

LANDLORD REGISTRATION (PRIVATE HOUSING) BILL 2020

Explanatory Memorandum

1. This Bill is promoted by Mr. Baker M.H.K.
2. The purpose of this Bill is to provide for the registration of landlords of private rented dwellings, for registered landlords and the properties they rent out to be required to meet certain minimum standards and for the related enforcement mechanisms; for the regulation and protection of occupancy deposits; for the monitoring of the private rented sector; and for connected purposes.
3. **Part 1** of the Bill (introductory) is comprised of *clauses 1 to 5*.
4. *Clause 1* gives the proposed short title of the resulting Act.
5. *Clause 2* provides for the commencement of the resulting Act.
6. *Clause 3* defines terms used in the Bill and cross-refers to terms that are defined elsewhere in the Bill. These include the definition of “relevant landlord”, as being the landlord of a rented dwelling who is registered or required to be registered under *clause 7(1)* of the Bill; “rented dwelling” as being a private dwelling which an occupier may occupy in exchange for rent under a lease or licence granted by a landlord; “landlord’s representative” as being a resident person nominated to act for a relevant landlord with respect to the performance of a property management activity; “personal conduct requirements” as being the standards of personal conduct required of a relevant landlord or landlord’s representative in order to meet the registration requirements; and “key officer” as being an officer (of whatever status) of, or person engaged by, a relevant landlord or landlord’s representative who undertakes property management activity for the landlord or landlord’s representative, as the case may be.
7. *Clause 4* defines “property management activity” as being an activity which is undertaken by a relevant landlord or landlord’s representative in connection with the occupancy of a rented dwelling and which involves direct contact with the occupier. *Clause 4(2)* provides a non-exhaustive list of types of property management activity.
8. *Clause 5* provides a power for the definitions in *clauses 3 and 4* to be amended by order, subject to prior Tynwald approval.
9. **Part 2** of the Bill (the register and registration) relates to the register of relevant landlords and the process of registration and comprises *clauses 6 to 22*.
10. *Clause 6* provides that the Department of Infrastructure (“the Department”) has a duty to establish and maintain a register of relevant landlords. It provides that the information specified in Part A of the Schedule must be included in the

register. There is provision that the register may contain additional information as specified in Part B of the Schedule. The Schedule (both Parts A and B) may be amended by order, subject to prior Tynwald approval. The register may be kept in any form considered appropriate by the Department, including electronic form, and each register entry must remain on the register for 6 years after the registration has expired but must be deleted as soon as practicable after this period.

11. *Clause 7(1)* provides for the requirement for a landlord of a rented dwelling to be registered, both as a landlord and in respect of the rented dwelling in accordance with Part 2 unless an exception applies. Contravention without reasonable excuse of the requirement to be registered is an offence. *Clause 7(3)* provides for periods during which a person who is a landlord of a rented dwelling and who otherwise should be registered is not committing an offence under this clause.
12. *Clause 8* provides for the exceptions to the requirement to be registered. Landlords and other specified persons are not relevant landlords (and are therefore not required to be registered) in any of circumstances described in *clause 8*.
13. *Clause 9* provides for the periods permitted for making an application for registration. A person who is a relevant landlord does not contravene the registration requirement in *clause 7(1)* during the relevant permitted period. *Clause 9(1)* provides that the period permitted for registration for a person who is a relevant landlord when the requirement to register comes into operation is (unless *clause 10* applies) 6 months from that date. If a person subsequently becomes a relevant landlord and is required to be registered when *clause 7(1)* is already in operation (and is not making an application described in *clause 9(2)(a) to (c)*), *clause 9(3)* provides that the landlord has 3 months in which to register. *Clause 9(3)* is subject to provisions in *clause 13*, which provide for a different registration period for the registration of additional rented dwellings in respect of a relevant landlord who is already registered.
14. *Clause 10* concerns relevant landlords who are already registered with the Department under the voluntary registration scheme that was introduced by the Department in 2013. These landlords are treated as being already registered under the Bill in respect of the rented dwellings for which they are registered under the voluntary scheme (*clause 10(2)*). To continue to be registered under the Bill, these landlords must make the declarations regarding the minimum standards required of a registered relevant landlord and the rented dwellings for which the landlord is registered within 6 months of *clause 7(1)* coming into operation (*clause 10(3)*). The rest of *clause 10* provides for the expiry of registrations continued under this clause and for the re-application for registration following expiry. Relevant landlords to whom this clause applies retain their registration number allocated under the voluntary registration scheme (*clause 10(7)*). *Clause 10(8)* provides for the revocation of the voluntary registration scheme on the coming into operation of *clause 7(1)*. *Clause 10(9)* defines the voluntary registration scheme.

15. *Clause 11* sets out the registration requirements for both a relevant landlord (*Clause 11(1)*) and a rented dwelling (*Clause 11(2)*).
16. *Clause 12* sets out the application requirements for registration of a relevant landlord. The application must contain a declaration by the landlord that the landlord complies with the minimum standards for a relevant landlord and that the information provided in and with the application is true and accurate to the best of the landlord's knowledge and belief (*clause 12(3)*). The application must include the nomination of a landlord's representative if the relevant landlord is not resident (*clause 12(4)*). *Clause 12(5)* sets out the further information and declarations by the landlord's representative required where a landlord's representative has been nominated by the relevant landlord on the application.
17. *Clause 13* deals with the application for registration in respect of a rented dwelling. A dwelling may not be registered unless the applicable relevant landlord is registered (*clause 13(2)*). The rented dwelling registration is a part of the registration of the relevant landlord for that dwelling (*clause 13(4)*). At the same time as the application for registration as a relevant landlord under *clause 12*, a relevant landlord must seek registration for each of the rented dwellings which are at that time landlord's rented dwellings (*clause 13(3)*). The application must include the required documentation and fee as specified in regulations and a declaration by the relevant landlord that each rented dwelling requiring registration complies with the minimum standards. *Clause 13(7) to (9)* provides for the registration of additional rented dwellings as part of the registration of a relevant landlord who is already registered.
18. *Clause 14* provides for the determination by the Department of an application for registration of a relevant landlord. Under *clause 14(2)*, registration may be refused if the Department has reasonable grounds to consider that any of the registration requirements as set out in *clause 11(1)* are not met or not likely to be met during the registration period. (*Clauses 14(3) and (4)* set out the circumstances where a relevant landlord's registration depends on the nomination of a landlord's representative and specified requirements in relation to the landlord's representative being met. Registration may be granted to a relevant landlord subject to such conditions as the Department consider appropriate to ensure that the registration requirements for a relevant landlord are satisfied (*clause 14(5)*).
19. *Clause 14(6)* provides for the notice and other requirements with which the Department must comply on the grant of registration. *Clause 14(7)* requires the Department to notify the relevant landlord and (in specified circumstances) the landlord's representative of an intention to refuse registration and the reasons why. The relevant landlord and (if applicable) landlord's representative have 14 days to make representations upon being given notice of the Department's intention to refuse an application. *Clause 14(8)* provides for the notice requirements on a determination to refuse registration. *Clause 14(9)* provides that the decision to refuse registration does not take effect until the expiry of the period permitted to the relevant landlord to appeal the decision. This is subject to any stay of the decision by the Isle of Man Rent and Rating Appeal

Commissioners (“the Commissioners”) pending the outcome of an appeal under *clause 49(4)*.

20. *Clause 15* deals with the determination by the Department of an application for registration of a rented dwelling. Registration may be refused if the Department has reasonable grounds to consider that the rented dwelling does not comply with the minimum standards or may reasonably be expected not to comply with those standards during the registration period (*clause 15(2)*). Registration of the dwelling may be subject to such conditions as the Department considers appropriate to ensure that the registration requirements are satisfied (*clause 15(3)*). *Clause 15(4)* provides for the notice and other requirements with which the Department must comply on the grant of registration. The Department must give notice of an intention to refuse registration of a rented dwelling, together with the reasons why, and consider representations from the relevant landlord made with 14 days of the notice (*clause 15(5)*).
21. *Clauses 15(6) to (8)* deal with the notice requirements where an application for registration of a rented dwelling is refused and the time when the decision to refuse registration takes effect.
22. *Clause 16* sets out the matters to which the Department must have regard when deciding whether a person meets, or no longer meets, the personal conduct requirements. If a relevant landlord or a landlord’s representative is not an individual, the Department must be satisfied that the personal conduct requirements are met by the relevant landlord or landlord’s representative (as applicable) and its key officers.
23. *Clause 17* provides that the Department may require the provision of a criminal record certificate when determining the personal conduct requirements but only where it has reasonable grounds to suspect that the information the person has provided in relation to the registration requirements which concern the personal conduct requirements is or has become inaccurate.
24. *Clause 18* deals with the period of registration and re-applications for registration. The registration period for a relevant landlord’s registration is 5 years from the grant of registration (*clause 18(1)*). *Clause 18(2) and (3)* provide that the period of registration for a rented dwelling is the period remaining of the relevant landlord’s own registration period at the time the rented dwelling is granted registration; unless the relevant landlord surrenders the registration for the dwelling before this period of registration expires. *Clause 18(5)* provides that a relevant landlord may apply for a new registration during the last 3 months of the current registration period. If the application is still being determined on the expiry of the existing registration period, the relevant landlord does not contravene the requirement to be registered under *clause 7(1)* (see *clause 7(3)(b)*). *Clause 18(8)* provides for the expiry of a registration on the death of the relevant landlord or (in the case of a relevant landlord that is a legal entity or association) on it being dissolved or ceasing to exist.
25. *Clause 19* provides for the changes in circumstance of which a registered relevant landlord and a landlord’s representative must notify the Department during the

- registration period. The matters must be notified to the Department within a month of the person knowing of the change. Failure without reasonable excuse to comply with the notification requirements is an offence (*clause 19(6)*). The clause may be amended by order, subject to prior Tynwald approval (*clause 19(7)*).
26. *Clause 20* provides that a registered relevant landlord must state specified details of the landlord's registration in all notices, advertisements or other documents regarding the granting of a lease or licence for a rented dwelling of the landlord. Contravention of this requirement without reasonable excuse is an offence.
27. *Clause 21* provides that the Department must make regulations specifying the information and documentation to be provided on an application for a registration. *Clause 21(2)* provides for discretionary regulation making powers for the Department in respect of other specified matters connected to registration under Part 2. Prior approval of Tynwald is required for regulations made under this clause and any fees payable under the regulations must be published.
28. *Clause 22* provides for access to information on the register concerning the landlord's own register entry to be given to a relevant landlord. A landlord's representative may be given access on request to any personal information concerning the landlord's representative and to information concerning any rented dwelling for which it acts in that capacity. The Department may make regulations to make further provision for access to the register as specified in *clause 22(3)*, such regulations being subject to prior Tynwald approval.
29. **Part 3** of the Bill (minimum standards) relates to the minimum standards required of a relevant landlord and a rented dwelling in order to meet the registration requirements. It comprises *clauses 23 and 24*.
30. *Clause 23* requires the Department to make regulations setting out the minimum standards required of both a relevant landlord and a rented dwelling ("minimum standards regulations"). The regulations are subject to prior Tynwald approval. *Clause 23(2)* provides a non-exhaustive list of matters which may be included in the regulations. *Clause 23(3)* and (4) make provision for matters ancillary to the making of regulations under this clause. The minimum standards are additional to, and do not otherwise affect, any related existing statutory provisions (*clause 23(5)*). The minimum standards regulations must be brought to the attention of those likely to be affected by them (*clause 23(6)*).
31. *Clause 24* provides that a relevant landlord and a rented dwelling comply with the relevant minimum standards only when complying with all the requirements of the applicable relevant minimum standards.
32. **Part 4** (enforcement) concerns the enforcement of the registration requirements and the minimum standards and comprises *clauses 25 to 47*. The Part is separated into 5 Divisions.
33. **Division 1** of Part 4 concerns unregistered relevant landlords and comprises *clauses 25 to 27*. *Clause 25* provides for the Department to issue a notice to a person it has reasonable grounds to believe is acting as an unregistered relevant

- landlord, and sets out the contents of the notice. The recipient may apply for registration or make representations to the Department within 14 days of the notification.
34. *Clause 26* provides the circumstances in which the Department may issue a notice of non-registration to a person and sets out the content of such a notice and that a copy of the notice must be provided to an affected occupier and landlord's representative. A recipient may appeal against a notice of non-registration, which does not take effect until the expiry of the period permitted for making the appeal. The notice may also be subject to a stay by the Commissioners of its effect pending the outcome of an appeal against it.
35. *Clause 27* provides that, if a person is convicted of a specified offence under the Bill, the court may, in addition to imposing a penalty for the offence, disqualify the person from applying for any registration under the Bill for a period of up to 5 years. *Clause 27(3) to (5)* deal with appeals against a disqualification order. *Clause 27(6)* provides that the court may revoke a disqualification order on application if satisfied that there has been a change of circumstance justifying the revocation. An application under *clause 27(6)* cannot be made within 12 months of the making of the disqualification order (*clause 27(7)*).
36. **Division 2** of Part 4 concerns the enforcement of the minimum standards and comprises *clauses 28 to 35*. *Clause 28* provides that when an authorised officer (defined in *clause 3*) takes specified action under the Division, the officer must provide the Department with a copy of a notice issued, a record of action taken and any response received.
37. *Clause 29* provides for the application of specified provisions of the *Local Government Act 1985* for the purposes of the Division. The applied provisions enable the Department to require specified information connected with land (section 37); enable the Department, where it has required an owner of land to execute works under the Bill, by agreement with the owner to execute the works on the owner's behalf and at the owner's expense (section 38); provide for the recovery of the Department's expenses from the owner of land in connection with section 38 (sections 46 and 47); provide for the evidence of minutes (section 55); and enable a relevant landlord to apply to the High Bailiff to order an occupier to permit the execution of work the landlord is required to undertake under this Division (section 57).
38. *Clause 30* enables the Department, on issuing a notice under *clause 57* (power to obtain documents and information) to require a relevant landlord or landlord's representative to provide documents and other information necessary to evidence compliance with the minimum standards.
39. *Clause 31* permits an authorised officer to issue a notice of non-compliance to a relevant landlord when the officer considers there is a failure of compliance with an applicable minimum standard and remedial action, or the period for such action, cannot be agreed. *Clause 31(2)* sets out the contents of the notice, including an invitation to the recipient landlord to respond. A copy of the notice must be given to an affected occupier and landlord's representative.

40. *Clause 32* provides that an authorised officer must consider any response to a notice of non-compliance and decide whether to accept the response or agree remedial action with the relevant landlord, or to issue an improvement notice. *Clause 32(3)* specifies who the authorised officer must inform of the decision.
41. *Clause 33(1)* provides the circumstances in which an authorised officer may issue an improvement notice to a relevant landlord. *Clause 33(2)* specifies the contents of the notice. This subclause may be amended by the Department by order, subject to prior Tynwald approval (*clause 33(5)*). *Clause 33(4)* provides that a copy of the notice must be provided to an affected occupier and landlord's representative. A relevant landlord has a right of appeal against the issue of an improvement notice (see *clause 48(e)*).
42. *Clause 34* sets out how an improvement notice may be complied with. *Clause 34(4)* provides that an improvement notice regarding a rented dwelling is effective against the relevant landlord who receives the notice and any subsequent relevant landlord of the dwelling, unless the notice is withdrawn. The period for compliance with an improvement notice may be extended by an authorised officer (*clause 34(6)*). Failure to comply with an improvement notice is an offence under *clause 34(7)*. *Clause 34(8)* provides a defence to the offence where the relevant landlord can show that the contravention of the minimum standards resulting in the improvement notice was caused by the conduct of the occupier or the occupier prevented the landlord from complying with the notice.
43. *Clause 35* provides that if a relevant landlord fails to comply with a notice to execute works with respect to a rented dwelling issued under statutory provisions outside the Bill relating to housing standards, that failure to comply is taken as if it were a failure to comply with an improvement notice regarding the dwelling, for the purposes of being a ground for revocation of registration under *clause 41*.
44. **Division 3** of Part 4 deals with breaches of the registration requirements and comprises *clauses 36 to 40*. *Clause 36* sets out that the Division applies to the registration requirements relating to the personal conduct requirements, including when a relevant landlord must, as a condition of registration, nominate a landlord's representative who meets those requirements; and any other conditions imposed on registration.
45. *Clause 37* sets out the offences which may be committed by a registered relevant landlord in relation to the undertaking of property management activity in breach of the applicable registration requirements or conditions of registration.
46. *Clause 38* imposes a duty on a registered relevant landlord to give notice to the Department of specified changes in circumstance which affect the applicable registration requirements or conditions of the landlord's registration. A landlord's representative must give notice to the Department and the relevant landlord for whom the landlord's representative acts of changes in circumstance specified in *clause 38(2)*. Notices under this clause must be given within 7 days of the person providing the notice knowing of the change which must be notified.

47. *Clause 39* provides for the situation where the Department becomes aware that a relevant landlord does not have a landlord's representative when required to have one as a condition of registration. In these circumstances, the Department must issue a notice to the relevant landlord requiring the landlord to rectify the breach. Failure to rectify the breach within any period specified in the notice may result in revocation of the landlord's registration.
48. *Clause 40* provides for the circumstances where the Department must decide whether it is satisfied that the personal conduct requirements continue to be met by a relevant landlord or landlord's representative. *Clause 40* sets out the procedural and notice requirements in connection with this decision. A decision that the Department is not satisfied that the personal conduct requirements continue to be met is subject to appeal by the relevant landlord and the decision takes effect following the expiry of the period permitted to make an appeal, subject to any stay of the decision pending the outcome of the appeal by the Commissioners.
49. **Division 4** of Part 4 concerns the revocation of a relevant landlord's registration and comprises *clauses 41 to 43*. *Clause 41(1)* sets out the list of grounds upon which the Department may revoke a relevant landlord's registration under *clause 42*. The power to revoke registration under *clause 42* does not apply with respect to a matter specified in *clause 41(1)* if the relevant landlord has been acquitted of an offence with respect to the matter or proceedings have been brought against the landlord for an offence with respect to the matter and have been discontinued.
50. *Clause 42* enables the Department to revoke a relevant landlord's registration, either in its entirety or for a particular rented dwelling. *Clause 42* sets out the procedural, notice and other requirements concerning the revocation of registration. The decision to revoke a registration is subject to appeal. The decision does not take effect until the expiry of the period permitted to make an appeal, subject to any stay of the decision pending the outcome of the appeal by the Commissioners.
51. *Clause 43* provides for the effect of revocation of registration. A registration that is revoked ceases. If a registration is revoked only with respect to a particular rented dwelling, it ceases for the rented dwelling to which it applies. *Clause 43(3)* imposes time restrictions on making a fresh application to be registered in a case where a person has had a registration revoked in its entirety. *Clause 43(4)* permits a registered relevant landlord who has had a registration for a particular rented dwelling revoked to apply for the dwelling's registration at any time following the revocation if the specified conditions are satisfied.
52. **Division 5** of Part 4 concerns other enforcement provisions and comprises *clauses 44 to 47*. *Clause 44* permits an occupier to terminate a lease or licence in respect of a rented dwelling with immediate effect without penalty where the landlord is an unregistered relevant landlord who is therefore acting in contravention of the registration requirement in *clause 7(1)*. *Clause 44(2)* sets out the circumstances where this right to terminate may be exercised.

53. *Clause 45* sets out specified circumstances where no rent is payable by an occupier of a rented dwelling to a relevant landlord. The circumstances relate to the Department issuing a relevant notice, which has taken effect, and on it taking effect the relevant landlord being an unregistered relevant landlord who is therefore acting in contravention of the registration requirement in *clause 7(1)*. The clause ceases to apply from the date on which the relevant landlord becomes registered in respect of the rented dwelling or ceases to be a relevant landlord for it (for example, because an exception from registration under *clause 8* becomes applicable to the landlord or the landlord ceases to be the landlord for the dwelling). The definition of “rent” is modified for the purposes of this clause to exclude amounts due for the provision of a service where these are specified separately in a lease or licence.
54. *Clause 46* provides that rent received by the relevant landlord to which that landlord is not entitled under *clause 45* is recoverable under a statutory provision enabling its recovery, or otherwise as a debt.
55. *Clause 47* enables the Department to make regulations to give effect to matters in Part 4 of the Bill, in particular to provide for information to be included in notices and for procedural requirements regarding the service of notices. Any regulations made are subject to prior Tynwald approval.
56. **Part 5** concerns appeals and comprises of *clauses 48 to 51*. *Clause 48* sets out the decisions of the Department which are subject to an application and appeal by a relevant landlord under this Part (an “appealable decision”).
57. *Clause 49* provides for an appeal to the Commissioners against an appealable decision, the procedure for making such an appeal and notice requirements in connection with an appeal. The period for making an appeal is 21 days, subject to any contrary provision in rules of procedure. *Clause 49(4)* provides that the Commissioners may stay the effect of an appealable decision pending the outcome of the appeal. The Commissioners may confirm, vary or revoke a decision on appeal.
58. *Clause 50* provides that unless the Commissioners order otherwise, the making of an appeal does not stay the effect of the decision pending the outcome of the appeal and a variation or revocation of a decision by the Commissioners does not affect the previous operation of the decision. If the Commissioners vary or revoke a decision of the Department to issue a relevant notice (as defined in *clause 45*), which decision may, if not stayed pending the outcome of the appeal, have resulted in the relevant notice taking effect and in no rent being due and payable with respect to a rented dwelling under *clause 45*, the Commissioners may determine the date from which rent is due and payable for the purposes of that clause, which date may be during the period that the relevant notice was in operation.
59. *Clause 51* provides that where decisions directly affecting a relevant landlord’s registration are appealed against but not revoked, the Commissioners may stay the effect of the outcome of their decision for a period of up to 3 months if it is equitable in all the circumstances of the case to do so. In determining to grant a

stay under this clause, the Commissioners must have regard to the matters in *clause 51(3)*.

60. **Part 6** concerns provision for occupancy deposit regulation and protection and comprises *clauses 52 to 55*.
61. *Clause 52* defines “occupancy deposit” for the purposes of the Part.
62. *Clause 53* makes provision for the Department, with the concurrence of the Treasury, to make a scheme to safeguard occupancy deposits. Such a scheme requires prior Tynwald approval. The Department may make arrangements, with the concurrence of the Treasury, with a person for the person to maintain and administer a scheme made under this clause.
63. *Clause 54* provides that a scheme made under *clause 53* may contain such provisions as the Department considers appropriate for the proper functioning of the scheme and sets out a non-exhaustive list of provisions a scheme may contain.
64. *Clause 55* enables the Department to make regulations to 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. Regulations under this clause require prior Tynwald approval. A term in a lease or licence which requires an occupier to pay an amount for an occupancy deposit in excess of the amount permitted under the regulations is not binding on an occupier in respect of the excess amount.
65. **Part 7** deals with providing and obtaining information for the purposes of the Bill and comprises *clauses 56 to 58*.
66. *Clause 56* sets out that the Department has the function of monitoring the private rented sector (as defined) in the Island for specified purposes. The Department may require information from relevant landlords, landlord’s representatives and persons who have an estate or interest in a rented dwelling (*clause 56(2)*), and may request information from such other persons as it considers necessary and expedient, for this purpose (*clause 56(3)*). Information obtained under this clause may only be used for the purposes specified in *clause 56(4)(b)* and must be processed in accordance with data minimisation principles. Where the Department requires information under this clause, the notice provisions in *clause 57* apply.
67. *Clause 57* sets out the powers of the Department to obtain documents and information for the purposes of the Bill. The Department may require information from a relevant person (a relevant landlord, landlord’s representative and a person having an estate or interest in a rented dwelling) by issuing a notice to the person in accordance with this clause.
68. *Clause 58* deals with the disclosure and sharing of information between the Department and specified (public) bodies. It permits the Department to obtain information from a specified body and to disclose information it or an authorised officer obtains under the Bill to a specified body for stated purposes.

69. **Part 8** deals with general matters and comprises *clauses 59 to 66*.
70. *Clause 59* provides that nothing in the Bill authorises a disclosure of personal data in contravention of the data protection legislation.
71. *Clause 60* makes the Bill a relevant enactment for the purposes of section 35 of the *Local Government Act 1985*, meaning that that section, which makes provision for powers to enter on land, applies to the Bill. Section 36 of that Act, which is connected to section 35, is also applied. These powers are applicable for the enforcement of the requirements under the Bill.
72. *Clause 61* sets out the powers that may be exercised by an authorised officer using the power to enter on land provided by the application of section 35 of the *Local Government Act 1985* when monitoring or enforcing compliance with the Bill.
73. *Clause 62* provides that, unless otherwise expressly provided for in the Bill, nothing in the Bill affects the operation of other statutory provisions or the rule of law applying to a relevant landlord, landlord's representative, tenant or licensee, or other specified rights and obligations. *Clause 62(2)* clarifies that a relevant landlord is not entitled (subject to any rule of law or contract or agreement with the occupier) to require an occupier to give up occupancy of a rented dwelling in order that the landlord may take action to ensure that the dwelling complies with the minimum standards or to comply with any requirements in the Bill on the enforcement of minimum standards.
74. *Clause 63* makes general provisions concerning secondary legislation made under the Bill and provides that any fees received under a scheme, order or regulations made under the Bill form part of the General Revenue. It requires the Department to consult the Department of Environment, Food and Agriculture before making any regulations under the Bill (apart from regulations made under *clause 55(1)*).
75. *Clause 64* makes provision for an offence for making declarations or providing information or documents that are false, misleading or deceptive in a material particular.
76. *Clause 65* provides a protection from liability for an officer of the Department or an authorised officer from claims in damages for acts or omissions in performing functions under the Bill except where bad faith is shown or the act or omission is unlawful under the *Human Rights Act 2001*.
77. *Clause 66* enables the Department to issue guidance about any provision of the Bill or any regulations, schemes or orders made under the Bill to assist those affected. Any guidance issued must be published.
78. *The Schedule* sets out in Part A the information which must be included on a register entry for each relevant landlord. Part B is to contain any additional information which the register may contain.
79. The resulting Act may have financial and human resource implications, but these are not expected to be significant. It is expected that the ongoing administrative requirements and enforcement costs in connection with landlord registration will be met from existing budgets and staffing resources. Additional temporary

staffing resources may be required to deal with initial compulsory registrations, but these should be offset by expected revenue from registration fees. The Bill is expected to have a number of social benefits, such as improved standards of rented accommodation and resulting improved health and wellbeing for occupiers, which may indirectly result in financial benefits for Manx taxpayers.

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



Ellan Vannin

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Ellan Vannin

LANDLORD REGISTRATION (PRIVATE HOUSING) BILL 2020

- 1 A **BILL** to provide for the registration of landlords and landlords' representatives
2 of private rented dwellings; for the application and enforcement of standards for
3 landlords, landlords' representatives and private rented dwellings; for the
4 regulation and protection of occupancy deposits; for the monitoring of the
5 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:—

6 PART 1 – INTRODUCTORY

7 1 Short title

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

9 2 Commencement

10 (1) This Act comes into operation on such day or days as the Department may
11 by order appoint and different days may be appointed for different
12 provisions and for different purposes.

13 (2) An order under subsection (1) may include such consequential, incidental,
14 supplemental, transitional, transitory or savings provisions as the
15 Department considers necessary or expedient in connection with the
16 coming into operation of any provision of this Act.

17 Tynwald procedure – laying only.

18 3 Interpretation

19 In this Act —

20 “**association**” means a partnership or other association of persons, whether or not
21 it is incorporated or has legal personality;

22 “**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;

“the Commissioners” means the Isle of Man Rent and Rating Appeal Commissioners constituted under section 1 of the *Rent and Rating Appeals Act 1986*;

“data protection legislation” has the meaning given in regulation 5(1) of the GDPR and LED Implementing Regulations 2018¹ 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;

~~**“key officer”** means a person who undertakes any property management activity for a relevant landlord or landlord’s representative, whether the person is a director, secretary, manager or other officer, of the relevant landlord or landlord’s representative (as the case may be) or is otherwise engaged by that relevant landlord or landlord’s representative for that purpose;~~

~~**“key officer”**, in the case of a relevant landlord or a landlord’s representative that is an association undertaking any property management activity, means a person who is a director, secretary or other similar officer of the association or who is otherwise in the senior management of, or in control of, or has significant influence over, the association;~~

“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 ~~a resident 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 (interpretation) of the *Land Registration Act 1982*;

¹ SD 2018/0145

1 “**legal entity**” means a body corporate, firm or other body that is a legal person
2 under the law by which it is governed;

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

5 ~~“**minimum standards**” means the minimum standards required of a relevant~~
6 ~~landlord and a rented dwelling set out in regulations made under section~~
7 ~~23(1) (minimum standards), and a reference to the minimum standards in~~
8 ~~connection with a relevant landlord, or to the minimum standards in~~
9 ~~connection with a rented dwelling, means the minimum standards~~
10 ~~required of a relevant landlord or rented dwelling (as the case may be) as~~
11 ~~specified in those regulations;~~

12 “**minimum standards**” means the minimum standards required of a relevant
13 landlord, a landlord’s representative and a rented dwelling set out in
14 regulations made under section 23(1) (minimum standards), and a
15 reference to the minimum standards in connection with a relevant
16 landlord or a landlord’s representative, or to the minimum standards in
17 connection with a rented dwelling, means the minimum standards
18 required of a relevant landlord, a landlord’s representative or a rented
19 dwelling (as the case may be) as specified in those regulations;

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

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

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

31 “**personal conduct requirements**” are the standards of personal conduct that a
32 relevant landlord is required to meet under section 11(1)(c) (registration
33 requirements) and that a landlord’s representative is required to meet
34 under section [NC3(2)], as determined by the Department in accordance
35 with section 16 (personal conduct requirements) and 17 (personal conduct
36 requirements: further investigation);

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

- 38 (a) a public sector dwelling; or
39 (b) a dwelling for which a lease is granted by an approved housing
40 association (within the meaning of the *Housing (Miscellaneous*
41 *Provisions) Act 1976*), where the housing association has complied
42 with terms and conditions imposed by, or arrangements made
43 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;~~

“public sector dwelling” means a dwelling provided under a lease, licence or other agreement (whether or not the dwelling is managed or adapted for occupation by a particular class of person) by —

(a) the Department;

(b) a local authority;

(c) local authorities acting jointly; or

(d) 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;

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

“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;

“**resident**” in relation to a relevant landlord or a landlord’s representative means —

- (a) in the case of an individual, the individual owning, leasing or occupying a dwelling in the Island as the individual’s only or principal residence;
- (b) in the case of a legal entity or association, the legal entity or association having —
 - (i) a registered office or established place of business in the Island; and
 - (ii) at least one of its key officers who is an individual and a resident within the meaning of paragraph (a);

“**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 ~~described in subsection (2) which is undertaken~~ —
 - (a) ~~undertaken~~ by a relevant landlord or a landlord’s representative;
 - ~~(a) — undertaken by a relevant landlord or a landlord’s representative;~~
 - ~~(a)(b)~~ in connection with an occupier’s occupancy or intended occupancy of a rented dwelling; and
 - ~~(b)(e)~~ 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 and landlords’ representatives

~~(1) The Department must establish and maintain a register of relevant landlords registered under this Act.~~

(1) The Department must establish and maintain a register containing entries relating to —

- (a) relevant landlords registered under this Act; and
- (b) landlords’ representatives registered under this Act.

(2) The register must contain the information specified in Part A of the Schedule and may contain any or all of the information specified in Part B of the Schedule.

(3) A register entry for a particular relevant landlord or a landlord’s representative 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.~~

(4) The Department must keep the register in electronic form, where practicable, and may keep it in any other manner the Department considers appropriate.

(5) The Department may by order amend the Schedule.

1 Tynwald procedure — approval required.

2 **7 Requirement for a relevant landlord to be registered**

- 3 (1) A landlord of a rented dwelling must —
- 4 (a) be registered with the Department; and
- 5 (b) be registered in respect of the rented dwelling,
- 6 in accordance with this Part unless an exception in section 8 (exceptions to
- 7 the requirement to be registered) applies.
- 8 (2) A relevant landlord who, without reasonable excuse, contravenes
- 9 subsection (1) commits an offence.
- 10 Maximum penalty (summary) — ~~6 months' custody and a fine of 5 times~~
- 11 ~~a fine of 4 times~~ level 5 on the standard scale.
- 12 (3) A relevant landlord does not contravene subsection (1) —
- 13 (a) during the period permitted to the relevant landlord to apply to
- 14 register under section 9(1) or 9(3) (applying for ~~registration~~
- 15 ~~registration: relevant landlords~~);
- 16 (b) during the period between the expiry of an existing registration
- 17 and the determination of an application for a new registration
- 18 made as described in section 18(5) (registration period, expiry and
- 19 re-application), where such an application has been properly made;
- 20 (c) with respect to an additional rented dwelling as described in
- 21 section 0 (application requirements: rented dwellings), during the
- 22 period permitted to the relevant landlord to apply to register that
- 23 dwelling under section 0; or
- 24 (d) if the relevant landlord —
- 25 (i) has applied to the Department for the registration under
- 26 section 9(1) or 9(3), or section 0, within the period permitted;
- 27 and
- 28 (ii) the application has been properly made,
- 29 during the period the application is being determined.
- 30 (4) For the purposes of subsection (3)(b) and (d), in the event that the
- 31 application is refused, the application is determined on the date on which
- 32 the refusal notice takes effect (see sections 14(9) (determination of
- 33 application: relevant landlords) and 15(8) (determination of application:
- 34 rented dwellings)).

35 **NC1 Requirement for a relevant landlord's representative to be registered**

- 36 (1) A person must not act as a landlord's representative in respect of a rented
- 37 dwelling unless the person is —
- 38 (a) registered with the Department as a landlord's representative; and

(b) registered in respect of the rented dwelling,
in accordance with this Part, unless an exception under section [8(11)(b)]
(exceptions to the requirement to be registered) applies.

- (2) A landlord's representative who, without reasonable excuse, contravenes subsection (1) commits an offence.

Maximum penalty (summary) — a fine of 4 times level 5 on the standard scale.

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 (meaning of agricultural holding) 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 (meaning of "farm business tenancy") 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 —

(i) has been granted occupancy of the rented dwelling under a lease or licence for a period not exceeding **4 weeks 6 months** of continuous occupation; and

(ii) has not occupied that dwelling for an aggregate continuous period exceeding **4 weeks 6 months**.

- (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

- 1 (b) the shared accommodation exception applies.
- 2 (4) The shared accommodation exception applies in the following
- 3 circumstances —
- 4 (a) the terms of the lease or licence granted by the landlord to an
- 5 occupier provide for the occupier to share any accommodation
- 6 with the landlord;
- 7 (b) immediately before the lease or licence described in paragraph (a)
- 8 is made the landlord occupies as the landlord's only or principal
- 9 home a dwelling which includes all or part of the shared
- 10 accommodation; and
- 11 (c) a lease or licence of the accommodation shared with the landlord is
- 12 granted to no more than 2 occupiers.
- 13 (5) The shared accommodation exception applies only while the landlord
- 14 continues to occupy the dwelling referred to in subsection (4) as the
- 15 landlord's only or principal home.
- 16 (6) A landlord is not a relevant landlord in respect of a rented dwelling for so
- 17 long as the landlord diligently continues to pursue the recovery of
- 18 possession of that dwelling if the landlord takes steps to recover
- 19 possession of the rented dwelling within a period of 28 days beginning
- 20 with the date on which the landlord's interest in the rented dwelling is
- 21 assigned to the landlord.
- 22 (7) The following are not relevant landlords —
- 23 (a) the Treasury as holder of *bona vacantia* property;
- 24 (b) a person acting as a personal representative of a deceased landlord
- 25 with respect to a rented dwelling, for a period not exceeding 6
- 26 months beginning with the date of the death of the landlord;
- 27 (c) a person acting as a liquidator with respect to a rented dwelling,
- 28 for a period not exceeding 6 months beginning with the date of the
- 29 person's appointment as liquidator;
- 30 (d) a secured creditor who acquires lawful possession of a rented
- 31 dwelling, for a period not exceeding 6 months beginning with the
- 32 date on which possession is acquired.
- 33 (8) In this section, "a close relative of the landlord" means —
- 34 (a) a spouse or civil partner of the landlord;
- 35 (b) a person living with the landlord, or in a relationship with the
- 36 landlord, which has the characteristics of a spouse or civil partner
- 37 relationship;
- 38 (c) a parent, ~~grandparent, child or grandchild~~ grandparent, great
- 39 ~~grandparent, child, grandchild or great grandchild~~ of the landlord;
- 40 (d) a sister, brother, uncle, aunt, nephew or niece of the landlord.
- 41 (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 legal entity or association; 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) Nothing in this Act shall prevent a landlord's representative from undertaking property management activities on behalf of a landlord who is not a relevant landlord by virtue of this section.

(12)(14) The Department may by order amend this ~~section~~ section —

- (a) to add or remove a person who is or is not a relevant landlord in respect of a rented dwelling; or
- (b) to provide for an exception to the requirement for a relevant landlord's representative to be registered.

Tynwald procedure — approval required.

9 Applying for registration: relevant landlords

(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 7(3)(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 6 months beginning with the date on which 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 of relevant landlord) applies.
- (3) In the case of a person to whom this subsection applies, for the purposes of section 7(3)(a) or 7(3)(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 3 months beginning with the date on which the person becomes a relevant landlord.
- (4) Subsection (3) is subject to section 0 and 0 (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 0 (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(5) (registration, period, expiry and re-application) applies with respect to an 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 **[As amended by Mr Hooper’s amendments]**

- (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 a resident, 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.~~
- (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 is registered as required under section [NC1] (requirement for a relevant landlord's representative to be registered), the landlord must nominate a different landlord's representative who the Department is satisfied is so registered.
- (2) The following are requirements for registration of a landlord's representative —
- (a) the person must be a resident;
 - (b) the person must comply with the minimum standards;
 - (c) the Department must be satisfied that the person meets the personal conduct requirements;
 - (d) the application requirements in section [NC2] must be satisfied.
- (3)(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.
- (4) The requirements —
- (a) described in subsection (1)(a), (c), (d) and (e) apply throughout the duration of the registration of a relevant landlord;
 - (b) described in subsection [(2)(a), (b) and (c)] apply throughout the duration of the registration of a landlord's representative; and
 - (c) described in subsection (3)(a) applies throughout the duration of the registration of a rented dwelling.
- (5) Section 38(2) applies where any information supplied to the Department under this section becomes inaccurate.

11 Registration requirements [as amended by Mr Callister's amendments]

- (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 a resident, 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.
- (3) The requirements —
- (a) described in subsection (1)(a), (c), (d) and (e) apply throughout the duration of the registration of a relevant landlord;
- (b) described in subsection (3)(a) apply throughout the duration of the registration of a rented dwelling.
- (4) Section 38 applies where changes occur in the landlord's or the landlord's representative's circumstances such that the requirements for registration can no longer be 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,

- 1 specified in regulations made by the Department under section 21
 2 (registration regulations).
- 3 (3) An application must be accompanied by a declaration by the relevant
 4 landlord that —
- 5 (a) the relevant landlord complies with the minimum standards for a
 6 relevant landlord; and
- 7 (b) the information provided in and with the application is true and
 8 accurate to the best of the relevant landlord's knowledge and belief.
- 9 (4) If a relevant landlord is not a resident, the application must also include
 10 the nomination of a landlord's representative to undertake all the property
 11 management activities on the landlord's behalf.
- 12 (5) Where a relevant landlord has nominated a landlord's representative,
 13 whether to satisfy the requirements in subsection (4) or otherwise, the
 14 application must include —
- 15 (a) any information concerning the landlord's representative as
 16 required by regulations made under section 21; and
- 17 (b) a declaration by the landlord's representative that —
- 18 (i) the landlord's representative acts, or will act, for the
 19 relevant landlord with respect to the particular rented
 20 dwelling or dwellings that are the subject of the related
 21 application under section 13 (application requirements:
 22 rented dwellings); and
- 23 (ii) the information provided by the landlord's representative
 24 under paragraph (a) is true and accurate to the best of the
 25 landlord's representative's knowledge and belief.

26 **NC2 Application requirements: landlord's representatives**

- 27 (1) This section applies to an application for the registration of a person as a
 28 landlord's representative.
- 29 (2) An application must —
- 30 (a) include the information; and
- 31 (b) be accompanied by any documents and fee,
 32 specified in regulations made by the Department under section 21
 33 (registration regulations).
- 34 (3) An application must be accompanied by a declaration by the person that
 35 —
- 36 (a) the person meets the personal conduct requirements;
- 37 (b) the person complies with the minimum standards for a landlord's
 38 representative; and

- (c) the information provided in and with the application is true and accurate to the best of the person'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).~~
- (2) A rented dwelling may not be registered unless —
- (a) the relevant landlord is registered under section 14 (determination of application: relevant landlords); and
- (b) in the case where any aspect of the landlord's property management activities with regard to the dwelling are to be undertaken by a landlord's representative, the landlord's representative is registered under section [NC3].
- (3) An application for registration in respect of a rented dwelling may be made by the landlord's representative on behalf of the relevant landlord.
- ~~(4)(3)~~ A relevant landlord ~~must, at the same time as making~~, or the landlord's representative, ~~must at the same time as the relevant landlord makes~~ 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.
- ~~(5)(4)~~ A rented dwelling that has been registered under this section forms a part of the registration of the relevant landlord of that dwelling.
- ~~(6)(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).
- ~~(7)(6)~~ An application must be accompanied by a declaration by the relevant landlord ~~or the landlord's representative, as the case may be~~, that each rented dwelling for which registration is required complies with the minimum standards.
- ~~(8)(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.

(9)(8) An application to which subsection (7) applies must be made within ~~42 days~~ 30 days of the relevant landlord becoming a relevant landlord in respect of the rented dwelling to which the application relates.

(10)(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) ~~on reasonable grounds~~ it is not satisfied that the relevant landlord meets the personal conduct requirements; or
- (b) the relevant landlord is not a resident,

unless the conditions in subsection (4) are complied with.

(4) The conditions mentioned in subsection (3) are that —

- (a) the relevant landlord has nominated a landlord's representative;
- ~~(b) — the Department is satisfied that the landlord's representative meets the personal conduct requirements;~~
- (b)(e) 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
- (c)(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 ~~reasonable~~ 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 section 6(2) (register of relevant landlords [and landlords' representatives](#)); 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 in the circumstances described in subsection (3)(a) or (b), or subject to conditions under 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 that the representative meets 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 14 days beginning with the date on which the landlord and the landlord's representative were notified under this subsection.~~
- (a) give notice to the relevant landlord, and to the person the relevant landlord intends to be the landlord's representative (if any), of its intention to refuse registration and the reasons for the intended refusal;
- (b) consider any representations made by the relevant landlord and, if applicable, the landlord's representative received by the Department before the end of the period of 30 days beginning with the date on which the landlord and the landlord's representative (if any) were notified under this subsection; and
- (c) consider any such representations received in accordance with paragraph (b) within the period of 30 days from receipt of the representations.

- (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~~ **Commissioners: relevant landlords**), 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 and failure to provide a copy of the notice under this subsection to the landlord's representative invalidates the notice but failure to provide such a copy to an occupier does not affect the validity of the notice.~~

NC3 Determination of application: landlords' representatives

- (1) The Department must consider each application for registration properly made under section [NC2] (application requirements: landlord's representatives) and determine whether to grant the registration in accordance with this section.
- (2) The Department may refuse to register a person as a landlord's representative if, on reasonable grounds, it is not satisfied that the person meets the personal conduct requirements.
- (3) The Department may grant registration as a landlord's representative to a person subject to such reasonable conditions as it considers appropriate.
- (4) If it grants registration to a person under subsection (3) the Department must —
 - (a) allocate to the person a unique registration number;
 - (b) enter on the register the information required (as applicable) under the section 6(2) (register of relevant landlords and landlords' representatives); and
 - (c) give notice to the landlord's representative 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 subject to conditions under subsection (3), of the person's right to appeal under Part 5 against the decision to grant registration on those terms.
- (5) Before refusing an application for registration, the Department must —
 - (a) give notice to the person of its intention to refuse registration and the reasons for the intended refusal;
 - (b) consider any representations made by the person and received by the Department before the end of the period of 30 days beginning with the date on which the person was notified under this subsection; and
 - (c) consider any representations received in accordance with paragraph (b) within the period of 30 days from receipt of the representations.
- (6) If the Department refuses an application for registration, it must give notice to the person —
 - (a) that the application has been refused and the reasons for the refusal; and
 - (b) of the person's right to appeal against the decision under Part 5.

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 0 (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 section 6(2) (register of relevant landlords and landlords' representatives); and

- 1 (b) give notice to the relevant landlord, the landlord's representative
2 (if any) and the occupier (if any) of a rented dwelling specified in
3 the application of —
4 (i) the grant of registration;
5 (ii) any conditions attaching to the registration; and
6 (iii) if the registration has been granted subject to conditions
7 under subsection (3), of the relevant landlord's right to
8 appeal under Part 5 against the decision to impose a
9 condition.
- 10 (5) Before refusing an application for a registration under this section, the
11 Department must —
12 ~~(a) give notice to the relevant landlord of its intention to refuse the~~
13 ~~registration and the reasons why; and~~
14 ~~(b) consider any representations made by the relevant landlord before~~
15 ~~the end of the period of 14 days beginning with the date on which~~
16 ~~the landlord was notified.~~
17 (a) give notice to the relevant landlord and to the person the relevant
18 landlord intends to be the landlord's representative (if any) of its
19 intention to refuse registration and the reasons for the intended
20 refusal;
21 (b) consider any representations made by the relevant landlord or
22 landlord's representative (if any) received by the Department
23 before the end of the period of 30 days beginning with the date on
24 which the person was notified under this subsection; and
25 (c) consider any such representations received in accordance with
26 paragraph (b) within the period of 30 days from receipt of the
27 representations.
- 28 (6) If the Department refuses an application for registration in respect of a
29 rented dwelling, it must give notice to the relevant landlord —
30 (a) that the application has been refused and the reasons why;
31 (b) when the decision to refuse registration takes effect;
32 (c) the effect of being an unregistered relevant landlord for the rented
33 dwelling; and
34 (d) of the landlord's right to appeal against the decision under Part 5.
- 35 (7) A copy of the notice in subsection (6) must be provided to any landlord's
36 representative named in the application and any occupier of the rented
37 dwelling, ~~but failure to provide a copy of the notice under this subsection~~
38 ~~and failure to provide a copy of the notice under this subsection to the~~
39 ~~landlord's representative invalidates the notice but failure to provide such~~
40 ~~a copy to any occupier~~ 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~~ **Commissioners: relevant landlords**), 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 that it considers relevant in each case, including evidence —
- (a) which shows that the person has ~~committed any~~ **been convicted of an** 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 (the protected characteristics) 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~~ **been convicted of** 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 12(5) (application requirements: relevant landlords) or 0 (application requirements: rented dwellings); and
 - (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).
- (2) If a relevant landlord or a landlord's representative is a legal entity or association, 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); and
 - (b) the key officers of the relevant landlord or landlord's representative.
- (3) 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 as specified by the Department.
- (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 11(1)(e) (registration requirements) is, or has become, inaccurate.
- (3) In this section, “criminal record certificate” means a certificate obtained from the Disclosure and Barring Service established under section 87 of the Protection of Freedoms Act 2012 (of Parliament), or an equivalent service approved by the Government for this purpose, containing details of the person’s criminal record.

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 [or of a landlord’s representative](#) is for a period of 5 years beginning with the date on which it was granted (the “registration period”).
- (2) The period of registration for a rented dwelling is the period remaining of the applicable relevant landlord’s registration period at the time of the grant of registration for the relevant dwelling.
- (3) Despite subsection (2), if during the period of registration for a rented dwelling the relevant landlord notifies the Department that the landlord surrenders the registration of, or no longer has an interest in, the dwelling, registration in respect of that dwelling expires on the date of the notification.
- (4) 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.
- (5) A relevant landlord [or a landlord’s representative](#) may apply for a new registration during the 3 months before the date on which a current registration would otherwise expire.
- (6) An application for a new registration as described in subsection (5) is made and determined in accordance with sections 12 to 15 (application requirements, determination of application) [in the case of a relevant landlord and a rented dwelling, and in accordance with section \[NC2\]. \(application requirements: landlord’s representatives\) in the case of a landlord’s representative.](#)

- (7) If an application for a new registration as described in subsection (5) is granted, the new registration is granted from the day after the date on which the previous registration period expired.
- (8) 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 legal entity or association, when the relevant landlord is dissolved or otherwise ceases to exist.
- (9) This section is subject to any revocation of registration under section 42 (revocation of registration of relevant landlord) and to section 43 (effect of revocation of registration).
- (10) 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;~~
 - (b) a change of the landlord's representative (if any);
 - (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;

- 1 (f) that a landlord's representative has ceased to act for the relevant
 2 landlord, where this does not affect the relevant landlord's
 3 compliance with the registration requirements or the conditions of
 4 the registration.
- 5 (2) A landlord's representative must give notice to the Department in writing
 6 of —
- 7 ~~(a) — a change to any of the matters specified in subsection (1)(b); or~~
 8 (a) a change to any of the registered details of the landlord's
 9 representative specified in paragraph 2(a) to (c) of the Schedule; or
 10 (b) ceasing to act for the relevant landlord.
- 11 (3) A person must comply with the notice requirements in this section within
 12 one month beginning with ~~the day on which the person knew of the~~
 13 ~~change~~ the date the change occurred.
- 14 (4) A notice under this section must be accompanied by the fee (if any)
 15 specified by the Department in regulations made under section 21(2)
 16 (registration regulations).
- 17 (5) A notice under subsection (1)(e) must include the information, documents
 18 and declaration under section 12(5)(a) and (b) (application requirements:
 19 relevant landlords).
- 20 (6) A person who, without reasonable excuse, fails to comply with this section
 21 commits an offence.
- 22 Maximum penalty (summary) — a fine of level 4 on the standard scale.
- 23 (7) The Department may by order amend this section.
- 24 Tynwald procedure – approval required.

25 20 Disclosure of registered status

- 26 (1) A registered relevant landlord must, in all notices, advertisements or other
 27 documents issued by or on behalf of the landlord concerning the granting
 28 of a lease or licence for a rented dwelling or prospective rented dwelling,
 29 state —
- 30 (a) the fact that the landlord is registered;
 31 (b) the landlord's registration number; and
 32 (c) where applicable, the fact that the rented dwelling is registered as
 33 part of the relevant landlord's registration.
- 34 (2) A landlord's representative must, in all notices, advertisements or other
 35 documents issued by or on behalf of a relevant landlord state —
- 36 (a) the fact that the landlord's representative is registered; and
 37 (b) the landlord's representative's registration number.

(3)(2) A person who, without reasonable excuse, fails to comply with subsection (1) or (2) commits an offence.

Maximum penalty (summary) — a fine of ~~level 4~~ level 3 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), [NC3] (determination of application: landlords' representatives) 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 fee that is payable with respect to each application by a person to be registered as a landlord's representative —
 - (i) on the making of an application for registration; or
 - (ii) on an amendment of an entry on the register;
- (g)(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 in any manner, including electronic form, where practicable,~~ that 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) The Department must, on the application of any person (“the search applicant”), in relation to—
- (a) a particular rented dwelling, provide the search applicant with—
- (i) confirmation of whether any application relating to the rented dwelling has been made in accordance with section 13 but has not yet been determined;
- (ii) the name and registration number (if any) of the relevant landlord that has been registered in respect of the rented dwelling under section 7;
- (iii) the name and registration number of the landlord’s representative (if any) that has been registered in respect of the rented dwelling under section [NC1]; and
- (iv) the address and other correspondence details that are included in the register (if any) for enabling contact to be made with the relevant landlord or the landlord’s representative;
- (b) a particular person, confirm to the search applicant —
- (i) whether that other person is registered under section 7 as a relevant landlord or under section [NC1] as a landlord’s representative;
- (ii) whether the register includes a record of a decision to refuse that other person’s registration or to remove that other person from the register;
- (iii) the address and other correspondence details that are included in the register (if any) for enabling contact to be made with the relevant landlord or landlord’s representative.
- (2) Despite subsection (1), the Department may withhold information where it considers that providing the information would be likely to jeopardise —
- (a) the safety or welfare of any person; or
- (b) the security of any premises.
- (3)(4) 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.

(4)(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.~~
- (a) the landlord's representative's entry on the register;
- (b) information concerning a rented dwelling for which the landlord's representative acts as such; and
- (c) information concerning the registration of the landlord for whom the landlord's representative undertakes property management activities.

(5)(3) The Department may make regulations specifying —

- (a) any other information on the register 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~~
- (a) a relevant landlord with respect to the management and operational matters involved in being a relevant landlord;
- (b) a landlord's representative; and
- (c)(b) a rented dwelling with respect to the condition of the dwelling.

- 1 Tynwald procedure – approval required.
- 2 (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 –
- 3
- 4
- 5
- 6 (a) matters which concern the safety of a rented dwelling;
- 7 (b) matters which concern the condition of a rented dwelling;
- 8 (c) minimum requirements with respect to a lease or licence;
- 9 (d) the provision of documentation and the keeping of records by a relevant landlord;
- 10
- 11 (e) the management by a relevant landlord of matters relating to maintenance and repair with respect to a rented dwelling; and
- 12
- 13 (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.
- 14
- 15
- 16 (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.
- 17
- 18
- 19
- 20
- 21 (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.
- 22
- 23
- 24
- 25 (5) The minimum standards are additional to, and do not otherwise affect, any existing statutory provisions concerning –
- 26
- 27 (a) a landlord or a tenant; or
- 28 (b) safety or other standards for dwellings or any type of housing.
- 29 ~~(6) The Department must bring the regulations made under subsection (1) to the attention of those likely to be affected by them in a manner the Department considers appropriate.~~
- 30
- 31
- 32 (6) The Department must publish any regulations made under subsection (1) in electronic form, where practicable, and in such other manner that it considers necessary to bring them to the attention of those likely to be affected by them.
- 33
- 34
- 35

36 24 Compliance with minimum standards

- 37 (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.
- 38
- 39

- (2) A landlord's representative complies with the minimum standards only if the landlord's representative complies with all the requirements of the minimum standards applicable to the landlord's representative.
- (3)(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 ~~14 days~~ 30 days of the date on which the person was notified;
- (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 that 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 on which 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, ~~but failure to provide a copy of a notice under this subsection does not affect the validity of the notice~~ and failure to provide a copy of a notice under this subsection invalidates the notice.
- (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~~ Commissioners: relevant landlords).

27 Disqualification of a relevant landlord or landlord's representative

- (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 [NC1(2)] (requirement for a relevant landlord's representative to be registered);

(c)(b) section 34(7) (compliance with an improvement notice); or

(d)(e) 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 that 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).~~

(7)(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 (power to obtain particulars of owners, etc of land), 53 (appearance by local authorities) and 55 (evidence of minutes, etc) 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 (power to execute works on behalf of owners, etc), 46 (recovery of expenses), 47 (recovery of expenses where owner cannot be found) and 49 (recovery of establishment charges) 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 (power to require occupier to permit works to be executed by owner) 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 **or landlord’s representative** 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, **or to the landlord’s representative, if any**, if the authorised officer —
- (a) considers that a relevant landlord, **the landlord’s representative, if any** 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 period for such action to be taken, with the relevant landlord **or the landlord’s representative, as the case may be**.
- (2) A notice of non-compliance must include —
- (a) the name of the relevant landlord **and the name of the landlord’s representative (if any)**;

- (b) the address of the rented dwelling (if applicable);
- (c) an explanation why the authorised officer considers that the relevant landlord, *the landlord's representative, if any* or rented dwelling does not comply with the minimum standards;
- (d) an invitation to the relevant landlord, *or the landlord's representative, as the case may be*, to respond to the notice, within a stated period after the notice is given, by —
 - (i) making a submission explaining why the landlord *or the landlord's representative, as the case may be*, 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, *or the landlord's representative, as the case may be* —
 - (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 and failure to provide a copy of the notice under this subsection to the landlord's representative invalidates the notice but failure to provide such a copy to the occupier 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 *or the landlord's representative, as the case may be*, 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.~~
- (2) The authorised officer —
- (a) may accept the landlord's or, if applicable, the landlord's representative's submissions or proposed remedial action and agree with the landlord or the landlord's representative, where applicable, a reasonable period within which the remedial action must be taken; or
- (b) if the authorised officer, having regard to the circumstances of the case, does not consider that action described in paragraph (a) will result in remedial action being taken, must issue an improvement notice to the relevant landlord, or the landlord's representative, as the case may be.
- ~~(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.~~
- (2) The authorised officer —
- (a) may decide that it is satisfied that the remedial action has been completed to the satisfaction of the Department;
- (b) may accept the landlord's or, if applicable, the landlord's representative's submissions or proposed remedial action and agree with the landlord or the landlord's representative, where applicable, a reasonable period within which the remedial action must be taken; or
- (c) if the authorised officer, having regard to the circumstances of the case, does not consider that action described in paragraph (b) will result in remedial action being taken, must issue an improvement notice to the relevant landlord, or the landlord's representative, as the case may be.
- (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.~~

(1) An authorised officer may issue an improvement notice to a relevant landlord, or the landlord's representative (if any), if a notice of non-compliance has been issued to the relevant landlord or the landlord's representative and —

(a) the landlord or the landlord's representative has failed to respond to the notice of non-compliance;

(b) the landlord or the landlord's representative 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 or the landlord's representative'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 ~~(or the landlord's representative, on behalf of 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~~ and failure to provide a copy of the notice under this subsection to the landlord's representative invalidates the notice but failure to provide such a copy to the occupier 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 ~~(or the landlord's representative, on the landlord's behalf)~~ 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 ~~(or the landlord's representative, on the landlord's behalf)~~ 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 ~~(or the landlord's representative, on the landlord's behalf)~~ chooses to take different action to remedy the contravention of the minimum standards specified in the improvement notice, the landlord ~~(or the landlord's representative, on the landlord's behalf)~~ 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~~ landlord and the landlord's representative (if any) who receives the notice

and any subsequent relevant landlord and landlord's representative (if any) 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 or the landlord's representative 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 landlord;

(b)(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

(c)(b) the occupier prevented the landlord from complying with the improvement notice.

- (9) A landlord's representative against whom an improvement notice is effective commits an offence if the landlord's representative fails to comply with the notice.

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

- (10) In proceedings for an offence under subsection (9), 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 relevant landlord;

(b) 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

(c) the occupier prevented the landlord from complying with the improvement notice.

35 Application of enforcement provisions in other legislation

If a relevant landlord (or the landlord's representative, on the landlord's behalf) 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~~ revocation: relevant landlords), 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)(e)~~ ~~to (e)~~ 11(1)(c) to (e) and (2) (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)(e)~~ 11(1)(c)(iii) 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.~~

(2) A registered relevant landlord commits an offence if the landlord having nominated a landlord's representative under section 11(1)(c)(ii) or (d) in respect of a dwelling, without reasonable excuse, permits a person other than the landlord's representative recorded on the landlord's register

entry to undertake any property management activity in respect of that dwelling.

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 a resident; or
 - (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) or section NC2 (application requirements: landlords' representatives) 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~~ 30 days beginning with the date 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

- 1 circumstances where a landlord's representative is required in order to
 2 satisfy —
- 3 (a) the registration requirements in section 11(1) (registration
 4 requirements); or
- 5 (b) the conditions of registration imposed on the relevant landlord,
 6 the Department must issue a notice to the relevant landlord.
- 7 (2) The notice issued under subsection (1) must inform the relevant landlord
 8 that —
- 9 (a) the relevant landlord is in breach of the registration requirements
 10 or the conditions of registration;
- 11 (b) the undertaking of any property management activity in breach of
 12 the registration requirements in section 11(1) or in breach of the
 13 landlord's conditions of registration is an offence and in
 14 consequence no such activity should be undertaken;
- 15 (c) the relevant landlord must rectify the breach by nominating a
 16 landlord's representative, and notifying the Department of the
 17 nomination, within the period specified in the notice; and
- 18 (d) failure to rectify the breach within the specified period may result
 19 in revocation of the landlord's registration.

20 **40 Action regarding personal conduct requirements**

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

~~period of 14 days beginning with the date on which the landlord or the landlord's representative (as the case may be) was informed.~~

- (b) consider any representations made by the relevant landlord or landlord's representative (as the case may be) received by the Department before the end of the period of 30 days beginning with the date on which the landlord or the landlord's representative (as the case may be) was informed; and
- (c) consider any such representations received in accordance with paragraph (b) within the period of 30 days from receipt of the representations.

(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~~ **Commissioners: relevant landlords**), 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~~ **revocation: relevant landlords**

- (1) Section 42 (revocation of registration) applies if **the Department reasonably believes that** 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 0 (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 and conditions of registration) 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~~ **registration: relevant landlords**

- (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~~ **revocation: relevant landlords**), 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 on which landlord was notified.~~
 - (b) consider any representations made by the relevant landlord or landlord's representative (if any) received by the Department before the end of the period of 30 days beginning with the date the on which the landlord was notified; and
 - (c) consider any such representations received in accordance with paragraph (b) within the period of 30 days from receipt of the representations.
- (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 on which the decision takes effect;

- 1 (c) the effects of revocation for the landlord and any occupier of a
2 rented dwelling affected by the revocation; and
- 3 (d) the landlord's right to appeal the decision under Part 5.
- 4 (4) If the Department revokes a relevant landlord's registration under
5 subsection (1), it must give notice of the revocation, the date on which the
6 notice takes effect and the relevant landlord's right of appeal to —
- 7 (a) a landlord's representative recorded on the register as being
8 nominated by the landlord for a rented dwelling affected by the
9 revocation; and
- 10 (b) the occupier of a rented dwelling affected by the revocation,
11 ~~but failure to provide the notice under this subsection does not affect the~~
12 ~~validity of the notice of revocation under subsection (3); and failure to~~
13 ~~provide a copy of the notice under this subsection to the landlord's~~
14 ~~representative invalidates the notice of revocation under subsection (3) but~~
15 ~~failure to provide such a copy to the occupier does not affect the validity~~
16 ~~of the notice.~~
- 17 (5) The notice given under subsection (3) and (4) must explain the effect of the
18 revocation and the consequences of being an unregistered relevant
19 landlord.
- 20 (6) Subject to the Commissioners staying the effect of the notice under section
21 49(4) (application and appeal to the ~~Commissioners~~ **Commissioners:**
22 **relevant landlords**), a revocation of registration under this section takes
23 effect following the expiry of the period permitted to a relevant landlord
24 to make an appeal to the Commissioners.

25 **43 Effect of revocation of registration of relevant landlord**

- 26 (1) If a registration **in relation to a relevant landlord** is revoked the
27 registration ceases, or, if revoked only with respect to a particular rented
28 dwelling, it ceases for the rented dwelling to which it applies.
- 29 (2) A person who is a relevant landlord for a rented dwelling in respect of
30 which registration has been revoked is an unregistered relevant landlord
31 in respect of that dwelling.
- 32 ~~(3) — A person whose registration has been revoked in its entirety —~~
33 ~~(a) — may not apply for registration as a relevant landlord for at least 12~~
34 ~~months from the date on which that the revocation takes effect; and~~
35 ~~(b) — if an application is made following the period in paragraph (a) and~~
36 ~~is refused, may not make a further application for at least 12~~
37 ~~months from the date on which the refusal takes effect.~~
- 38 (3) A landlord whose registration has been revoked in its entirety may not
39 apply for registration as a relevant landlord unless the person provides
40 evidence to the Department from which the Department may be

reasonably satisfied that there has been a material change in the circumstances of the unregistered relevant landlord since the date on which the revocation took 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, apply for registration in respect of the dwelling if —
- (a) the relevant landlord has invited an authorised officer to inspect the dwelling to assess whether it meets the minimum standards and the authorised officer considers that the minimum standards have been met; or
 - (b) there has been a material change in the rented dwelling since the registration was revoked and the relevant landlord has some evidence to support that material change.
- (5) An application made in the circumstances of ~~subsection (4)~~ subsection (3) or (4) is made, and is determined by the Department, in the same way as any other application for registration in respect of a rented dwelling.

NC4 Grounds for revocation: landlord's representative

- (1) Section [NC5] (revocation of registration: landlord's representative) applies if the landlord's representative 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(1) (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(9) (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 and conditions of registration) contrary to section 38(5);
 - (g) failed to comply with the requirements of a notice issued under section 40 (action regarding personal conduct requirements); or
 - (h) breached a condition of registration,
- whether or not the landlord's representative 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 landlord's representative with respect to a matter in subsection (1), if —
- (a) the landlord's representative has been acquitted of an offence with respect to the matter; or
 - (b) any proceedings brought against the landlord's representative in relation to an offence with respect to the matter have been discontinued.

NC5 Revocation of registration: landlord's representative

- (1) Where this section applies, the Department may revoke the registration of a landlord's representative.
- (2) Before revoking a relevant landlord's registration under subsection (1) the Department must —
- (a) give notice to the landlord's representative of its intention to revoke the landlord's representative's registration and the reasons why;
 - (b) consider any representations made by the landlord's representative and received by the Department before the end of the period of 30 days beginning with the date the on which landlord's representative was notified; and
 - (c) consider any representations received in accordance with paragraph (b) within the period of 30 days from receipt of the representations.
- (3) If the Department revokes a landlord's representative's registration under subsection (1), it must give notice to the landlord's representative of —
- (a) its decision and the reasons for the decision;
 - (b) the date on which the decision takes effect; and
 - (c) the landlord's representative's right to appeal the decision under Part 5.
- (4) If the Department revokes a landlord's representative's registration under subsection (1), it must give notice of the revocation, the date on which the notice takes effect and the landlord's representative's right of appeal to any relevant landlord for whom the landlord's representative acted in that capacity, and failure to provide a copy of the notice under this subsection to the such relevant landlords invalidates the notice of revocation under subsection (3)
- (5) The notice given under subsection (2) and (3) must explain the effect of the revocation and the consequences of a person undertaking property management activities in respect of a rented dwelling when the person is not the relevant landlord or a registered landlord's representative respect of that rented dwelling.

- (6) Subject to the Commissioners staying the effect of the notice under section 49(4) (application and appeal to the Commissioners: relevant landlords), 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.

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 on which 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 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

- 1 (c) on the notice taking effect, the relevant landlord in receipt of the
 2 notice is an unregistered relevant landlord in respect of the rented
 3 dwelling to which the notice relates.
- 4 (2) Where this section applies —
- 5 (a) despite the terms of a lease or licence for the rented dwelling to
 6 which the relevant notice relates, no rent is due or payable in
 7 respect of the rented dwelling from the date on which the relevant
 8 notice takes effect until the date on which this section ceases to
 9 apply; and
- 10 (b) the relevant landlord is not entitled to terminate the lease or licence
 11 of the rented dwelling or require an occupier to give up occupancy
 12 of the rented dwelling on the grounds of a failure to pay the rent
 13 during the period specified in paragraph (a).
- 14 (3) Nothing in this section affects the right of a relevant landlord to terminate
 15 a lease or licence with an occupier on any grounds other than those
 16 mentioned in subsection (2)(b).
- 17 (4) This section ceases to apply from the date on which the relevant landlord
 18 —
- 19 (a) is registered in respect of the rented dwelling; or
 20 (b) ceases to be a relevant landlord for that dwelling.
- 21 (5) A relevant landlord must repay to an occupier any rent to which the
 22 relevant landlord is not entitled under this section, and if the landlord fails
 23 to do so, the rent is recoverable as provided in section 46 (recovery of rent).
- 24 (6) The Department must, on issuing a relevant notice, inform all recipients
 25 of the notice of the effect of this section.
- 26 (7) In this section —
- 27 (a) a “relevant notice” is one of the following notices —
- 28 (i) a notice under section 15(6) (determination of application:
 29 rented dwellings) that an application for registration in
 30 respect of a rented dwelling has been refused;
- 31 (ii) a notice under section 26(1) (notice of non-registration); or
 32 (iii) a notice under section 42(4) (revocation of registration); and
- 33 (b) “rent” does not include an amount payable, or consideration due,
 34 for a service as specified in paragraph (b) of the definition of “rent”
 35 in section 3 (interpretation), where the amount payable, or
 36 consideration due, for a service is separately specified in the lease
 37 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.

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

Decisions subject to appeal

(1) The following decisions are subject to an application and appeal by a relevant landlord or landlord's representative, whether on behalf of the relevant landlord or on the landlord representative's own behalf under this Part —

- (a) a refusal to grant a registration of the relevant landlord under section 14 (determination of application: relevant landlords) or 18(6) (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(6) 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 40(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).

(2) The following decisions are subject to an application and appeal by a landlord's representative under this Part —

- 1 (a) a refusal to grant a registration of a person as a landlord's
- 2 representative under section NC3 (determination of application:
- 3 landlords' representatives).
- 4 (b) a decision to impose conditions on the registration of the landlord's
- 5 representative under section NC3(3);
- 6 (c) a decision to issue an improvement notice under section 33(1)
- 7 (improvement notices), or regarding the period within which such
- 8 a notice must be complied with;
- 9 (d) a decision to issue a notice under section 40(4) or 40(5) (action
- 10 regarding personal conduct requirements); and
- 11 (e) a decision to revoke the registration of the landlord's representative
- 12 under section NC4 (revocation of registration: landlord's
- 13 representative).

14 **49 Application and appeal to the ~~Commissioners~~ Commissioners: relevant**

15 **landlords**

- 16 (1) A relevant landlord who is not satisfied by a decision subject to appeal
- 17 under this Part may appeal to the Commissioners against the decision.
- 18 (2) An appeal to the Commissioners under this section —
- 19 (a) is by way of rehearing; and
- 20 (b) must be made and determined in accordance with rules of
- 21 procedure.
- 22 (3) Unless rules of procedure provide otherwise, an appeal to the
- 23 Commissioners must be made within ~~21 days~~ 30 days of the date of the
- 24 notice of the decision.
- 25 (4) The Commissioners may, on application by a relevant landlord, stay the
- 26 effect of any decision for which an appeal is made under this Part pending
- 27 the outcome of the appeal.
- 28 (5) Notice of —
- 29 (a) an application to stay the effect of a decision; and
- 30 (b) an appeal against a decision under this Part,
- 31 must be copied by the Commissioners to the Department and the
- 32 Department is a party to any proceedings before the Commissioners under
- 33 this Part.
- 34 (6) Rules of procedure may provide that a relevant landlord must give notice
- 35 of the making of an application or appeal under this Part to any landlord's
- 36 representative or any occupier of a rented dwelling to which the
- 37 application or appeal relates.
- 38 (7) Despite subsection (6), a notice of the making of an application or appeal
- 39 under this Part must be given to an occupier of a rented dwelling to which
- 40 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 and in section [NC4], "rules of procedure" means rules made under section 8 (rules of procedure) 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.

NC6 Application and appeal to the Commissioners: landlord's representatives

- (1) A person who is not satisfied by the decision of the Department to refuse to grant a registration of a person as a landlord's representative under section NC3 (determination of application: landlords' representatives) or the decision to revoke the registration of the landlord's representative under section NC4 (revocation of registration: landlord's representative), 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 30 days of the date of the notice of the decision.
- (4) On determination of an appeal under this section, the Commissioners may confirm, vary or revoke the decision appealed against.
- (5) Notice of the outcome of an application or appeal must, in accordance with rules of procedure, be given by the Commissioners to the appellant.
- (6) A notice under subsection (5) in respect of the outcome of an appeal must include a statement that the appellant or the Department may appeal against the decision to the High Court on a question of law in accordance with subsection (8).
- (7) Without limiting subsection (6), a decision of the Commissioners on an appeal under this section is binding on the Department and the appellant.
- (8) The Department or the appellant may appeal to the High Court, in accordance with rules of court, from a decision of the Commissioners on a question of law.

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 meaning given in section 45(7).

51 Commissioners’ power to stay effect of outcome of appeal

- (1) This section applies to an appeal against a decision described in section 48(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~~ **must** 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; ~~and~~
 - ~~(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

- 1 (b) does not apply to information requested under subsection (3).
- 2 (6) In this section, “private rented sector” means —
- 3 (a) rented dwellings, or dwellings intended to be used as rented
- 4 dwellings;
- 5 (b) the activities of a relevant landlord under a lease or licence in
- 6 respect of a rented dwelling; or
- 7 (c) the activities of a relevant landlord or a landlord’s representative
- 8 in the undertaking of a property management activity.

9 **57 Power to obtain documents and information**

- 10 (1) The Department may exercise the powers in this section in relation to
- 11 documents or information reasonably required by the Department for any
- 12 purpose connected with the exercise of any of the Department’s functions
- 13 under this Act.
- 14 (2) The Department may give notice to a relevant person requiring that
- 15 person to produce a document or provide information which—
- 16 (a) is specified or described in the notice or which falls within a
- 17 category specified or described; and
- 18 (b) is, in the case of documents, in the person’s custody or under the
- 19 person’s control or, in the case of information, known to the person.
- 20 (3) A notice under subsection (2) may specify —
- 21 (a) the time and place for the provision of the document or
- 22 information; or
- 23 (b) the form or manner in which information must be provided.
- 24 (4) A notice under subsection (2) must advise the recipient of the matters in
- 25 subsections (7) and (8).
- 26 (5) A notice under subsection (2) may be given to a relevant person by an
- 27 authorised officer in relation to documents or information reasonably
- 28 required by the authorised officer for any purpose connected with the
- 29 exercise of any of the authorised officer’s functions under this Act.
- 30 (6) The Department or an authorised officer may copy any document
- 31 provided to it in accordance with a notice under this section.
- 32 (7) No person may be required under this section to provide information or
- 33 any document which the person would be entitled to refuse to provide in
- 34 court proceedings on grounds of legal privilege.
- 35 (8) A person who, without reasonable excuse, fails to comply with a
- 36 requirement made to that person in a notice under this section commits an
- 37 offence.
- 38 Maximum penalty (summary) — a fine of level 4 on the standard scale.
- 39 (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 (powers to enter on land) of the *Local Government Act 1985* and, for the purposes of this Act, a reference in that section to “a person authorised in writing by a relevant Department or a local authority” 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 (offences in connection with entry, etc) of the *Local Government Act 1985* applies for the purposes of this Act.
- (4) The Department must by regulations make provision for the purposes of enforcement of this Act and, in particular, make provision for —
- (a) processes for establishing whether a relevant landlord or a landlord's representative meets the personal conduct requirements or the minimum standards; and
 - (b) processes for establishing whether a rented dwelling meets the minimum standards
- Tynwald procedure — approval required.

61 Powers on entry

- (1) This section applies when an authorised officer enters a rented dwelling under section 35 (powers to enter on land) 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 (enforcement of minimum standards) 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) prohibit a relevant landlord or a landlord's representative from imposing a fee or charge upon an occupier of a rented dwelling in consequence of a fee or charge payable under his Act by a relevant landlord or a landlord's representative;
 - (c) regulate the fees or charges that may be imposed on an occupier of a rented dwelling by a landlord or a landlord's representative ;
 - (d)(b) permit a person to exercise a discretion in respect of any matters specified in the scheme, order or regulations;
 - (e)(e) contain any consequential, incidental, supplemental, transitional, transitory or saving provisions that the Department considers necessary or expedient for the purposes of the scheme order, or regulations; and
 - (f)(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 (apart from regulations made under section 55(1) (amount of occupancy deposits)), the Department must consult the Department of Environment, Food and Agriculture and any other person the Department reasonably considers will be affected by the regulations.

- (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

- (1) 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.

~~(2) The maximum penalty for an offence under subsection (1) is —~~

~~(a) on summary conviction — 12 months' custody and a fine of level 5 on the standard scale;~~

~~(b) on conviction on indictment — 2 years' custody and a fine.~~

Maximum penalty (summary) – a fine of 5 times level 5 on the standard scale.

NC7 Civil penalties

- (1) The Department may by regulations make provision permitting the Department to require a person to pay a financial penalty if the Department is satisfied that the person —
- (a) has contravened any provision of this Act;
 - (b) has contravened any prohibition or requirement imposed under this Act; or
 - (c) in purported compliance with any such requirement, has furnished the Department with false, inaccurate or misleading information.

Tynwald procedure – approval required.

- (2) Regulations made under subsection (1) must specify —
- (a) the circumstances when a notice may be issued;
 - (b) the contents on the notice;
 - (c) the service of the notice;
 - (d) the penalty that is payable, which must not exceed the equivalent of 5 times level on the standard scale; and
 - (e) the process for appealing against a notice.
- (3) The Department may not in respect of any such contravention —
- (a) both require a person to pay a penalty under this section; and revoke a registration of a relevant landlord or a landlord's representative; or
 - (b) require a person to pay a penalty under this section if criminal proceedings have been commenced in respect of the contravention.

- (4) Any amount received as a penalty shall be paid into and form part of the General Revenue of the Island.

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 (acts of public authorities) 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.~~
- (2) The Department must publish guidance issued under this section in electronic form, where practicable and in any other manner the Department considers appropriate to bring it to the attention of those likely to be affected by it.
- (3) When the Department gives a notice to the occupier of a rented dwelling under any provision of this Act it must also provide the occupier with guidance explaining the effect of the notice on the occupier's right to occupy the dwelling.

SCHEDULE

[Section 6]

CONTENT OF THE REGISTER

PART A – INFORMATION THE REGISTER MUST CONTAIN

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, ~~email address and telephone number~~ of the relevant landlord;
- (b) if the landlord is an individual, the landlord's principal residential address;
- (c) if the landlord is a legal entity or association—
 - (i) the address of the landlord's registered or principal office and (if different) its established place of business in the Island; and
 - (ii) the names of the landlord's directors or members (where its affairs are managed by its members) and key ~~officers~~ ~~officers~~;
- (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 has been 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 on which 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 on which the notice takes effect; ~~and~~
- (n) details of any appeals against any other decisions under this Act in relation to the relevant landlord and the outcome of any such appeals.

2. Information in respect of a landlord's representative

An entry in the register concerning a landlord's representative must record the following —

- (a) the name and correspondence address, email address and telephone number of the landlord's representative;
- (b) if the landlord's representative is an individual, the landlord's representative's principal residential address;
- (c) if the landlord's representative is a legal entity or association —
 - (i) the address of the landlord's representative's registered or principal office and (if different) its established place of business in the Island; and
 - (ii) the names of the landlord's representative's directors or members (where its affairs are managed by its members) and key officers;
- (d) the relevant landlord's representative's registration number;
- (e) the date of initial registration;
- (f) the date of each subsequent grant of registration, if applicable;
- (g) where registration has expired, the date of expiry;
- (h) where an application for registration has been 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;
- (i) where registration has been revoked under section [NC4] (revocation of registration: landlord's representative) —
 - (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;

- 1 (j) the date of any changes in the details of the register and the date on
- 2 which the Department was notified of such change;
- 3 (k) details of any notices issued to the relevant landlord's
- 4 representative, including the date of the notice and the date on
- 5 which the notice takes effect; and
- 6 (l) details of any appeals against decisions under this Act in relation
- 7 to the landlord's representative, or any of the relevant landlord's
- 8 rented dwellings, and the outcome of any such appeals.

9 **3 2 Information on a landlord's representative in register entry**

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

- 12 (a) the name and correspondence address of any person nominated by
- 13 the relevant landlord as a landlord's representative, and the
- 14 address of each registered rented dwelling to which the nomination
- 15 relates;
- 16 (b) if the landlord's representative is an individual, the
- 17 representative's principal residential address;
- 18 (c) if the landlord's representative is a legal entity or association —
- 19 (i) the address of the landlord's representative's registered or
- 20 principal office and (if different) its established place of
- 21 business in the Island; and
- 22 (ii) the names of the landlord's representative's directors or
- 23 members (where its affairs are managed by its members)
- 24 and key officers);
- 25 (d) the date of a nomination of a landlord's representative and the date
- 26 on which the Department was notified of the nomination;
- 27 (e) the date on which a landlord's representative ceased to act for a
- 28 relevant landlord and the date on which the Department was
- 29 notified that the landlord's representative had ceased to act; and
- 30 (f) details of any notices issued to the landlord's representative under
- 31 section 40(5) (action regarding personal conduct requirements),
- 32 including the date on which the notice was issued and the date on
- 33 which it took effect.

34 **4 3 Information on rented dwellings in register entry**

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

- 37 (a) the address of the rented dwelling;
- 38 (b) a description of the building of which the rented dwelling forms
- 39 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;~~
- (d)(e) the date of initial registration;
- (e)(f) the date of each subsequent grant of registration;
- (f)(g) any conditions on the grant of registration;
- (g)(h) where registration has expired, the date of expiry;
- (h)(i) where an application for registration of the rented dwelling has been 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;
- (i)(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;
- (j)(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
- (k)(l) the date and details of any changes with regard to the registration of the rented dwelling and the date on which the Department was notified of such change.

4. Information on register entry for a relevant landlord or landlord's representative

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

The name and correspondence address of any person other than the relevant landlord who has an estate or interest in the rented dwelling.

PART B² – INFORMATION THE REGISTER MAY CONTAIN

² Part B contains no information at present but may do so on an amendment of the Schedule by order under section 6(5).

IN THE KEYS

**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.

Leave to introduce given by the
Council of Ministers on 12 November
2020.

MR BAKER

DECEMBER 2020