



**Isle of Man
Government**

Reiltys Ellan Vannin



**Public Consultation on the
Landlord Registration
(Private Housing) Bill 2020**

Department of Infrastructure

bun-troggalys

June 2020

Introduction by Minister of Infrastructure

Currently the Isle of Man does not have any formal regulation of the private rented sector other than enforcement of habitation standards which are overseen by the Environmental Health Team of the Department for Environment, Food and Agriculture on behalf of the Island's Local Authorities.

According to the last census of 2011 the private housing rental sector provides homes for about 16% of the population, equivalent to about 5,750 homes.

Whilst I have no doubt that the vast majority of landlords provide a good service and decent accommodation, there are unfortunately a number of privately rented properties which are in a substandard condition, and are often housing some of the most vulnerable in our society. It is important that as a nation, we are able to support the sector as it provides accommodation for so many people.

Bringing forward this Landlord Registration Bill will enable the Government to know which private landlords are operating on the Island, to collect the details on the number and location of privately rented properties and to bring about a consistent standard within the sector to benefit both landlord and tenant in the longer term.

I would strongly urge you to take the time to read the draft Bill and use this consultation as your opportunity to voice your opinion.

I welcome your feedback.

Hon Tim Baker MHK

Minister for Infrastructure

Why we are consulting

The purpose of this consultation is to invite comments on the Landlord Registration (Private Housing) Bill 2020.

Background

Isle of Man 2011 Census data indicated that around 16% of households on the Island are in the private rental sector.

Whilst the majority of those households are likely to be living in acceptable and appropriate housing with amenable landlord and tenant relationships, unfortunately there are a number of private sector rented properties which are known to be in poor repair and do not achieve standards of basic decency.

Since 2013 there has been a voluntary registration scheme and this has developed into a register of over 131 landlords with 334 properties. However this figure falls well short of the anticipated total, meaning that the true profile of the sector is unknown.

Isle of Man Government's Programme for Government

Landlord Registration supports the Programme for Government theme 'Inclusive and Caring Island', and the outcome 'We have affordable and accessible housing which meets our social and economic needs, in particular as part of the enabling work to progress a rent deposit protection mechanism'. Without the detailed knowledge of the private rental market via landlord registration it would be difficult to progress and enforce deposit protection.

A related outcome of the Programme for Government 'We are tackling the inequalities in our Island society' is that the Treasury, via Social Security benefits, pays rent to many private sector landlords. It is estimated that as of 2019 approximately £4.5m per annum is being paid to private sector landlords specifically for housing costs without any guarantee or knowledge of the quality of accommodation being provided.

How to complete the Consultation

A survey is available for you to complete and has been designed to follow the sections of the Bill as they are listed in the Index. For ease of reference, links to parts of the Bill relating to each section or other relevant information, such as the Minimum Standards Regulations, will be provided throughout the online survey.

The consultation can be completed online via the Consultation Hub (consult.gov.im) or alternatively by post or email to:

By post: Carrie Yates, Business Support Manager, 1st Floor Sea Terminal, Douglas, Isle of Man, IM1 2RF

By email: landlordregistration@gov.im

The consultation should be read in conjunction with the following documentation:

- **Appendix A** – Draft Landlord Registration (Private Housing) Bill 2020
- **Appendix B** – Draft Minimum Standards Regulations
- **Appendix C** – Enforcement Divisions Summary Table

In the event you do not have access to the internet, or would prefer a hard copy, please contact the above address and likewise if you require assistance to complete the consultation.

The closing date for responses is 5pm on Monday 27th July 2020

What will happen next?

After the consultation, the responses will be considered by the Department and any necessary amendments will be made to the draft Bill before being finalised and laid before Tynwald.

A summary of the responses will be posted on the Consultation Hub once they have been reviewed.

Consultation Survey

Personal Information

Q1. What is your name?

Q2. Can we publish your response?

- Yes, you can publish my response in full
- Yes, you can publish my response anonymously
- No, please do not publish my response

Please read our Privacy Policy (<https://www.gov.im/about-the-government/departments/cabinet-office/privacy-notice/>) for more details and your rights.

Q3. What is your email address?

Q4. If you are completing the survey as an individual, please select the category that describes you best (please select one option)

- | | |
|--|---|
| <input type="checkbox"/> Politician (national) | <input type="checkbox"/> Politician (local) |
| <input type="checkbox"/> Private Landlord | <input type="checkbox"/> Homeowner |
| <input type="checkbox"/> Tenant (private sector) | <input type="checkbox"/> Health or Welfare Professional |
| <input type="checkbox"/> Tenant (public sector) | |
| <input type="checkbox"/> Other (please specify) | <input type="text"/> |

Q5. If you are completing the survey on behalf of an organisation, please provide the name of the organisation.

Q6. What type of organisation do you represent? (Please select one option)

- Local Authority
- Private Sector Letting Agent
- Private Sector Tenant Association or Group
- 3rd Sector Housing Charity
- Other (please specify)

Please continue to the consultation survey

Landlord Registration (Private Housing) Bill 2020

Part 1 - Introductory (pages 5 – 9 of the Bill)

The Introductory section of the Bill sets out the general objectives of the Bill, including when it will commence and definitions of technical terms used.

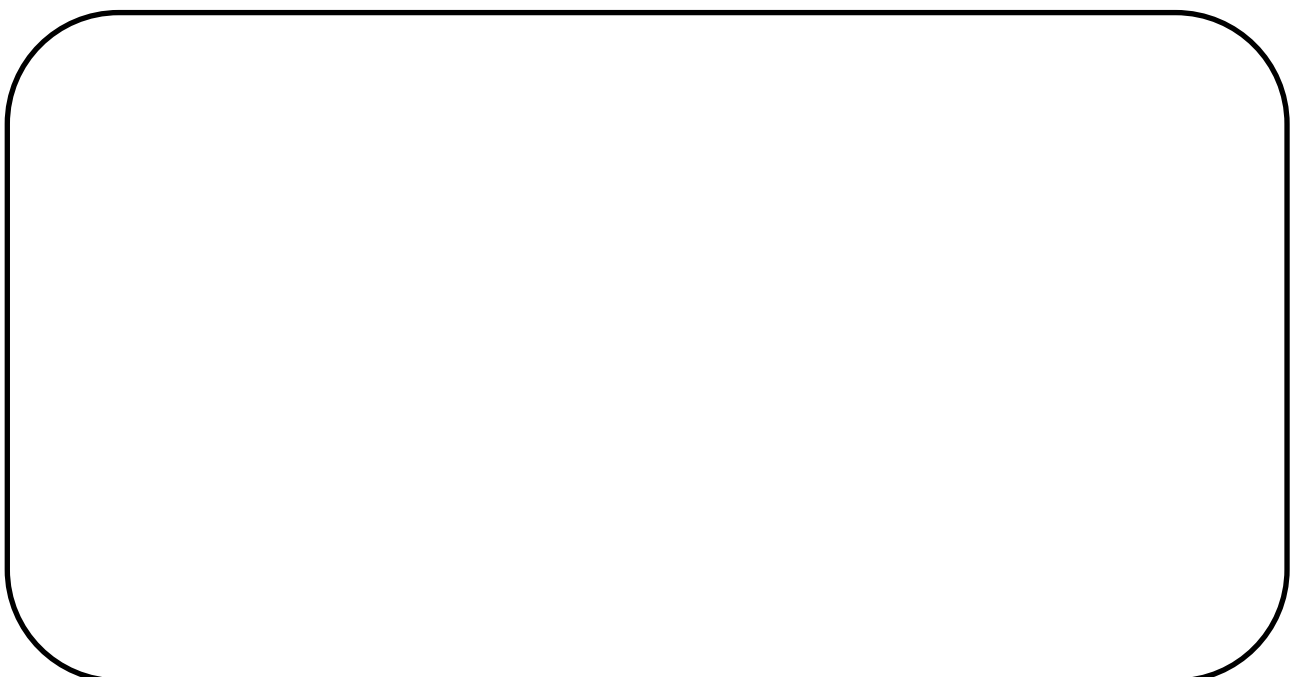
In summary, the Bill will provide for:

- The creation of a register of landlords that rent out privately owned property;
- Enforcement of minimum standards relating to both a registered landlord and the property;
- The creation and regulation of a rent deposit protection scheme, and
- Monitoring of the private rented sector.

Certain provisions of the Bill, in particular, the regulation and protection of occupancy (rent) deposits, may be implemented at a later date to be decided by the Department; however, your views are being sought now in order to help determine how they may work in practice and to provide the opportunity for early engagement in any future policy development.

This part of the Bill also describes what is meant by 'property management activity' which includes activities undertaken by the registered landlord or their representative in connection with an occupier's occupancy or intended occupancy of a rented dwelling; the activity requires direct contact between the landlord or their representative and the occupier or member of their household and includes things such as property viewings with prospective tenants and making arrangements to carry out repairs.

If you wish to make any comments on the introductory section of the Bill, please provide them in the box below:



Part 2 - The Register and Registration (pages 9 – 25 of the Bill)

The Department will establish and maintain a register for all private landlords and each of their rented properties.

A relevant landlord is defined as a person who, under a lease or 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.

What follows is a summary of the provisions as set out in detail in the Bill.

Relevant Landlords

A relevant landlord is defined as a landlord of a rented dwelling who is registered, or required to be registered, under clause 7 (1) of the Bill, and therefore does not meet any of the exceptions to registrations as listed below. When the Landlord Registration Bill comes into force relevant landlords will be required to apply for registration to the Department in order to legally operate as a landlord in the Isle of Man.

There are some exceptions and deferrals from registration for example, business tenancies and agricultural holdings. A full list of exceptions can be found at page 10 of the Bill.

Personal Conduct Requirements

In order to become registered, landlords must reside permanently in the Isle of Man (or else must appoint a satisfactory representative). Registered landlords or their nominated representative must meet the following Personal Conduct Requirements:

Has not committed any offences involving fraud, dishonesty, violence, firearms, drugs or any offences under the Sexual Offences Act 1992	No evidence of practicing unlawful discrimination, harassment or victimisation on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation
No contravention or offences under housing related law within 3 years prior to application	Any other matter the Department considers relevant to the circumstances including any offences committed within other countries or jurisdictions.

Registration requirements

In order to qualify for registration a landlord must meet the required Personal Conduct Requirements, and their properties and tenancy management activities must meet the Minimum Standards (Part 3 of the Bill). A landlord's registration will be subject to a fee and will last for a period of 5 years before it will require renewal. In order to obtain registration landlords will complete an application form, provide supporting documentation and sign a declaration to confirm

that they are providing true information and that their properties are being let to the required standards.

Landlord's appointed representative

Landlords who do not ordinarily reside in the Isle of Man are required to nominate a representative, who must be accepted by the Department, to carry out all of their property and tenancy management duties. The representative must meet all of the Personal Conduct Requirements.

The Voluntary Landlord Registration Scheme

Landlords currently registered on the Voluntary Landlords Registration Scheme will automatically be treated as registered, as will any rented dwellings they have registered (when the Landlord Registration Bill is passed). The automatic move to the mandatory scheme will be subject to that Landlord completing a declaration of agreement within six months of their registration being transferred under the new legislation.

Changes during registration period

Landlords will be required to notify the Department of any changes to their personal details, property details, changes of property ownership or the details of any appointed representatives. A full list of changes can be found on pages 22 to 23 of the Bill.

Disclosure of Registration

Landlords will be required to include their unique landlord registration number in advertisements of properties to let to demonstrate that they are registered.

Q7. Are the personal conduct requirements reasonable?

YES

NO

If you have answered 'No' please specify your reason here:

Q8. The Bill states that a landlord's period of registration is 5 years, after which it must be renewed. Is this a reasonable time period?

YES

NO

If you have answered 'No' please specify your reason here:

If you wish to make any further comments about the Register and Registration section of the Bill, please do so here:

Part 3 - Minimum Standards (pages 25 – 27 of the Bill)

A series of Minimum Standards Regulations (**Appendix B**) will be applied to the landlord's management and operation, and property portfolio. The Minimum Standards Regulations are a supporting regulation of the Landlord Registration Bill.

These standards will be in addition to existing regulations and duties under fire safety, flats, and houses in multiple occupation legislation covered in The Local Government Act 1985 and The Housing Act 1955.

Minimum Standards for Landlords

The Regulations state that a landlord must meet a range of minimum standards which cover requirements for the tenancy agreement, for example, requirements for a rent book or similar style of record keeping and an itemised inventory of items to be used by an occupant.

The landlord is also required to keep records of their tenancy management such as occupancy records and records of complaints.

A relevant landlord must not discriminate against occupiers or prospective occupiers on the grounds of any of the protected characteristics linked to the Equality Act 2017.

Minimum Property Standards

These are standards that registered landlords must ensure that their properties comply with. The standards are listed in Schedule 2 of the Minimum Standards Regulations.

Safety Standards

Schedule 3 of the Minimum Standards Regulations lists the safety standards that landlords are required to adhere to. This includes, for example, safety standards for electrical, gas, oil and solid fuel installations and appliances and the frequency at which the safety of these appliances should be reviewed or serviced.

It will be necessary for landlords to retain records of the servicing and maintenance of these installations and appliances for at least six years and copies of these certificates may be requested by an authorised officer of the Department.

If you wish to add any comments about the Minimum Standards (Regulations), please do so here:

Part 4 - Enforcement (pages 27 – 42)

The Enforcement section of the Bill is set out into five divisions. **Appendix C** (Enforcement Division Summary Table), explains what each Division covers and the enforcement action that could be taken. Special regard should be taken of this section of the Bill.

The landlord or their representative is initially given an opportunity to remedy the situation within an agreed timeframe. Failure to comply with the notice may lead to further action being taken by the Department and/or court action which may lead to revocation of registration, disqualification for up to five years or in extreme cases, a fine and/or imprisonment for the most serious offences.

Other legislation provisions of Local Government Act 1985 and Housing Act 1955 may be used and will override the terms of the Landlord Registration Bill in cases that are applicable.

Q9. Division 1 relates to registration. Do you think the provisions in this Division are fair and reasonable?

YES

NO

If you wish to add any further comments, please do so here:

Q10. Division 2 relates to Minimum Standards. Do you think the provisions in this Division are fair and reasonable?

YES

NO

If you wish to add any further comments, please do so here:

Q11. Division 3 relates to Breaches of Registration Requirements. Do you think the provisions in this Division are fair and reasonable?

YES

NO

If you wish to add any further comments, please do so here:

Q12. Division 4 relates to Revocation of Registration. Do you think the provisions in this Division are fair and reasonable?

YES

NO

If you wish to add any further comments, please do so here:

Q13. Division 5 relates to other enforcement action. Do you think the provisions in this Division are fair and reasonable?

YES

NO

If you wish to add any further comments, please do so here:

Q14. One of the potential penalties is that a Landlord who fails to comply with an improvement notice, may be subject to legal action with the maximum penalty of 12 months' custody and a fine of up to £50,000. Do you think this is fair and reasonable?

YES

NO

If you wish to add any further comments, please do so here:

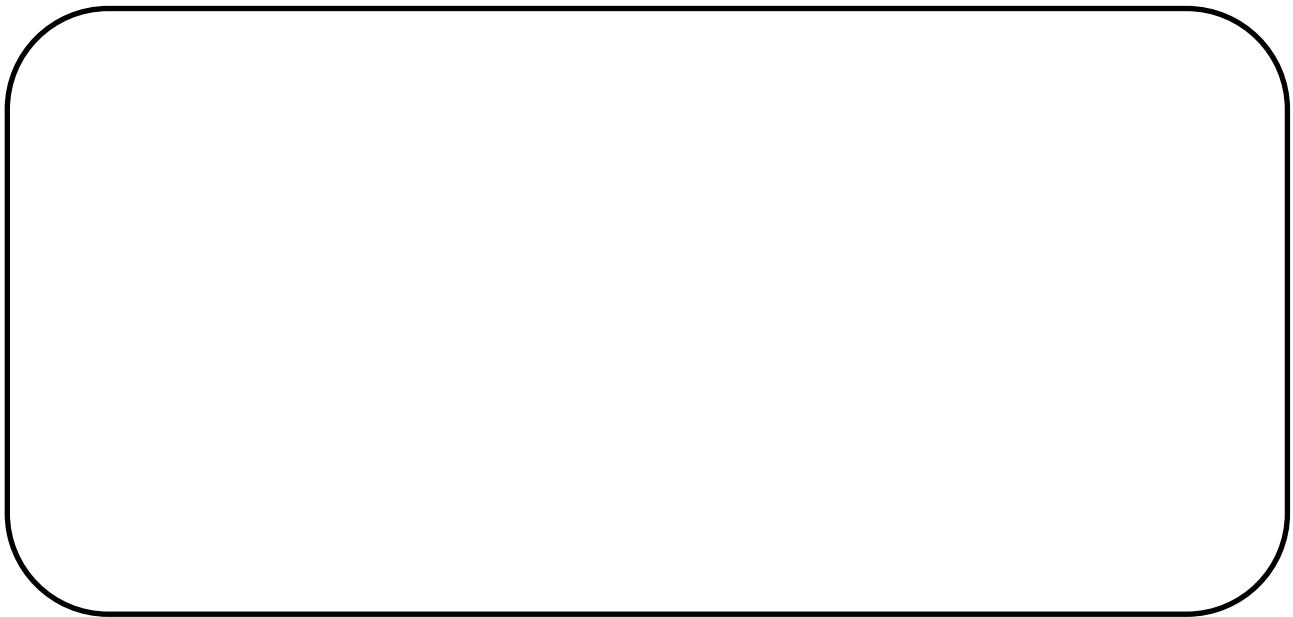
Q15. An option is that a Landlord who fails to comply with an improvement notice, may be subject to legal action with disqualification up to five years. Do you think this is fair and reasonable?

YES

NO

If you have answered 'No' to this question, please specify your reason here:

If you wish to add any further comments about the Enforcement section of the Bill, please do so here:



Part 5 – Appeals (pages 43 – 46)

The Appeals section of the Bill sets out the process by which a relevant landlord may appeal a decision made against them.

Decisions subject to appeal

The following Departmental decisions are subject to appeal by a landlord:

- Refusal to grant a registration to a relevant landlord
- Refusal to grant a registration of a rented dwelling
- A decision to impose conditions on the registration of the relevant landlord or rented dwelling
- A decision to issue a notice of non-registration to the relevant landlord
- A decision to issue an improvement notice relating to the minimum standards or regarding the period within which such a notice must be complied with
- A decision to issue a notice regarding personal conduct requirements
- A decision to revoke the registration of the relevant landlord or the landlord’s registration for a rented dwelling

Application and appeal to the Commissioners

A landlord must make an appeal to the Isle of Man Rent and Rating Appeal Commissioners (“the Commissioners”) against a notice issued by the Department within 21 days of receipt of the notice.

On determination of the appeal, the Commissioners may confirm, vary or revoke the decision appealed against by the landlord. Their decision is binding on the landlord and the Department; however both parties may appeal to the High Court in certain circumstances.

Q16. Do you agree with what is on the list of decisions that are subject to appeal?

YES

NO

If you wish to add any further comments, please do so here:

If you wish to add any further comments about the Appeals section of the Bill, please do so here:

Part 6 – Occupancy Deposit Regulation and Protection (pages 46 – 47)

It is the intention of the Department that a Deposit Protection Scheme should be established in the Isle of Man following approval of the Landlord Registration Bill.

Part 6 of the Bill has been drafted to enable future provision of a deposit protection scheme. This would be implemented as supporting regulation of the Landlord Registration Bill and will be subject to Tynwald approval. The scheme would enable the protection of tenant deposits, usually paid at the time of taking out a tenancy.

A deposit is classified as a sum of money which acts as a guarantee against—

- damage to the property;
- cleaning bills if the property is left in a poor condition;
- bills that are left unpaid, like fuel or telephone bills; and
- unpaid rent.

Deposit protection schemes are primarily designed to hold or monitor deposits on behalf of landlords and tenants, to ensure that the tenant receives their money back when they vacate the property or in cases where funds are held back, that this process is fair and within relevant laws and regulations.

Deposit protection schemes can also offer other services such as mediation and dispute resolution. Some examples of other schemes operating in neighbouring jurisdictions are:

- England - www.mydeposits.co.uk
- Scotland- www.safedepositscotland.com
- Jersey - www.mydepositsjersey.je

The regulation for deposit protection may also include a cap for the maximum allowable amount that a landlord is permitted to charge for a deposit, with the intention that it will be specified as a defined maximum amount of weeks' rent.

The Bill allows the Department to consider operating the scheme by the Government or appointing a third party to administer the scheme on their behalf.

Q17. Do you support the principle of a Rent Deposit Protection Scheme in the Isle of Man?

YES

NO

If you wish to add any further comments, please do so here:

Q18. Should there be a maximum amount that a landlord is able to charge tenants as a deposit?

YES

NO

If you have answered 'No' to this question, please specify why here:

If you have answered yes then please answer Q19

If you have answered no, please continue to Q20

Q19. Please select an option for what you think the maximum weeks' rent is suitable to charge as a deposit?

4 weeks

6 weeks

8 weeks

Other timescale

Q20. The Scheme should be operated by (please select 1 option)

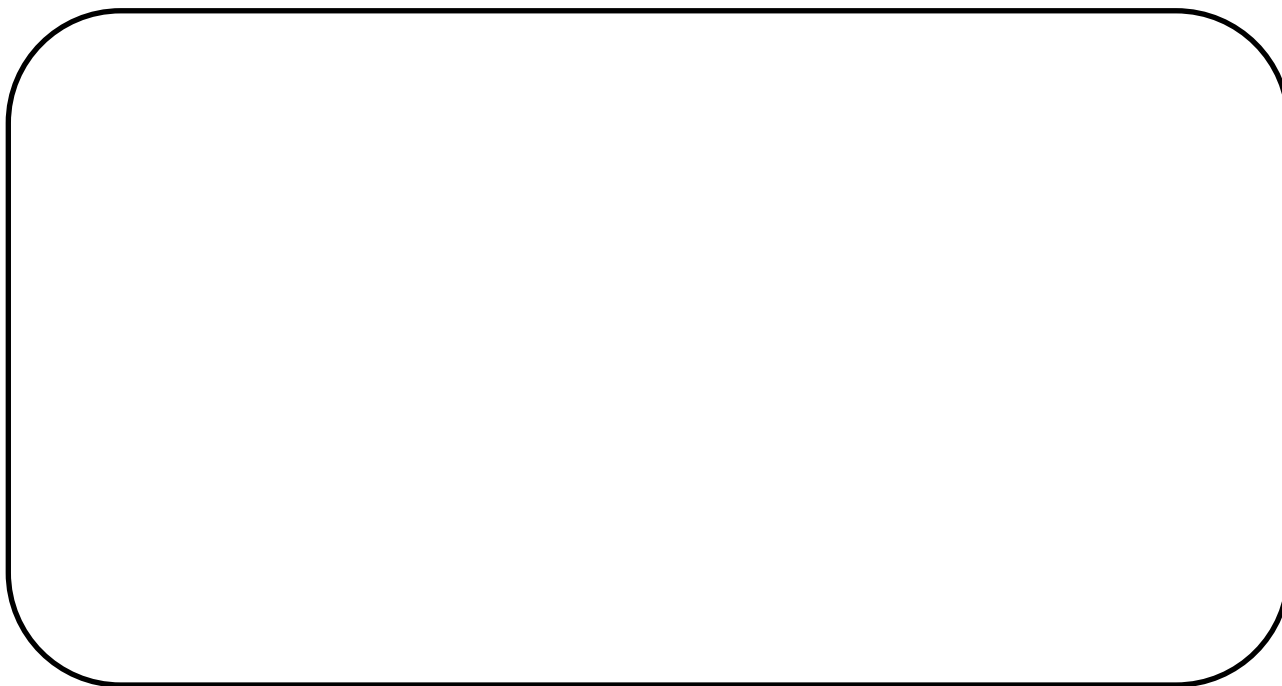
Government

Third Party organisation e.g. My Deposit

Other (please specify below)

Please tell us more about the reasons for your selection in the box below:

If you wish to add any further comments about the Occupancy Deposit Regulation and Protection section of the Bill, please do so here:



Part 7 – Information (pages 47 – 50)

Monitoring the private rented sector

This part of the Bill outlines the powers the Department has in respect of obtaining the necessary documentation from relevant landlords, their nominated representatives or other persons noted as having a relevant interest in a rented dwelling.

The purpose of the collection of data and relevant information is to enable the Department to develop and improve services.

Information requested by the Department, will ordinarily be used for anonymised statistical data gathering. In the unlikely event that personalised data is to be published the Department will only do so in accordance with the General Data Protection Regulations; which include seeking permission to do so.

Power to obtain documents

In order to exercise any of the functions within the Landlord Registration Bill the Department will require documentation to be provided by applicants and other parties. If a person is not willing to supply the Department with documents reasonably and lawfully requested then the Department could issue notices to enforce this request. If refusal still occurs then, in the most extreme cases, this will be an offence which could result in a fine of up to £5000.

Disclosure & sharing of information

The Department is permitted to request information from a specified body or organisation for the purpose of ensuring the Bill is acted upon. The body will be required to supply the information requested, despite confidentiality obligations.

The Department may also be required to disclose information it holds on the register, where it is necessary to the statutory functions of the Government, Statutory Board or Local Authority, or where there is a specific request for information in accordance with regulations made under Clause 22 of the Bill.

Q21. Failure to comply and to provide relevant documentation will result in a maximum penalty of £5000 as ordered by the Courts. Do you think this is fair?

YES

NO

If you have answered 'No', please give your reason why here:

Q22. The £5000 penalty is applicable to a landlord or their representative, and any person who has an estate or interest in a rented dwelling. Is it fair that this penalty should apply to any person who has an estate or interest in a rented dwelling?

YES

NO

If you have answered 'No', please give your reason why here:

If you wish to make any other comments about the Information section of the Bill, please provide them in the box below:



Part 8 - General (pages 50 – 52)

This section covers the general powers and supporting law or regulation within which the Landlord Registration Bill will operate. Nothing within the Bill affects other statutory law relevant to landlords, landlord representatives, tenants or licensees or their rights to occupy a dwelling.

Powers of entry: Under the existing Local Government Act 1985 an authorised officer can only enter a dwelling with the consent of the occupier or with a warrant obtained under the Local Government Act 1985.

Upon entering a dwelling an authorised officer is permitted to:

- Examine or record film, photographs and documents
- Copy documents or remove documents (to be returned to the occupier)
- Remain at the dwelling only as long as reasonable

Statutory documents: Any scheme, order or regulation made under the Bill can include:

- Discretion in respect of the specific parts of a scheme, order or regulation
- Allow the Department to add saving provisions into the schemes or supporting regulations

False or misleading statements: It is an offence to provide false or misleading information relating to this Act or its subsequent regulations.

Guidance: The department will issue guidance about any provisions of the Act and its subsequent schemes, this information will also be published on our website.

If you wish to make any comments about the General section of the Bill, please provide them in the box provided.

Schedule – Content of the Register (pages 53 – 55)

The Schedule at the end of the Bill informs what content must be held on the Register about:

- The relevant landlord,
- The landlord’s representative if applicable, and
- Each rented dwelling which is registered as part of the landlord’s registration

If you wish to make any comments about the Content of Register Schedule, please provide them in the box below:

Thank you for completing this survey

If you would like to add any further comments about the Landlord Registration (Private Housing) Bill 2020, please use the comment box on the next page to do so.

