury, make arrangements with a person, under which the person undertakes to administer and maintain a scheme made under subsection (1).
- (3) Arrangements made under subsection (2) may include arrangements for the remuneration of the person for administering and maintaining a scheme.

### 54 Scheme provisions

- (1) A scheme made under section 53 (occupancy deposit protection schemes) may contain such provisions as the Department considers appropriate for the proper functioning of the scheme.
- (2) Without limiting subsection (1), a scheme may make provision for —
  - (a) the powers and duties of a scheme administrator;
  - (b) the manner and circumstances in which an occupancy deposit must be paid, held and repaid under the scheme;
  - (c) authorising the Department to make payments, or to give guarantees or other assistance, in connection with —
    - (i) the creation, administration or operation of the scheme; or
    - (ii) the resolution of disputes relating to the scheme;
  - (d) making the scheme mandatory in the case of specified occupancy deposits;
  - (e) a fee to be charged in connection with the scheme, and to set the amount or maximum amount of the fee;

- (f) the procedures for the operation of the scheme and for any appeal to be brought against a decision of the scheme administrator;
- (g) requiring information to be provided to the Department, the scheme administrator or any other person for a purpose connected with the exercise of functions under the scheme, but any requirement for information must not contravene the data protection legislation;
- (h) sanctions for failure to comply with the scheme;
- (i) any exemptions or exceptions to specified requirements of the scheme; and
- (j) procedures for the resolution of disputes concerning the scheme.

## **55 Amount of occupancy deposits**

- (1) The Department may by regulations provide that a relevant landlord or person acting on the landlord's behalf must not require an occupier to make a payment in respect of an occupancy deposit in excess of an amount specified in the regulations.  
Tynwald procedure – approval required.
- (2) Regulations made under subsection (1) must specify the maximum amount of occupancy deposit permitted with reference to a number of weeks' rent.
- (3) A term of a lease or licence which breaches the regulations made under subsection (1) by requiring an occupier to make a payment in respect of an occupancy deposit in excess of the specified amount is not binding on an occupier in respect of the amount of the excess.
- (4) Where, and to the extent that, a term of a lease or licence is not binding on an occupier under subsection (3), the lease or licence continues, so far as practicable, to have effect in every other respect.

## **PART 7 – INFORMATION**

## **56 Monitoring of the private rented sector**

- (1) The Department has the function of monitoring the private rented sector in the Island for the purpose of –
  - (a) improving or targeting public services within the scope of its statutory functions to individuals and households within the sector; and
  - (b) informing strategic policy formulation with respect to the sector.
- (2) The Department may from time to time require information from –
  - (a) relevant landlords;

- (b) landlord's representatives; and
  - (c) persons who have an estate or interest in a rented dwelling,for the purpose of enabling the Department to carry out its function described in subsection (1).
- (3) The Department may, in addition, from time to time request information from such other persons as it considers necessary or expedient for the purpose of enabling it to carry out its function described in subsection (1).
- (4) The information which may be required or requested under this section —
  - (a) is additional to any information required under any other provision of this Act;
  - (b) may only be collected, collated and disclosed for the purposes described in subsection (1) and to —
    - (i) provide research data for the Department in connection with those purposes;
    - (ii) provide statistical analysis to Government; and
    - (iii) assist in the production of statistics for Government; and
  - (c) must be processed in accordance with the principle of data minimisation as that principle applies under the data protection legislation.
- (5) Section 57 (power to obtain documents and information) applies to the information required under this section but —
  - (a) is subject to this section; and
  - (b) does not apply to information requested under subsection (3).
- (6) In this section, "private rented sector" means —
  - (a) rented dwellings, or dwellings intended to be used as rented dwellings;
  - (b) the activities of a relevant landlord under a lease or licence in respect of a rented dwelling; or
  - (c) the activities of a relevant landlord or a landlord's representative in the undertaking of a property management activity.

## **57 Power to obtain documents and information**

- (1) The Department may exercise the powers in this section in relation to documents or information reasonably required by the Department for any purpose connected with the exercise of any of the Department's functions under this Act.
- (2) The Department may give notice to a relevant person requiring that person to produce a document or provide information which —



- (a) is specified or described in the notice or which falls within a category specified or described; and
  - (b) is, in the case of documents, in the person's custody or under the person's control or, in the case of information, known to the person.
- (3) A notice under subsection (2) may specify —
  - (a) the time and place for the provision of the document or information; or
  - (b) the form or manner in which information must be provided.
- (4) A notice under subsection (2) must advise the recipient of the matters in subsections (7) and (8).
- (5) A notice under subsection (2) may be given to a relevant person by an authorised officer in relation to documents or information reasonably required by the authorised officer for any purpose connected with the exercise of any of the authorised officer's functions under this Act.
- (6) The Department or an authorised officer may copy any document provided to it in accordance with a notice under this section.
- (7) No person may be required under this section to provide information or any document which the person would be entitled to refuse to provide in court proceedings on grounds of legal privilege.
- (8) A person who, without reasonable excuse, fails to comply with a requirement made to that person in a notice under this section commits an offence.

Maximum penalty (summary) — a fine of level 4 on the standard scale.
- (9) In this section, a "relevant person" is any of the following —
  - (a) a relevant landlord;
  - (b) a landlord's representative;
  - (c) a person who has an estate or interest in a rented dwelling.

## **58 Disclosure and sharing of information**

- (1) The Department may request that a specified body provides it with information or documents held by the body for the purpose of assisting the Department in the exercise of its functions under this Act.
- (2) Where a disclosure of information to the Department by a specified body is necessary or expedient for the purposes of this Act, the disclosure may be made despite any obligation as to confidentiality or other restriction on the disclosure imposed by statute or otherwise.
- (3) Accordingly, a disclosure made under subsection (1) does not breach —
  - (a) any obligation of confidence in relation to the information so disclosed; or

- (b) any other restriction on the access to or disclosure of the information.
- (4) The Department may disclose information acquired by it or an authorised officer under this Act to a specified body to the extent that the disclosure is necessary for the purpose of enabling the body to carry out its statutory functions in relation to housing, environmental health or public health or any function incidental to those functions.
- (5) In this section, a “specified body” is any one of the following —
  - (a) a Government Department;
  - (b) a Statutory Board; or
  - (c) a local authority.

## PART 8 - GENERAL

### 59 Data protection legislation not affected

Nothing in this Act authorises a disclosure in contravention of the data protection legislation of personal data which is not exempt from those provisions.

### 60 General powers

- (1) This Act is a relevant enactment for the purposes of section 35 of the *Local Government Act 1985* (powers to enter on land) and, for the purposes of this Act, a reference in that section to “a person authorised in writing” is a reference to an authorised officer.
- (2) Despite subsection (1), an authorised officer may not enter a rented dwelling unless —
  - (a) the occupier of the dwelling consents to the officer’s entry; or
  - (b) the officer has a warrant obtained under section 35 of the *Local Government Act 1985*.
- (3) Section 36 of the *Local Government Act 1985* applies for the purposes of this Act.

### 61 Powers on entry

- (1) This section applies when an authorised officer enters a rented dwelling under section 35 of the *Local Government Act 1985* —
  - (a) with the consent of its occupier; or
  - (b) under a warrant obtained under that section.
- (2) An authorised officer may do any or all of the following to monitor or enforce compliance with this Act —

- (a) examine or record by film, photograph or otherwise any part of the rented dwelling or the fixtures or furnishings at or within it;
  - (b) copy a document at the dwelling, or remove the document to copy it;
  - (c) remain at the dwelling only for as long as is reasonably necessary to achieve the purpose for which the entry was made; and
  - (d) take any step reasonably necessary to exercise a power under this subsection.
- (3) If an authorised officer removes a document from the rented dwelling to copy it, the officer must copy and return the document to the dwelling as soon as reasonably practicable.

## **62 Landlord and tenant laws and other laws not affected**

- (1) Unless otherwise expressly provided for in this Act, nothing in this Act affects —
- (a) the operation of any other statutory provision or rule of law applying to a relevant landlord, landlord's representative, tenant or licensee;
  - (b) the validity of a lease or licence, or the enforceability of a right or obligation under the lease or licence; or
  - (c) any rights of possession or occupation of a dwelling.
- (2) A relevant landlord is not entitled, subject to any rule of law or contract or other agreement with an occupier, to require an occupier to give up occupancy of a rented dwelling that the occupier is entitled to occupy in order that the landlord may —
- (a) take action to ensure that the rented dwelling meets the minimum standards; or
  - (b) comply with any requirements of Division 2 of Part 4 concerning the rented dwelling.

## **63 Statutory documents**

- (1) A scheme, order or regulations made under this Act may —
- (a) specify any fee payable for the performance of a function by the Department or an authorised officer under this Act or for an action taken by the Department or an authorised officer incidental to the performance of such a function;
  - (b) permit a person to exercise a discretion in respect of any matters specified in the scheme, order or regulations;
  - (c) contain any consequential, incidental, supplemental, transitional, transitory and saving provisions that the Department considers

necessary or expedient for the purposes of the scheme order, or regulations; and

- (d) provide for contravention of the scheme, order or regulations to be an offence with a maximum penalty on summary conviction of a fine not exceeding level 4 on the standard scale.
- (2) Before making or amending any regulations under this Act, the Department must consult the Department of Environment, Food and Agriculture.
- (3) Any fees received under a scheme, order or regulations made under this Act form part of the General Revenue.

## 64 False or misleading statements

A person commits an offence if the person knowingly or recklessly —

- (a) makes a declaration under this Act; or
- (b) provides information or a document under this Act, which is false, misleading or deceptive in a material particular.

Maximum penalty —

- (a) (summary) — 12 months' custody and a fine of 5 times level 5 on the standard scale; or
- (b) (on information) — 2 years' custody and a fine.

## 65 Protection from liability

- (1) An officer of the Department or an authorised officer is not liable in damages for anything done or omitted to be done by the officer or authorised officer in the performance or purported performance of a function the officer is permitted or authorised to perform under this Act.
- (2) Subsection (1) does not apply if the act or omission —
  - (a) is shown to have been in bad faith; or
  - (b) is unlawful under section 6 of the *Human Rights Act 2001*.
- (3) This section does not affect any other exemption from liability for damages, whether at common law or otherwise.

## 66 Guidance

- (1) The Department may issue guidance about any of the provisions of this Act or any schemes, regulations or orders made under this Act for the purpose of assisting landlords or other persons affected by the Act or any statutory provision made under it.

- (2) The Department must publish guidance issued under this section on its website or in a manner the Department considers will bring it to the attention of those likely to be affected by it.

Consultation Draft



**SCHEDULE**

[Section 6]

**CONTENT OF THE REGISTER****1 Information on register entry for each relevant landlord**

An entry in the register concerning a relevant landlord must record the following —

- (a) the name and correspondence address of the relevant landlord;
- (b) if the landlord is an individual, the landlord's principal residential address;
- (c) if the landlord is a body corporate or foundation—
  - (i) the address of the landlord's registered or principal office; and
  - (ii) the names of the landlord's directors (in the case of a body corporate) or members (in the case of a foundation) and key officers (within the meaning given in section 16(3) (personal conduct requirements));
- (d) the relevant landlord's registration number;
- (e) the date of initial registration;
- (f) the date of each subsequent grant of registration, if applicable;
- (g) any conditions on the registration;
- (h) where registration has expired, the date of expiry;
- (i) where an application for registration was refused —
  - (i) the fact and date of refusal;
  - (ii) the reasons for the refusal; and
  - (iii) whether the refusal was appealed against and the outcome of any appeal;
- (j) where registration has been revoked under section 42 (revocation of registration) —
  - (i) the fact and date of the revocation;
  - (ii) the reasons for the revocation; and
  - (iii) whether the decision to revoke registration was appealed against and the outcome of any appeal;
- (k) details of any enforcement action taken under Part 4 concerning the relevant landlord and whether the action was appealed against and the outcome of any appeal;
- (l) the date of any changes in the details of the register and the date the Department was notified of such change; and

- (m) details of any notices issued to the relevant landlord, including the date of the notice and the date the notice takes effect.

## **2 Information on a landlord's representative in register entry**

If a relevant landlord nominates a landlord's representative, the landlord's entry in the register must record the following —

- (a) the name and correspondence address of any person nominated by the relevant landlord as a landlord's representative, and the address of each registered rented dwelling to which the nomination relates;
- (b) if the landlord's representative is an individual, the representative's principal residential address;
- (c) if the landlord's representative is a body corporate or foundation—
  - (i) the address of the landlord's representative's registered or principal office; and
  - (ii) the names of the landlord's representative's directors (in the case of a body corporate) or members (in the case of a foundation) and key officers (within the meaning given in section 16(3) (personal conduct requirements));
- (d) the date of a nomination of a landlord's representative and the date the Department was notified of the nomination;
- (e) the date that a landlord's representative ceased to act for a relevant landlord and the date the Department was notified that the landlord's representative had ceased to act; and
- (f) details of any notices issued to the landlord's representative under section 40(5) (action regarding personal conduct requirements), including the date the notice was issued and the date it takes effect.

## **3 Information on rented dwellings in register entry**

A relevant landlord's entry in the register must record the following concerning the each rented dwelling which is registered as part of the relevant landlord's registration —

- (a) the address of the rented dwelling;
- (b) a description of the building of which the rented dwelling forms the whole or a part;
- (c) the number of bedrooms in the rented dwelling;
- (d) the name and correspondence address of any person other than the relevant landlord who has an estate or interest in the rented dwelling;



- (e) the date of initial registration;
- (f) the date of each subsequent grant of registration;
- (g) any conditions on the grant of registration;
- (h) where registration has expired, the date of expiry;
- (i) where an application for registration of the rented dwelling was refused —
  - (i) the fact and date of refusal;
  - (ii) the reasons for the refusal; and
  - (iii) whether the refusal was appealed against and the outcome of any appeal;
- (j) where the registration of the rented dwelling has been revoked under section 42 (revocation of registration) —
  - (i) the fact and date of the revocation;
  - (ii) the reasons for the revocation; and
  - (iii) whether the decision to revoke registration was appealed against and the outcome of any appeal;
- (k) details of any enforcement action taken under Division 2 of Part 4 concerning the rented dwelling and whether the action was appealed against and the outcome of any appeal; and
- (l) the date and details of any changes with regard to the registration of the rented dwelling and the date the Department was notified of such change.