

LANDLORD REGISTRATION (PRIVATE HOUSING)

BILL 2020

1 A BILL to provide for the registration of landlords of private rented dwellings;
2 for the application and enforcement of standards for landlords and private rented
3 dwellings; for the regulation and protection of occupancy deposits; for the
4 monitoring of the private rented sector; and for connected purposes.

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

5 PART 1 – INTRODUCTORY

6 1 Short title

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

8 2 Commencement

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

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

16 Tynwald procedure – laying only.

17 3 Interpretation

18 In this Act —

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

21 “authorised officer” means an officer of —

22 (a) the Department; or

Section 3 Landlord Registration (Private Housing) Bill 2020

Page 18 c

1 (b) the Department of Environment, Food and Agriculture,

2 authorised by the Department in writing to exercise the functions of

3 authorised officers under this Act and an authorised officer so acting is
4 acting in the name of, and on behalf of, the Department;
5 “the Commissioners” means the Isle of Man Rent and Rating Appeal
6 Commissioners constituted under section 1 of the Rent and Rating Appeals
7 Act 1986;
8 “data protection legislation” has the meaning given in regulation 5(1) of the
9 GDPR and LED Implementing Regulations 2018¹⁹ as they have effect from
10 time to time;
11 “the Department” means the Department of Infrastructure;
12 “dwelling” means a building or part of a building, which is occupied or intended
13 to be occupied as a separate dwelling, together with any yard, garden,
14 outhouses and appurtenances belonging to it or usually enjoyed with it;
15 “key officer” means a person who undertakes any property management activity
16 for a relevant landlord or landlord’s representative, whether the person is
17 a director, secretary, manager or other officer, of the relevant landlord or
18 landlord’s representative (as the case may be) or is otherwise engaged by
19 that relevant landlord or landlord’s representative for that purpose;
20 “landlord” means a person who, under a lease or a licence, grants an occupier

COMMENT: We really do not think this should apply to all licences. Licences generally may be granted orally and can be revoked at any time. If a mate came to stay with you and paid you a small sum for the privilege, they would be caught by the terms of this bill and then by virtue of it, the regulations which MUST be passed in accordance with the Bill. It seems that this needs more thought. It is presumably included to, for example, cover HMO’s but without giving more thought to when it should or should not apply, this is far far too wide.

21 the right to occupy a private dwelling or part of a private dwelling for a
22 term in exchange for the payment of rent;

COMMENT: Or licence fee? What constitutes Rent?

23 “landlord’s representative” is a person who is a resident and who is nominated
24 by a relevant landlord to act for the landlord in relation to a lease or licence
25 to which a rented dwelling is subject in the performance of a property

COMMENT: Licenced?

26 management activity;

27 “lease” includes a tenancy, sub-lease or sub-tenancy and an agreement for a lease

28 or tenancy, or sub-lease or sub-tenancy, whether or not in writing, but

COMMENT: What about where such sub-lease / tenancy is granted by the lessee without the landlord's permission? Should duties be owed to an individual who is not permitted at the property?

"whether or not in writing" This is at odds with the Regulations, which stipulate that all leases (and licences) should essentially be executed as a deed.

29 does not include a lease granting a leasehold estate for a term greater than

30 21 years, and a reference to a "tenant" is to be construed accordingly;

COMMENT: 21 years or 21 years left to run? What happens where a leasehold estate for sale was originally granted for 999 years but now only has less than 21 years left to run? This happens fairly regularly. Again, this is poorly thought through.

31 "leasehold estate" has the meaning given in section 79 (interpretation) of the Land

32 Registration Act 1982;

33 "legal entity" means a body corporate, firm or other body that is a legal person

34 under the law by which it is governed;

35 "licence" means a licence, whether or not in writing, to occupy a rented dwelling,

COMMENT: This is at odds with the draft regulations which provide (farcically) that a licence must be in writing and essentially executed as a deed. This flies in the face of well-established law and is poorly thought through. There needs to be some more thought put into what types of licence should be caught by the Act and Regs. It is crazy to apply this Act to all licences.

36 and a reference to a "licensee" is to be construed accordingly;

37 "minimum standards" means the minimum standards required of a relevant

COMMENT: The standards currently proposed are far from "minimum", perhaps replace "minimum with "onerous".

38 landlord and a rented dwelling set out in regulations made under section

39 23(1) (minimum standards), and a reference to the minimum standards in

1 SD 2018/0145

Landlord Registration (Private Housing) Bill 2020 Section 3

c Page 19

1 connection with a relevant landlord, or to the minimum standards in

2 connection with a rented dwelling, means the minimum standards

3 required of a relevant landlord or rented dwelling (as the case may be) as

4 specified in those regulations;

5 "notice of non-registration" has the meaning given in section 26(1) (notice of

6 non-registration);

7 “occupier” means a person granted by a landlord the right to occupy a private

8 dwelling or part of a private dwelling under a lease or licence in exchange

9 for the payment of rent;

10 “personal conduct requirements” are the standards of personal conduct that a

11 relevant landlord or landlord’s representative is required to meet under

12 section 11(1)(c) (registration requirements) as determined by the

13 Department in accordance with section 16 (personal conduct

14 requirements) and 17 (personal conduct requirements: further

15 investigation);

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

17 (a) a public sector dwelling; or

COMMENT: This bill is discriminatory. If the Government are willing to put minimum standards in place for private landlords, they must be willing to abide by those standards themselves.

The Bill discriminates against public housing tenants and private landlords.

It is also detrimental to privately housed tenants who will likely see rental increases and a shortage of housing stock.

The amount of revenue for the Government will also likely decrease as private landlords (taxed at 20%) leave the market, or for the lucky ones that can afford to comply with the (so called) minimum standards, when they seek tax relief on the huge sums of money required to comply.

In 2014, it was determined that it would be too expensive and onerous to place such standards on Public housing. The Government has huge resources and employs an enormous amount of people. If it is too onerous and costly for them, what make the Government believe that it is not too onerous and costly to place these burdens on private landlords, many of whom only own one or two rented properties, making small returns.

18 (b) a dwelling for which a lease is granted by an approved housing

19 association (within the meaning of the Housing (Miscellaneous

20 Provisions) Act 1976), where the housing association has complied

21 with terms and conditions imposed by, or arrangements made

22 with, the Department under Part II of that Act;

23 “property management activity” has the meaning given in section 4 (meaning of

24 “property management activity”);

25 “public sector dwelling” is a dwelling —

26 (a) provided by —

27 (i) the Department;

28 (ii) a local authority;

29 (iii) local authorities acting jointly; or

30 (iv) a local authority acting jointly with the Department,

COMMENT: What does this mean? Will the Act also apply to housing paid for by the Government. But within privately OWNED property? This is likely to be provided at below market rate.

31 as part of the statutory functions of the Department or the local

32 authority with respect to the provision of housing accommodation;

33 and

34 (b) provided under a lease, licence or other agreement for a rent below

35 market rate;

36 “the register” means the register established and maintained under section 6(1)

37 (register of relevant landlords);

38 “registration period” is to be construed in accordance with section 18

39 (registration period, expiry and re-application);

Section 4 Landlord Registration (Private Housing) Bill 2020

Page 20 c

1 “registration requirements” means the requirements described in section 11

2 (registration requirements);

3 “relevant landlord” means a landlord of a rented dwelling who is registered, or

4 required to be registered, under section 7(1) (requirement for a relevant

5 landlord to be registered);

6 “rent” means an amount payable by or on behalf of, or any other consideration

7 due from, an occupier to a landlord under a lease or a licence for —

8 (a) the right to occupy a dwelling; and

9 (b) any service provided to the occupier by the landlord or on the

10 landlord’s behalf in connection with the occupier’s occupancy of

11 the dwelling other than the provision of the right to occupy in

12 paragraph (a);

13 “rented dwelling” means a private dwelling or a part of a private dwelling that

14 an occupier has a right to occupy for a term in exchange for the payment
15 of rent under a lease or licence granted by a landlord;
16 “resident” in relation to a relevant landlord or a landlord’s representative means

17 —

18 (a) in the case of an individual, the individual owning, leasing or
19 occupying a dwelling in the Island as the individual’s only or
20 principal residence;

21 (b) in the case of a legal entity or association, the legal entity or
22 association having —

23 (i) a registered office or established place of business in the
24 Island; and

25 (ii) at least one of its key officers who is an individual and a
26 resident within the meaning of paragraph (a);

27 “scheme administrator” means —

28 (a) the person with whom arrangements are made under section 53(2)
29 (occupancy deposit protection schemes) to administer and
30 maintain a scheme made under section 53(1); or

31 (b) if no such arrangements have been made, the Department; and

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

35 4 Meaning of “property management activity”

36 (1) A “property management activity” is an activity —

37 (a) undertaken by a relevant landlord or a landlord’s representative;

38 (b) in connection with an occupier’s occupancy or intended occupancy
39 of a rented dwelling; and

Landlord Registration (Private Housing) Bill 2020 Section 5

c Page 21

1 (c) in circumstances where the activity requires direct contact with the
2 occupier or a member of the occupier’s household.

3 (2) A property management activity includes any of the following

4 activities —

- 5 (a) arranging and conducting viewings with a prospective occupier;
- 6 (b) establishing the suitability of a prospective occupier by, amongst
- 7 other things, the collection of information regarding the
- 8 prospective occupier;
- 9 (c) preparing, or arranging the preparation of, the lease or licence;
- 10 (d) arranging for the signing of the lease or licence;
- 11 (e) preparing, or arranging the preparation of, any inventory or
- 12 schedule of condition in respect of the rented dwelling;
- 13 (f) collecting rent or other payments in respect of the rented dwelling;
- 14 (g) being the principal point of contact for the occupier in relation to
- 15 matters arising in relation to the lease or licence;
- 16 (h) making arrangements with a person to carry out repairs or
- 17 maintenance with respect to the rented dwelling;
- 18 (i) making arrangements with the occupier to secure access to the
- 19 rented dwelling for any purpose;
- 20 (j) checking the contents or condition of the rented dwelling, or
- 21 arranging for them to be checked; and
- 22 (k) serving notice to terminate the lease or licence.

23 5 Amendment of definitions

24 The Department may by order amend section 3 (interpretation) or 4 (meaning of

25 “property management activity”).

26 Tynwald procedure — approval required.

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

28 6 **Register of relevant landlords**

COMMENT: The Government have the means to make the register should they wish to.

29 (1) The Department must establish and maintain a register of relevant

30 landlords registered under this Act.

31 (2) The register must contain the information specified in Part A of the

32 Schedule and may contain any or all of the information specified in Part B

33 of the Schedule.

34 (3) A register entry for a particular relevant landlord must be kept for 6 years
35 after the registration has expired, after which it must be deleted from the
36 register as soon as practicable.

Section 7 Landlord Registration (Private Housing) Bill 2020

Page 22 c

1 (4) The Department may keep the register in any form it considers
2 appropriate, including in electronic form.

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

4 Tynwald procedure — approval required.

7 Requirement for a relevant landlord to be registered

6 (1) A landlord of a rented dwelling must —

7 (a) be registered with the Department; and

8 (b) be registered in respect of the rented dwelling,

9 in accordance with this Part unless an exception in section 8 (exceptions to
10 the requirement to be registered) applies.

11 (2) A relevant landlord who, without reasonable excuse, contravenes
12 subsection (1) commits an offence.

13 **Maximum penalty (summary) — 6 months' custody and a fine of 5 times**

14 level 5 on the standard scale.

COMMENT: The Penalties are DRACONIAN and onerous when compared with sentences imposed upon persons who commit much more serious crimes.

It is no answer to say that these are only maximum sentences. The Government has no control over what the Prosecution may seek or the Court may impose. History suggests that quite often the maximum sentence will be sought.

15 (3) A relevant landlord does not contravene subsection (1) —

16 (a) during the period permitted to the relevant landlord to apply to
17 register under section 9(1) or 9(3) (applying for registration);

18 (b) during the period between the expiry of an existing registration
19 and the determination of an application for a new registration

20 made as described in section 18(5) (registration period, expiry and
21 re-application), where such an application has been properly made;

22 (c) with respect to an additional rented dwelling as described in

23 section 13(7) (application requirements: rented dwellings), during
24 the period permitted to the relevant landlord to apply to register
25 that dwelling under section 13(8); or
26 (d) if the relevant landlord —
27 (i) has applied to the Department for the registration under
28 section 9(1) or 9(3), or section 13(7), within the period
29 permitted; and
30 (ii) the application has been properly made,

COMMENT: What about inadvertent mistakes?

31 during the period the application is being determined.
32 (4) For the purposes of subsection (3)(b) and (d), in the event that the
33 application is refused, the application is determined on the date on which
34 the refusal notice takes effect (see sections 14(9) (determination of
35 application: relevant landlords) and 15(8) (determination of application:
36 rented dwellings)).

Landlord Registration (Private Housing) Bill 2020 Section 8

c Page 23

1 8 Exceptions to the requirement to be registered
2 (1) A landlord is not a relevant landlord in respect of a rented dwelling if the
3 rented dwelling is or forms part of —
4 (a) residential accommodation provided by an employer for an
5 employee if —
6 (i) it is necessary for the proper performance of the employee's
7 duties that the employee should reside in the
8 accommodation; or
9 (ii) the accommodation is provided for the better performance
10 of the duties of the employment and the employment is a
11 type of employment where it is customary for employers to
12 provide residential accommodation for employees;

COMMENT: Why are they carved out? Why shouldn't this apply to employers who provide housing for, e.g. people who have recently moved over to work e.g. Pokerstars, Microgaming. These

employers make huge sums of money and are taxed very little. Why should private landlords, many of whom only have one or two properties, be held to a higher standard than them?

13 (b) an agricultural holding under section 1 (meaning of agricultural

14 holding) of the Agricultural Holdings Act 1969;

15 (c) premises under a tenancy to which the Tenancy of Business Premises

16 Act 1971 applies; or

17 (d) land under a farm business tenancy within the meaning of section

18 1 (meaning of “farm business tenancy”) of the Agricultural Tenancies

19 Act 2008.

20 (2) A landlord is not a relevant landlord in respect of a rented dwelling if the

21 rented dwelling —

22 (a) is or forms part of tourist premises registered under the Tourist Act

23 1975; and

24 (b) is occupied by a person who —

25 (i) has been granted occupancy of the rented dwelling under a

26 lease or licence for a period not exceeding 4 weeks of

27 continuous occupation; and

28 (ii) has not occupied that dwelling for an aggregate continuous

29 period exceeding 4 weeks.

COMMENT: This is a VERY short period of time. 3 months might be more appropriate.

30 (3) A landlord is not a relevant landlord in respect of a rented dwelling if —

31 (a) the landlord is an individual and every occupier of the rented

32 dwelling is a close relative of the landlord; or

COMMENT: What about close friends?

33 (b) the shared accommodation exception applies.

34 (4) The shared accommodation exception applies in the following

35 circumstances —

36 (a) the terms of the lease or licence granted by the landlord to an

37 occupier provide for the occupier to share any accommodation

38 with the landlord;

39 (b) immediately before the lease or licence described in paragraph (a)

40 is made the landlord occupies as the landlord's only or principal

Section 8 Landlord Registration (Private Housing) Bill 2020

Page 24 c

1 home a dwelling which includes all or part of the shared

2 accommodation; and

3 (c) a lease or licence of the accommodation shared with the landlord is

4 granted to no more than 2 occupiers.

COMMENT: Also quite Draconian. Why not up to 4 or 6?

5 (5) The shared accommodation exception applies only while the landlord

6 continues to occupy the dwelling referred to in subsection (4) as the

7 landlord's only or principal home.

8 (6) A landlord is not a relevant landlord in respect of a rented dwelling for so

9 long as the landlord diligently continues to pursue the recovery of

10 possession of that dwelling if the landlord takes steps to recover

11 possession of the rented dwelling within a period of 28 days beginning

12 with the date on which the landlord's interest in the rented dwelling is

13 assigned to the landlord.

14 (7) The following are not relevant landlords —

15 (a) the Treasury as holder of bona vacantia property;

16 (b) a person acting as a personal representative of a deceased landlord

17 with respect to a rented dwelling, for a period not exceeding 6

18 months beginning with the date of the death of the landlord;

COMMENT: Draconian. A house could sit on the market for much longer than this. Equally, estates take time to wind up. We suggest 18 months.

19 (c) a person acting as a liquidator with respect to a rented dwelling,

20 for a period not exceeding 6 months beginning with the date of the

21 person's appointment as liquidator;

COMMENT: Same comment as above. Absolutely ridiculous to suggest that the liquidator would need to register in the event that the registration took more than 6 months.

22 (d) a secured creditor who acquires lawful possession of a rented

23 dwelling, for a period not exceeding 6 months beginning with the

24 date on which possession is acquired.

COMMENT: Same as above. Receiver should not have to register. Has anyone consulted insolvency practitioners about this??

25 (8) In this section, “a close relative of the landlord” means —

26 (a) a spouse or civil partner of the landlord;

27 (b) a person living with the landlord, or in a relationship with the
28 landlord, which has the characteristics of a spouse or civil partner
29 relationship;

30 (c) a parent, grandparent, child or grandchild of the landlord;

31 (d) a sister, brother, uncle, aunt, nephew or niece of the landlord.

32 (9) For the purposes of subsection (8) —

33 (a) a relationship of the half blood is to be treated as a relationship of
34 the whole blood;

35 (b) a relationship by marriage or civil partnership is to be treated as a
36 relationship by blood;

37 (c) a stepchild of a person is to be treated as the person’s child; and

38 (d) a person brought up or treated by another person as if the person
39 were the child of the other person is to be treated as that person’s
40 child.

Landlord Registration (Private Housing) Bill 2020 Section 9

c Page 25

1 (10) In this section—

2 (a) a “liquidator” means —

3 (i) a liquidator, provisional liquidator or receiver of a legal

COMMENT: Have insolvency Practitioners been informed or consulted? 6 months is a VERY short period of time.

4 entity or association; or

5 (ii) a trustee in bankruptcy; and

6 (b) “employment” means any employment—

7 (i) under a contract of service or as an office-holder; or

8 (ii) under an apprenticeship,

9 and the terms “employer” and “employee” have corresponding
10 meanings.

11 (11) The Department may by order amend this section.

12 Tynwald procedure — approval required.

13 9 Applying for registration

14 (1) For a person who is a relevant landlord on the coming into operation of
15 section 7(1) (requirement for a relevant landlord to be registered), for the
16 purposes of section 7(3)(a) and 7(3)(d) the period permitted for the making
17 of an application —

18 (a) for registration as a registered relevant landlord; and

19 (b) for registration in respect of each rented dwelling for which the
20 person is a relevant landlord,

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

24 (2) Subsection (3) applies to a person who becomes a relevant landlord after
25 section 7(1) comes into operation and who is not making an application —

26 (a) for a registration which has already been refused under section 14
27 (determination of application: relevant landlords) or 15

28 (determination of application: rented dwellings);

29 (b) for a registration following receipt of a notice issued under section
30 25 (unregistered relevant landlords) or 26 (notice of non31 registration); or

32 (c) in respect of a registration already revoked to which section 43
33 (effect of revocation of registration) applies.

34 (3) In the case of a person to whom this subsection applies, for the purposes
35 of section 7(3)(a) or 7(3)(d) the period permitted for the making of an
36 application —

37 (a) for registration as a registered relevant landlord; and

38 (b) for registration in respect of each rented dwelling for which the
39 person acts as a relevant landlord,

Section 10 Landlord Registration (Private Housing) Bill 2020

Page 26 c

1 is 3 months beginning with the date on which the person becomes a

2 relevant landlord.

3 (4) Subsection (3) is subject to section 13(7) and 13(8) (application
4 requirements: rented dwellings).

5 10 Landlords registered under the voluntary registration scheme

6 (1) This section applies to a relevant landlord who, immediately before the
7 coming into operation of section 7(1) (requirement for a relevant landlord
8 to be registered), is registered with the Department under the voluntary
9 registration scheme.

10 (2) Where this section applies—

11 (a) a relevant landlord will be treated as registered under this Act; and

12 (b) the rented dwellings for which the landlord is registered under the
13 voluntary registration scheme will be treated as registered under
14 this Act,

15 immediately on the coming into operation of section 7(1).

16 (3) To continue to be registered as described in subsection (2), a relevant
17 landlord must, within 6 months of the coming into operation of section
18 7(1), —

19 (a) make the declaration described in section 12(3) (application
20 requirements: relevant landlords); and

21 (b) make the declaration described in section 13(6) (application
22 requirements: rented dwellings) in respect of the rented dwelling
23 for which the landlord is registered under the voluntary
24 registration scheme.

25 (4) If the relevant landlord complies with subsection (3), the relevant landlord
26 will continue to be registered as described in subsection (2) until the date
27 of expiry that would have applied under the voluntary registration
28 scheme had section 7(1) not come into operation.

29 (5) If the relevant landlord does not comply with subsection (3), the
30 registration of the landlord will expire at the end of the 6 month period
31 mentioned in that subsection.

32 (6) Section 18(5) (registration, period, expiry and re-application) applies with

33 respect to an application for a registration of a person registered under this
34 section.

35 (7) A relevant landlord registered under subsection (2) will be registered
36 under this Act under the same unique registration number as granted
37 under the voluntary registration scheme.

38 (8) The voluntary registration scheme is revoked immediately on the coming
39 into operation of section 7(1).

Landlord Registration (Private Housing) Bill 2020 Section 11

c Page 27

1 (9) In this section, the “voluntary registration scheme” means the voluntary
2 scheme for the registration of landlords of private dwellings introduced
3 by the Department in 2013.

4 11 Registration requirements

5 (1) The following are the requirements for registration of a relevant
6 landlord—

7 (a) the relevant landlord must comply with the minimum standards;

8 (b) except in so far as section 10 (landlords registered under the
9 voluntary registration scheme) applies, the application

10 requirements in section 12 (application requirements: relevant
11 landlords) must be satisfied;

12 (c) with respect to the personal conduct requirements —

13 (i) the Department must be satisfied that the relevant landlord
14 meets the personal conduct requirements; or

15 (ii) if the Department is not satisfied that a relevant landlord
16 meets the personal conduct requirements, the relevant

17 landlord must nominate a landlord’s representative to

18 undertake all the property management activities on the
19 relevant landlord’s behalf;

20 (d) if the relevant landlord is not a resident, the relevant landlord must

21 nominate a landlord’s representative to undertake all the property

22 management activities on the relevant landlord’s behalf; and

23 (e) with respect to the nomination of a landlord's representative by a
24 relevant landlord, if the Department is not satisfied that the person
25 nominated meets, or continues to meet, the personal conduct
26 requirements, the landlord must nominate a different landlord's
27 representative who the Department is satisfied meets those
28 requirements.

29 (2) The following are the registration requirements in respect of a rented
30 dwelling —

31 (a) the relevant landlord must ensure that a rented dwelling for which
32 registration is required **complies with the minimum standards**; and

COMMENT: It makes no sense whatsoever to pass a Bill when the real reason the Bill is being passed is in order to impose minimum standards at a time when those minimum standards have not been determined.

In order for this Bill and its implications to be properly considered and debated, the Government MUST determine the standards BEFORE passing the Bill. If they do not, then how can the Government consider whether it is right or not to pass the Bill?

It is no answer to say that it is quite usual for enabling powers to be included in an Act. Enabling powers are usual, however, this Act does not give Enabling Powers. It REQUIRES regulations to be passed. It is VERY different and a complete abuse of Process to include the PRIMARY purpose of the ACT within secondary legislation.

How can ministers sensibly vote upon something when they have no idea what it is that they are voting on? How can constituents trust them as law makers if they are so blindly led into such an abuse of process?

33 (b) except in so far as section 10 (landlords registered under the
34 voluntary registration scheme) applies, the relevant landlord must
35 ensure that the application requirements in section 13 (application
36 requirements: rented dwellings) are satisfied.

37 12 Application requirements: relevant landlords

38 (1) This section applies to an application for the registration of a relevant
39 landlord.

40 (2) An application must —

Section 13 Landlord Registration (Private Housing) Bill 2020

Page 28 c

1 (a) include the information; and

2 (b) be accompanied by any documents and fee,

COMMENT: How can we trust that the fee will remain low?

3 specified in regulations made by the Department under section 21

4 (registration regulations).

5 (3) An application must be accompanied by a declaration by the relevant

6 landlord that —

7 (a) the relevant landlord complies with the minimum standards for a

8 relevant landlord; and

COMMENT: If the regulations imposing minimum standards replicate anything like the current draft, they are nonsensical and impenetrable. It may be very difficult for any landlord to even know if they are compliant. Employers do not have to appear on a register or sign a declaration to say that they comply with minimum Standards of health and safety, they simply must do so. Why should landlords be treated differently?

9 (b) the information provided in and with the application is true and

10 accurate to the best of the relevant landlord's knowledge and belief.

11 (4) If a relevant landlord is not a resident, the application must also include

12 the nomination of a landlord's representative to undertake all the property

13 management activities on the landlord's behalf.

14 (5) Where a relevant landlord has nominated a landlord's representative,

15 whether to satisfy the requirements in subsection (4) or otherwise, the

16 application must include —

17 (a) any information concerning the landlord's representative as

18 required by regulations made under section 21; and

19 (b) a declaration by the landlord's representative that —

20 (i) the landlord's representative acts, or will act, for the

21 relevant landlord with respect to the particular rented

22 dwelling or dwellings that are the subject of the related

23 application under section 13 (application requirements:

24 rented dwellings); and

25 (ii) the information provided by the landlord's representative

26 under paragraph (a) is true and accurate to the best of the

27 landlord's representative's knowledge and belief.

28 13 Application requirements: rented dwellings

29 (1) This section applies to an application for registration in respect of a rented
30 dwelling.

31 (2) A rented dwelling may not be registered unless the relevant landlord is
32 registered under section 14 (determination of application: relevant
33 landlords).

34 (3) A relevant landlord must, at the same time as making an application for
35 registration under section 12 (application requirements: relevant
36 landlords), make an application under this section for registration in
37 respect of each rented dwelling for which the relevant landlord is at that
38 time a relevant landlord.

39 (4) A rented dwelling that has been registered under this section forms a part
40 of the registration of the relevant landlord of that dwelling.

Landlord Registration (Private Housing) Bill 2020 Section 14

c Page 29

1 (5) The application must —

2 (a) include the information; and

3 (b) be accompanied by any documents and fee,

4 specified in regulations made by the Department under section 21

5 (registration regulations).

6 (6) An application must be accompanied by a **declaration** by the relevant

7 landlord that each rented dwelling for which registration is required

8 complies with the minimum standards.

COMMENT: See above re. Declarations. – WHY?

A director does not have to make a declaration that he/she is going to comply with his duties, he /she just has to do so.

An employer does not make a declaration that he/she will comply with Health and Safety requirements, he/she just has to do so.

Why are Landlords being held to higher standards than others? Why is this necessary?

9 (7) An application may be made under this section for registration of an

10 additional rented dwelling of a relevant landlord who is already

11 registered in respect of another rented dwelling.

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

15 (9) If a landlord's representative is acting in respect of a rented dwelling for
16 which an application is made under subsection (7), the application must —

17 (a) include the information concerning the landlord's representative
18 required by regulations made under section 21; and

19 (b) be accompanied by the declaration required under section 12(5)(b)
20 (application requirements: relevant landlords) in respect of the
21 rented dwelling or dwellings that are the subject of the application.

22 14 Determination of application: relevant landlords

23 (1) The Department must consider each application for registration properly
24 made under section 12 (application requirements: relevant landlords) and
25 determine whether to grant the registration in accordance with this
26 section.

27 (2) The Department may refuse to register a relevant landlord if it has
28 reasonable grounds to consider that any of the registration requirements
29 in section 11(1) (registration requirements) are not met or are not likely to
30 be met during the registration period.

31 (3) The Department must not register a relevant landlord if —

32 (a) it is not satisfied that the relevant landlord meets the personal
33 conduct requirements; or

34 (b) the relevant landlord is not a resident,

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

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

37 (a) the relevant landlord has nominated a landlord's representative;

38 (b) the Department is satisfied that the landlord's representative meets
39 the personal conduct requirements;

Section 14 Landlord Registration (Private Housing) Bill 2020

Page 30 c

1 (c) the landlord's representative agrees to undertake all the property

2 management activities with respect to the rented dwelling or

3 dwellings of the relevant landlord for which the landlord's

4 representative has been nominated; and

COMMENT: Very onerous on representatives. Shouldn't this be a matter of contract between the landlord and the representative? Why on earth should they have to do all of them? What is the reason behind this section? Surely the buck stops with the Landlord? The landlord can contract with others to carry out his duties for him. Why do we need legislative interference in this way?

Why should a representative not be akin to a registered agent for a 2006 Act company? You need one, but they only have certain duties and those duties are contractually agreed.

5 (d) the landlord's representative has made the declaration required by

6 section 12(5)(b).

7 (5) The Department may grant registration to a relevant landlord subject to

8 such other conditions as it considers appropriate to ensure that

9 registration requirements in section 11(1) are satisfied.

10 (6) If it grants registration, the Department must —

11 (a) allocate to the registered relevant landlord a unique registration

12 number;

13 (b) enter on the register the information required (as applicable) under

14 the section 6(2) (register of relevant landlords); and

15 (c) give notice to the relevant landlord and the landlord's

16 representative (if any) of —

17 (i) the registration;

18 (ii) the registration number;

19 (iii) the conditions attaching to the registration (if any); and

20 (iv) if the registration has been granted in the circumstances

21 described in subsection (3)(a) or (b), or subject to conditions

22 under subsection (5), of the relevant landlord's right to

23 appeal under Part 5 against the decision to grant registration

24 on those terms.

25 (7) Before refusing an application for registration, the Department must —

26 (a) give notice to the relevant landlord of its intention to refuse

27 registration and the reasons for the intended refusal;

28 (b) if the refusal is to be on the ground that the Department is not
29 satisfied that a landlord's representative for the relevant landlord
30 meets the personal conduct requirements, give notice to the
31 landlord's representative of its intention to refuse registration and
32 the reasons why it is not satisfied that the representative meets
33 those requirements; and
34 (c) consider any representations made by the relevant landlord and, if
35 applicable, the landlord's representative before the end of the
36 period of 14 days beginning with the date on which the landlord
37 and the landlord's representative were notified under this
38 subsection.

COMMENT: This is not a very long period of time if e.g. works are required in order for minimum standards to be met.

39 (8) If the Department refuses an application for registration, it must give
40 notice to the relevant landlord and the landlord's representative (if any)—

Landlord Registration (Private Housing) Bill 2020 Section 15

c Page 31

1 (a) that the application has been refused and the reasons for the
2 refusal;
3 (b) the effect of being a relevant landlord that is not registered;
4 (c) when the decision to refuse registration takes effect; and
5 (d) of the landlord's right to appeal against the decision under Part 5.
6 (9) Subject to the Commissioners staying the decision under section 49(4)
7 (application and appeal to the Commissioners), a decision by the
8 Department to refuse a registration under this section takes effect on the
9 expiry of the period permitted to a relevant landlord to make an appeal to
10 the Commissioners in respect of the decision.

COMMENT: What is the Period? What happens in this time?

Can Landlords include a clause in their tenancy agreement that the tenancy can be brought to an immediate end in the event that registration is not accepted? What effect does this have on tenants who will then become homeless?

11 (10) The Department must give a copy of a notice of a grant or refusal of

12 registration under this section to —

13 (a) an occupier of a rented dwelling to which the grant or refusal

14 relates; and

15 (b) the landlord's representative (if any),

16 but failure to provide a copy of a notice under this subsection does not

17 affect the validity of the notice.

COMMENT: WHY?? If you failed to give proper notice to a tenant of termination of the tenancy, the tenancy would not come to an end. This is surely a minimum requirement? How on earth would a landlord or a tenant know if they are not notified?

Is this because the Government cannot trust themselves to abide by their own rules?

According to the terms of this Act, the fact that a notice is not received does not even constitute a defence to the offences which attract huge fines and prison sentences. How can this be?

18 15 Determination of application: rented dwellings

19 (1) The Department must consider an application for registration properly

20 made under section 13 (application requirements: rented dwellings) in

21 respect of each rented dwelling to which the application relates and

22 determine whether to grant the registration in accordance with this

23 section.

24 (2) The Department may refuse to register a rented dwelling if the

25 Department has reasonable grounds to consider that the rented dwelling

26 does not comply, or may reasonably be expected not to continue to comply

27 during the registration period, with the minimum standards.

28 (3) The Department may grant registration for a rented dwelling subject to

29 such conditions as it considers appropriate to ensure that registration

30 requirements in section 11(2) (registration requirements) are satisfied.

31 (4) If the Department grants registration for a rented dwelling, it must —

32 (a) enter on the register the applicable information required in respect

33 of the rented dwelling under section 6(2) (register of relevant

34 landlords); and

35 (b) give notice to the relevant landlord, the landlord's representative

36 (if any) and the occupier (if any) of a rented dwelling specified in

37 the application of —

38 (i) the grant of registration;

39 (ii) any conditions attaching to the registration; and

Section 16 Landlord Registration (Private Housing) Bill 2020

Page 32 c

1 (iii) if the registration has been granted subject to conditions

2 under subsection (3), of the relevant landlord's right to

3 appeal under Part 5 against the decision to impose a

4 condition.

5 (5) Before refusing an application for a registration under this section, the

6 Department must —

7 (a) give notice to the relevant landlord of its intention to refuse the

8 registration and the reasons why; and

9 (b) consider any representations made by the relevant landlord before

10 the end of the period of 14 days beginning with the date on which

11 the landlord was notified.

COMMENT: See above comment

12 (6) If the Department refuses an application for registration in respect of a

13 rented dwelling, it must give notice to the relevant landlord —

14 (a) that the application has been refused and the reasons why;

15 (b) when the decision to refuse registration takes effect;

16 (c) the effect of being an unregistered relevant landlord for the rented

17 dwelling; and

18 (d) of the landlord's right to appeal against the decision under Part 5.

19 (7) A copy of the notice in subsection (6) must be provided to any landlord's

20 representative named in the application and any occupier of the rented

21 dwelling, but failure to provide a copy of the notice under this subsection

22 does not affect the validity of the notice.

COMMENT: See above comment.

The Department must be required to give notice and failure to do so MUST affect whether it is valid in circumstances where high fines and prison sentences may result, and where failure to give or receive notice is not a defence under the terms of this bill.

This flies in the face of natural justice and proper procedure.

23 (8) Subject to the Commissioners staying the decision under section 49(4)
24 (application and appeal to the Commissioners), a decision by the
25 Department to refuse a registration under this section takes effect
26 following the expiry of the period permitted to a relevant landlord to make
27 an appeal to the Commissioners in respect of the decision.

COMMENT: It ought to be automatically stayed in the event that an appeal is made. If not, tenants can live rent free in circumstances where that decision could later be overturned and there is no provision for compensation of a landlord.

An appeal could take many months to determine. There is no set time limit for its determination.

28 16 Personal conduct requirements

29 (1) In deciding whether a person meets, or no longer meets, the personal
30 conduct requirements, the Department must have regard to any evidence
31 that it considers relevant in each case, including evidence —
32 (a) which shows that the person has committed any offence involving
33 fraud, dishonesty, violence, firearms or drugs, or any offence under
34 the Sexual Offences Act 1992;

COMMENT: Any level? At any time? E.g. minor assault charges 20 years previous? Any drugs charge? At any time? E.g. minor drugs charge e.g. possession of cannabis for personal use 20 years previous.

Why would these be relevant to whether yo are fit to be a landlord?

Do these apply to employees? Or directors? Government employees?

Why are Landlords being held to much higher standards?

35 (b) which shows that the person has practised unlawful discrimination
36 or harassment on the grounds of any characteristic which is a
37 protected characteristic specified in section 5 (the protected
38 characteristics) of the Equality Act 2017;
39 (c) which shows that the person has victimised another person
40 contrary to the Equality Act 2017, in or in connection with the
41 carrying on of any business;

Landlord Registration (Private Housing) Bill 2020 Section 17

c Page 33

1 (d) which shows that the person has contravened any provision of, or

COMMENT: What does this mean? Not provided a valid NTQ? That would be a breach of Landlord and Tenant Law. This is not particularly well thought through ..

2 committed an offence under, the law relating to housing or
3 landlord and tenant (including this Act) within the 3 years prior to
4 making a declaration under section 12(3) or 12(5) (application
5 requirements: relevant landlords) or 13(6) (application
6 requirements: rented dwellings); and
7 (e) as to any conduct by the person outside the Island which would, if
8 it had taken place in the Island, be conduct falling within any one
9 of paragraphs (a) to (d).
10 (2) If a relevant landlord or a landlord's representative is a legal entity or
11 association, the Department must be satisfied that the personal conduct
12 requirements are met by —
13 (a) the relevant landlord or landlord's representative (as the case may
14 be); and
15 (b) the key officers of the relevant landlord or landlord's
16 representative.
17 (3) The Department may by order amend this section.
18 Tynwald procedure – approval required.
19 17 Personal conduct requirements: further investigation
20 (1) The Department may, in deciding for the purposes of section 16 (personal
21 conduct requirements) whether a person meets, or no longer meets, the
22 personal conduct requirements, require the person to provide to the
23 Department a criminal record certificate as specified by the Department.
24 (2) The Department may only require a criminal record certificate under
25 subsection (1) if it has reasonable grounds to suspect that any information
26 provided by the person in relation to the registration requirements
27 mentioned in section 11(1)(c) or 11(1)(e) (registration requirements) is, or
28 has become, inaccurate.

COMMENT: At whose expense if they are wrong in their reason to suspect?

29 (3) In this section, "criminal record certificate" means a certificate obtained

30 from the Disclosure and Barring Service established under section 87 of
31 the Protection of Freedoms Act 2012 (of Parliament), or an equivalent
32 service approved by the Government for this purpose, containing details
33 of the person's criminal record.

34 18 Registration period, expiry and re-application

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

COMMENT: Why not "until they inform you otherwise"?

This appears to be like a license to print money to be paid to the Government.

Section 19 Landlord Registration (Private Housing) Bill 2020

Page 34 c

1 (2) The period of registration for a rented dwelling is the period remaining of
2 the applicable relevant landlord's registration period at the time of the
3 grant of registration for the relevant dwelling.

4 (3) Despite subsection (2), if during the period of registration for a rented
5 dwelling the relevant landlord notifies the Department that the landlord
6 surrenders the registration of, or no longer has an interest in, the dwelling,
7 registration in respect of that dwelling expires on the date of the
8 notification.

9 (4) A registration of a relevant landlord, and of all the rented dwellings which
10 are part of that landlord's registration, expires at the end of the registration
11 period.

12 (5) A relevant landlord may apply for a new registration during the 3 months
13 before the date on which a current registration would otherwise expire.

14 (6) An application for a new registration as described in subsection (5) is made
15 and determined in accordance with sections 12 to 15 (application
16 requirements, determination of application).

17 (7) If an application for a new registration as described in subsection (5) is
18 granted, the new registration is granted from the day after the date on

19 which the previous registration period expired.

20 (8) A registration of a relevant landlord (and in consequence any related
21 registration of a rented dwelling) expires entirely and any application for
22 registration that has not been determined is treated as having been
23 withdrawn —

24 (a) in the case of a relevant landlord who is an individual, when the
25 relevant landlord dies; or

26 (b) in the case of a relevant landlord that is a legal entity or association,
27 when the relevant landlord is dissolved or otherwise ceases to exist.

28 (9) This section is subject to any revocation of registration under section 42
29 (revocation of registration) and to section 43 (effect of revocation of
30 registration).

31 (10) The Department may by order amend subsection (1) to specify a different
32 registration period.

33 Tynwald procedure – approval required.

34 19 Changes during the registration period

35 (1) A registered relevant landlord must give notice to the Department in
36 writing of the following matters—

COMMENT: Will a fee be applied? This is confirmed below in section 4.

37 (a) a change to any of the registered details of the landlord specified in
38 paragraph 1(a) to (c) of the Schedule, where this does not affect the
39 relevant landlord's compliance with the registration requirements
40 mentioned in section 11(1)(d) (registration requirements);

Landlord Registration (Private Housing) Bill 2020 Section 19

c Page 35

1 (b) a change to any of the registered details of the landlord's
2 representative (if any) of the relevant landlord specified in
3 paragraph 2(a) to (c) of the Schedule;

4 (c) a change to any of the registered details of a rented dwelling
5 specified in paragraph 3(a) to (d) of the Schedule;

6 (d) an assignment of the landlord's interest in a rented dwelling for

7 which the landlord is registered or that the landlord wishes to
8 surrender the registration of a rented dwelling;
9 (e) a nomination of a landlord's representative for a rented dwelling,
10 where this is not a nomination —
11 (i) as a result of a notice received under section 39 (action on
12 breach of requirement to have a landlord's representative)
13 or 40 (action regarding personal conduct requirements); or
14 (ii) required to comply with the registration requirements in
15 section 11(1) or a landlord's conditions of registration;
16 (f) that a landlord's representative has ceased to act for the relevant
17 landlord, where this does not affect the relevant landlord's
18 compliance with the registration requirements or the conditions of
19 the registration.

20 (2) A landlord's representative must give notice to the Department in writing
21 of —
22 (a) a change to any of the matters specified in subsection (1)(b); or
23 (b) ceasing to act for the relevant landlord.

24 (3) A person must comply with the notice requirements in this section within
25 one month beginning with the day on which the person knew of the
26 change.

27 (4) A notice under this section must be accompanied by the fee (if any)

COMMENT: Ah yes, of course. More money to the Government.

28 specified by the Department in regulations made under section 21(2)
29 (registration regulations).

30 (5) A notice under subsection (1)(e) must include the information, documents
31 and declaration under section 12(5)(a) and (b) (application requirements:
32 relevant landlords).

33 (6) A person who, without reasonable excuse, fails to comply with this section
34 commits an offence.

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

COMMENT: Draconian and Onerous. See above re. penalties.

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

37 Tynwald procedure – approval required.

Section 20 Landlord Registration (Private Housing) Bill 2020

Page 36 c

1 20 Disclosure of registered status

2 (1) A registered relevant landlord must, in all notices, advertisements or other
3 documents issued by or on behalf of the landlord concerning the granting
4 of a lease or licence for a rented dwelling or prospective rented dwelling,
5 state —

6 (a) the fact that the landlord is registered;

7 (b) the landlord's registration number; and

8 (c) where applicable, the fact that the rented dwelling is registered as
9 part of the relevant landlord's registration.

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

COMMENT: Onerous and draconian for what would be a very minor omission.

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

13 21 Registration regulations

14 (1) The Department must make regulations specifying —

15 (a) the information required from a relevant landlord on applying for
16 a registration;

17 (b) the information required from a landlord's representative in
18 connection with an application for a registration; and

19 (c) any documents that must accompany an application for a
20 registration.

21 Tynwald procedure – approval required.

22 (2) The Department may make regulations specifying —

23 (a) the form in which an application for a registration must be made;

24 (b) any procedures to be followed with respect to an application for a
25 registration;

26 (c) the form of, and any additional information to be included in, a

27 notice issued under section 14 (determination of application:
28 relevant landlords) or 15 (determination of application: rented
29 dwellings);
30 (d) the form of, any additional information to be included in, or any
31 procedures to be followed in connection with, a notice under
32 section 19 (changes during the registration period) or the form in
33 which the notice is to be given;
34 (e) any fee that is payable with respect to each relevant landlord or
35 each rented dwelling of that landlord, or both —
36 (i) on the making of an application for registration; or
37 (ii) on an amendment of an entry on the register;
38 (f) any other matters the Department considers necessary or expedient
39 to give effect to the proper functioning of the register and

Landlord Registration (Private Housing) Bill 2020 Section 22

c Page 37

1 registration application procedures and requirements under this

2 Part.

3 Tynwald procedure – approval required.

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

7 22 Access to information on the register

8 (1) A relevant landlord may, on request to the Department, be given access to
9 all information on the register that concerns the landlord's entry on the
10 register.

11 (2) A landlord's representative may, on request to the Department, be given
12 access to the following information held on the register —

13 (a) the landlord's representative's personal information; and

14 (b) information concerning a rented dwelling for which the landlord's
15 representative acts as a landlord's representative.

16 (3) The Department may make regulations specifying —

17 (a) any other information on the register which may be accessed and
18 by which persons;
19 (b) the terms on which information will be provided;
20 (c) the form in which requests for access to information on the register
21 may be made;
22 (d) the means by which the register may be searched;
23 (e) any exceptions to the provision of information and the
24 circumstances in which a request for access to information on the
25 register may be refused;
26 (f) any procedures for appealing against a refusal of a request for
27 access to information on the register;
28 (g) any fees payable for the provision of access to the register; and
29 (h) the form of any provision of information following a request.

COMMENT: Why should this be by secondary legislation? Shouldn't this be included in primary legislation? Shouldn't Landlords have some say in what their information is being used by the Government for?

30 Tynwald procedure – approval required.

31 **PART 3 – MINIMUM STANDARDS**

32 23 Minimum standards

33 (1) The Department **must** make regulations for the purposes of section 11
34 (registration requirements), setting out the minimum standards required
35 of —

COMMENT: This is the real reason for the Bill.

This is NOT an enabling power.

There is absolutely no reason why this Bill is being rushed through at a time when the standards are undetermined.

In order for anyone to properly decide whether a bill should be passed it is absolutely imperative that it is considered in light of what these (so called) minimum standards are.

The current draft regulations seek to impose standards which are far from minimum and (in many cases) serve no purpose at all. They are ill-considered and would be extremely costly to achieve. Numerous aspects are nonsensical, and impossible to understand. In places they also appear to seek to undermine well established principles of law, which cannot be the intention of this Bill and its associated regulations. They e.g. proposed that all windows in privately rented houses must have locks on each and every window. If they do not, are you concerned about the fact that they do not?

Have you considered how much it might cost to have all windows replaced with windows with locks? And what purpose will this serve? They also propose that “storage” be provided for refuse receptacles (what does this mean?) and that the landlord should be responsible for the tidiness of the garden, whilst simultaneously placing no onus whatsoever on the tenants to be responsible for their own actions or even to assist the landlord in seeking to meet standards, which could result in a substantial fine to the landlord. These are only a few comments of which there are many.

THIS IS THE FUNDAMENTAL ISSUE WITH PASSING THIS BILL. ANY CONSIDERATION OF THIS BILL MUST BE MADE IN CONJUNCTION WITH CONSIDERATION OF THE PROPOSED DRAFT REGULATIONS.

PLEASE OBTAIN A COPY BEFORE VOTING ON THIS BILL! IT IS FUNDAMENTALLY WRONG TO VOTE IN FAVOUR OF THIS BILL WITHOUT DOING SO.

Section 24 Landlord Registration (Private Housing) Bill 2020

Page 38 c

- 1 (a) a relevant landlord with respect to the management and
- 2 operational matters involved in being a relevant landlord; and
- 3 (b) a rented dwelling with respect to the condition of the dwelling.
- 4 Tynwald procedure – approval required.
- 5 (2) Regulations made under subsection (1) may include, but are not limited
- 6 to, the following matters and may be made with respect to the building,
- 7 or any parts of the building, which is a rented dwelling or of which a
- 8 rented dwelling forms part —
- 9 (a) matters which concern the safety of a rented dwelling;
- 10 (b) matters which concern the condition of a rented dwelling;
- 11 (c) minimum requirements with respect to a lease or licence;
- 12 (d) the provision of documentation and the keeping of records by a
- 13 relevant landlord;
- 14 (e) the management by a relevant landlord of matters relating to
- 15 maintenance and repair with respect to a rented dwelling; and
- 16 (f) the condition and inspection of any appliances or equipment in a
- 17 rented dwelling, or of any of its fixtures and fittings, which are the
- 18 responsibility of the relevant landlord.
- 19 (3) Regulations made under subsection (1) may provide that a reference in the
- 20 regulations to Manx legislation or to UK legislation that applies to the
- 21 Island, or to a provision of Manx legislation or UK legislation that applies

22 to the Island, is to be construed as a reference to the legislation or provision
23 as amended from time to time.

24 (4) Despite any provision in the Landlord and Tenant Act 1954 applying to a
25 relevant landlord, regulations made under subsection (1) may provide for
26 it to be a minimum standard of a relevant landlord that a lease granted by
27 the landlord in respect of a rented dwelling must be in writing.

Comment: And this Act?? Which paradoxically suggests that this is not necessary...

This constitutes a fundamental change to the Law, as this Bill is intended to apply to licences as well as leases.

28 (5) The minimum standards are additional to, and do not otherwise affect,
29 any existing statutory provisions concerning —
30 (a) a landlord or a tenant; or
31 (b) safety or other standards for dwellings or any type of housing.

COMMENT: There are already adequate existing rules, which apply to private and public housing alike.

32 (6) The Department must bring the regulations made under subsection (1) to
33 the attention of those likely to be affected by them in a manner the
34 Department considers appropriate.

COMMENT: But only after the ACT and the Regulations have been put in place??

It seems that the Department cannot be trusted to bring the terms of the proposed regulations to the attention of Ministers in their own department, let alone seek to consult those who it may affect.

35 24 Compliance with minimum standards

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

Landlord Registration (Private Housing) Bill 2020 Section 25

c Page 39

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

4 **PART 4 – ENFORCEMENT**

5 DIVISION 1: UNREGISTERED RELEVANT LANDLORDS

6 25 Unregistered relevant landlords

7 If the Department has reasonable grounds to believe that a person is an

8 unregistered relevant landlord, **it may** issue a notice to the person containing the

COMMENT: Only may?? So, someone could be prosecuted without being given the opportunity to rectify?

9 following matters —

10 (a) that it has reasonable grounds to believe that the person is an

11 unregistered relevant landlord;

12 (b) the basis of those grounds;

13 (c) that the person may —

14 (i) submit an application for a registration; or

15 (ii) make representations to the Department and provide any

16 evidence or information in support of those representations

17 on the question of whether the person is a relevant landlord,

18 **within 14 days** of the date on which the person was notified;

COMMENT: This is not a very long period of time.

What constitutes notice? Receipt??

If you bring a civil claim against someone, you must serve that person in compliance with the rules of Court. The respondent then effectively has 28 days within which to respond before default judgement can be obtained.

Even then, if judgement by default is obtained, there are steps that can be taken to overturn that judgement.

14 days is not time at all for something that could result in a fine of thousands or up to 6 months in prison. !!

19 (d) that if the person is an unregistered relevant landlord the person is

20 committing an offence;

21 (e) that if the Department is satisfied that the person is an unregistered

22 relevant landlord, the Department may issue a notice of non²³ registration to —

24 (i) the person; and

25 (ii) the occupier of a rented dwelling in respect of which the

26 person is an unregistered relevant landlord; and

27 (f) the consequences of the issue of a notice of non-registration.

28 26 Notice of non-registration

29 (1) The Department may issue a notice (a “notice of non-registration”) to a
30 person if —

31 (a) it has issued a notice to the person under section 25 (unregistered
32 relevant landlords);

33 (b) the person has not submitted an application for the registration
34 specified in the notice within the period referred to in section 25(c);

Section 27 Landlord Registration (Private Housing) Bill 2020

Page 40 c

1 (c) the Department has considered any representations made by the
2 person in respect of the notice or the period for making
3 representations in respect of the notice has expired; and

4 (d) the Department is satisfied that the person is an unregistered
5 relevant landlord.

6 (2) A notice of non-registration must advise the recipient of the notice of the
7 following matters —

8 (a) that the Department is satisfied that the recipient is an unregistered
9 relevant landlord in respect of a specified rented dwelling;

10 (b) the effect of being an unregistered relevant landlord for the rented
11 dwelling;

12 (c) the date on which the notice takes effect;

13 (d) that the recipient must cease to act as an unregistered relevant
14 landlord by seeking to be registered or by ceasing to be a relevant
15 landlord;

16 (e) the rights of an occupier under section 44 (occupier may terminate
17 lease or licence); and

18 (f) the right of the recipient to appeal, under Part 5, against the
19 decision to issue the notice.

20 (3) A copy of a notice of non-registration must be provided to the occupier of
21 a rented dwelling to which the notice relates, with an explanation of the
22 notice, its effects and how it affects the occupier, but failure to provide a

23 copy of a notice under this subsection does not affect the validity of the
24 notice.

25 (4) A copy of a notice of non-registration must be provided to the landlord's
26 representative (if any) acting for a relevant landlord in respect of the
27 rented dwelling to which the notice relates, but failure to provide a copy
28 of a notice under this subsection does not affect the validity of the notice.

29 (5) A notice of non-registration takes effect on the date following the expiry
30 of the period permitted for the making of an appeal against the notice
31 under Part 5.

32 (6) Subsection (5) is subject to section 49(4) (application and appeal to the
33 Commissioners).

34 27 Disqualification of a relevant landlord

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

Landlord Registration (Private Housing) Bill 2020 Section 28

c Page 41

1 (2) The court may (in addition to imposing a penalty under a section referred
2 to in subsection (1)) by order disqualify the convicted person from
3 applying for any registration under this Act for a period not exceeding 5
4 years.

5 (3) A person may appeal against an order made under subsection (2) in the
6 same manner as the convicted person may appeal against sentence.

7 (4) If a person makes an appeal under subsection (3) —

8 (a) notice of the appeal must be provided to the Department; and
9 (b) the Department must be permitted to make submissions to the
10 court regarding the appeal before the appeal is determined.

11 (5) The court may stay the effect of an order made under subsection (2)
12 pending the outcome of an appeal.

13 (6) On an application by a person disqualified by an order under subsection

14 (2), the court may by order revoke the order with effect from a date that

15 the court may specify, provided that the court is satisfied that there has

16 been a change of circumstances justifying the revocation of the order.

17 (7) An application may not be made under subsection (6) during the 12

18 months following the making of the order under subsection (2).

19 (8) If the court makes an order under subsection (2) or subsection (6), a copy

20 of the order must be provided by the court to the Department.

21 **DIVISION 2 – ENFORCEMENT OF MINIMUM STANDARDS**

22 28 **Authorised officers acting under this Division**

COMMENT: How much will it cost to employ these officers? Health benefits? Pension?

An ombudsman scheme would do the same job at much less cost.

Is Mr Baker paid in accordance with how many employees are within the Department??

23 When an authorised officer acting under this Division —

24 (a) issues a notice;

25 (b) takes enforcement action; or

26 (c) receives any response to enforcement action,

27 the authorised officer must provide the Department with a copy of the notice

28 issued, a record of the action taken and any response received.

29 29 Application of provisions of the Local Government Act 1985

30 (1) Sections 37 (power to obtain particulars of owners, etc of land), 53

31 (appearance by local authorities) and 55 (evidence of minutes, etc) of the

32 Local Government Act 1985 apply for the purposes of this Division —

33 (a) as if a reference in those sections to a local authority were a

34 reference to the Department; and

35 (b) as if an authorised officer were an officer of the Department.

36 (2) Sections 38 (power to execute works on behalf of owners, etc), 46 (recovery

37 of expenses), 47 (recovery of expenses where owner cannot be found) and

Section 30 Landlord Registration (Private Housing) Bill 2020

Page 42 c

1 49 (recovery of establishment charges) of the Local Government Act 1985

2 apply for the purposes of this Division —

3 (a) as if a reference in those sections to a local authority were a

4 reference to the Department; and

5 (b) as if the words “or occupier”, wherever occurring in those sections,

6 were omitted.

7 (3) Section 57 (power to require occupier to permit works to be executed by

8 owner) of the Local Government Act 1985 applies for the purposes of this

9 Division in respect of the enforcement of the minimum standards of a

10 rented dwelling as if a reference in that section —

11 (a) to a local authority were a reference to the Department;

12 (b) to an owner were a reference to a relevant landlord; and

13 (c) to any enactment were a reference to this Division.

14 30 Inspection of documents

15 An authorised officer may, by giving a notice under section 57 (power to obtain

16 documents and information), require a relevant landlord, or the landlord’s

17 representative, to produce documents or other information that is necessary to

18 evidence —

19 (a) that the relevant landlord complies with the minimum standards;

20 or

21 (b) that the rented dwelling complies with the minimum standards.

22 31 Notice of non-compliance

23 (1) An authorised officer may issue a notice of non-compliance to the relevant

24 landlord if the authorised officer —

25 (a) considers that a relevant landlord or a rented dwelling does not

26 comply with one or more of the applicable minimum standards;

27 and

28 (b) is unable to agree the remedial action required, or the period for

29 such action to be taken, with the relevant landlord.

30 (2) A notice of non-compliance must include —

31 (a) the name of the relevant landlord;

32 (b) the address of the rented dwelling (if applicable);

33 (c) an explanation why the authorised officer considers that the
34 relevant landlord or rented dwelling does not comply with the
35 minimum standards;
36 (d) an invitation to the relevant landlord to respond to the notice,
37 within a stated period after the notice is given, by —

Landlord Registration (Private Housing) Bill 2020 Section 32

c Page 43

1 (i) making a submission explaining why the landlord does not
2 consider remedial action is required; or
3 (ii) proposing action to remedy the non-compliance and the
4 period within which the action can reasonably be taken;
5 (e) a statement that, if the relevant landlord —
6 (i) does not respond to the notice;
7 (ii) does not make a submission or a proposal under paragraph
8 (d); or
9 (iii) if a proposal that the authorised officer considers is
10 satisfactory is made, does not carry out the remedial action
11 proposed within the period agreed with the authorised
12 officer,
13 the authorised officer may issue an improvement notice under
14 section 33 (improvement notices); and
15 (f) an explanation of the consequences of failing to comply with the
16 minimum standards.
17 (3) The authorised officer must give a copy of a notice of non-compliance to —
18 (a) an occupier affected by the notice; and
19 (b) a landlord's representative acting for the relevant landlord or in
20 respect of a rented dwelling to which the notice relates,
21 but failure to provide a copy of the notice under this subsection does not
22 affect the validity of the notice.

COMMENT: WHY? Surely there has to be an onus upon the Department to provide the notice?

23 32 Response to a notice of non-compliance

24 (1) An authorised officer must consider **any response** to a notice of non
25 compliance from a relevant landlord and may consider any response from
26 an occupier affected by the notice.

COMMENT: Difficult if no notice is received.

There has to be a duty placed upon the Department to ensure that Notice is effectively given in order for this to be workable.

27 (2) The authorised officer may —

28 (a) accept the landlord's submissions or proposed remedial action and

29 agree with the landlord, where applicable, a reasonable period

30 within which the remedial action must be taken; or

31 (b) issue an improvement notice to the relevant landlord.

32 (3) An authorised officer must inform —

33 (a) the relevant landlord;

34 (b) any occupier of a rented dwelling to which the notice of non35 compliance relates; and

36 (c) any landlord's representative acting for the relevant landlord or in

37 respect of the rented dwelling to which the notice relates,

38 of any decision taken by the officer under subsection (2).

Section 33 Landlord Registration (Private Housing) Bill 2020

Page 44 c

1 33 Improvement notices

2 (1) An authorised officer **may** issue an improvement notice to a relevant

3 landlord if a notice of non-compliance has been issued to the relevant

4 landlord and —

COMMENT: Surely they MUST. It cannot be that you could be struck off the register and / or fined or imprisoned without being given the opportunity to rectify?

5 (a) the landlord has failed to respond to the notice of non-compliance;

6 (b) the landlord has failed to carry out the remedial action proposed in

7 response to the notice of non-compliance within the agreed period;

8 or

9 (c) the authorised officer is not satisfied with the landlord's response

10 to the notice of non-compliance.

11 (2) An improvement notice must include —

12 (a) the information in section 31(2)(a) to (c) (notice of non-compliance);
13 (b) the date of the notice of non-compliance issued under section 31(1);
14 (c) the date and outcome of the authorised officer's decision
15 concerning any response made to the notice of non-compliance
16 under section 32 (response to a notice of non-compliance);
17 (d) the reason why the improvement notice is issued and the
18 contravention of the minimum standards that requires remedy;
19 (e) a statement of the period within which the relevant landlord must
20 comply, or ensure that the rented dwelling complies, with the
21 minimum standards specified in the improvement notice;
22 (f) a statement that a failure to comply with the improvement
23 notice —
24 (i) is an offence; and
25 (ii) may result in revocation of the relevant landlord's
26 registration, either in its entirety or in respect of a particular
27 rented dwelling; and
28 (g) a statement that the relevant landlord has the right to appeal under
29 Part 5 against —
30 (i) the decision to issue the improvement notice; and
31 (ii) the period specified in paragraph (e).
32 (3) An improvement notice **may** include the action the authorised officer

COMMENT: Again, surely MUST. How can a landlord comply if it is not clear what action must be taken?

33 recommends for remedying the contravention of the minimum standards.
34 (4) The authorised officer must give a copy of an improvement notice to —
35 (a) the occupier(if any) of a rented dwelling to which the notice relates;
36 and
37 (b) the landlord's representative (if any) acting for the relevant
38 landlord or in respect of a rented dwelling to which the notice
39 relates,

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

COMMENT: See previous comments re. Notice.

There must be a mechanism of proper notice for this to be workable.

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

4 Tynwald procedure – approval required.

5 34 Compliance with an improvement notice

6 (1) If an improvement notice includes recommended action for remedying a

COMMENT: It surely has to, otherwise how can it be known what action is required in order to
comply?

7 contravention of the minimum standards, a relevant landlord is deemed

8 to have complied with the notice if the landlord takes the recommended

9 action within the required period.

10 (2) Despite subsection (1), a relevant landlord may remedy a contravention of

11 the minimum standards by taking action other than that recommended by

12 the authorised officer.

13 (3) If the authorised officer does not recommend remedial action, or a relevant

14 landlord chooses to take different action to remedy the contravention of

15 the minimum standards specified in the improvement notice, the landlord

16 must take all the action necessary to remedy the contravention within the

17 required period to comply with an improvement notice.

18 (4) If an improvement notice concerns a rented dwelling that fails to comply

19 with the minimum standards, the notice is effective against the relevant

20 landlord who receives the notice and any subsequent relevant landlord of

COMMENT: Surely only if THAT landlord is also given notice by the Department?

21 the dwelling, unless the notice is withdrawn.

22 (5) Subsection (4) applies even if the required period for compliance with an

23 improvement notice ended before a subsequent landlord became the

24 relevant landlord of the rented dwelling.

25 (6) An authorised officer may (whether on the application of the relevant
26 landlord against whom an improvement notice is effective or otherwise)
27 extend the period for compliance with the minimum standards specified
28 in the improvement notice.

29 (7) A relevant landlord against whom an improvement notice is effective
30 commits an offence if the relevant landlord fails to comply with the notice.

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

COMMENT: Draconian and Onerous when compared. See comments re. penalties earlier on.

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

COMMENT: Or if they did not receive the relevant Notice required to be given by the Department?

35 (a) the contravention of the minimum standards to which the
36 improvement notice relates was caused by the conduct of the
37 occupier of the relevant rented dwelling; or

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

COMMENT: But it is not an offence for occupiers to do so?? How is this fair??

Section 35 Landlord Registration (Private Housing) Bill 2020

Page 46 c

1 35 Application of enforcement provisions in other legislation

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

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

8 36 Application of Division

9 This Division applies to —

10 (a) the registration requirements in section 11(1)(c) to (e) (registration
11 requirements); and

12 (b) the conditions imposed on a relevant landlord's registration under
13 section 14 (determination of application: relevant landlords).

14 37 Offences for breach of property management activity restrictions

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

18 (a) the registration requirements in section 11(1)(c) or (d); or

19 (b) the conditions of the landlord's registration.

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

COMMENT: Onerous and Draconian when compared to sentencing for other offences.

See other comments.

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

24 (a) permits a person other than the landlord's representative recorded
25 on the landlord's register entry to undertake any property

COMMENT: Any?? Given it's wide terms, this is concerning.

26 management activity; or

27 (b) permits a landlord's representative to undertake any property
28 management activity when notified by the Department that —

29 (i) it is not satisfied that the landlord's representative meets the
30 personal conduct requirements; and

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

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

COMMENT: See previous comments on penalties.

34 38 Duty to notify of changes affecting registration requirements and
35 conditions of registration

36 (1) A registered relevant landlord must give notice to the Department of —

Landlord Registration (Private Housing) Bill 2020 Section 39

1 (a) the fact that a landlord's representative has ceased to act for the
2 relevant landlord, where the landlord is required to nominate a
3 landlord's representative to comply with —
4 (i) the registration requirements in section 11(1)(c)(ii)
5 (registration requirements); or
6 (ii) the conditions imposed on the landlord's registration;
7 (b) the relevant landlord ceasing to be a resident; or
8 (c) any change in circumstance which causes the information provided
9 by the landlord described in subsection (3) to become inaccurate.
10 (2) A landlord's representative must give notice to the Department and to the
11 relevant landlord for whom the landlord's representative acts of any
12 change in circumstance which causes the information provided by the
13 landlord's representative described in subsection (3) to become inaccurate.
14 (3) The information referred to in subsections (1)(c) and (2) is the information
15 provided by the relevant landlord or landlord's representative (as the case
16 may be) under section 12 (application requirements: relevant landlords) to
17 enable the Department to determine whether it is satisfied that the
18 landlord or landlord representative meets the personal conduct
19 requirements.

20 (4) A notice under this section must be given as soon as practicable and in any

COMMENT: But failure to give notice will not affect its validity?? Where notice is to be given, the requirement to give such notice must be the same for Landlords and the department alike.

21 event within 7 days beginning with the day on which the relevant landlord

COMMENT: VERY short timescale. Is that 7 calendar days or 7 working days?

22 or landlord's representative (as the case may be) knew of the matter to
23 which the notice relates.

24 (5) A person who, without reasonable excuse, fails to comply with this section
25 commits an offence.

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

COMMENT: See previous comments on penalties.

27 39 Action on breach of requirement to have a landlord's representative

28 (1) If the Department becomes aware (whether by receipt of a notice under
29 section 38(1)(a) or (b) (duty to notify of changes affecting registration
30 requirements and conditions of registration) or otherwise) that a relevant
31 landlord does not have a nominated landlord's representative in
32 circumstances where a landlord's representative is required in order to
33 satisfy —

34 (a) the registration requirements in section 11(1) (registration
35 requirements); or

36 (b) the conditions of registration imposed on the relevant landlord,
37 the Department must issue a notice to the relevant landlord.

38 (2) The notice issued under subsection (1) must inform the relevant landlord
39 that —

Section 40 Landlord Registration (Private Housing) Bill 2020

Page 48 c

1 (a) the relevant landlord is in breach of the registration requirements
2 or the conditions of registration;

3 (b) the undertaking of any property management activity in breach of
4 the registration requirements in section 11(1) or in breach of the
5 landlord's conditions of registration is **an offence** and in

COMMENT: Automatically susceptible to fine or imprisonment? Shouldn't this only be if there is a failure to rectify?

6 consequence no such activity should be undertaken;

7 (c) the relevant landlord must rectify the breach by nominating a
8 landlord's representative, and notifying the Department of the
9 nomination, within the period specified in the notice; and

10 (d) failure to rectify the breach within the specified period may result
11 in revocation of the landlord's registration

40 Action regarding personal conduct requirements

13 (1) On receipt of a notice under section 38(1)(c) or 38(2) (duty to notify of
14 changes affecting registration requirements and conditions of
15 registration), or if the Department otherwise has reasonable grounds to

16 believe that the information described in section 38(3) is no longer
17 accurate, the Department must decide whether it is satisfied that the
18 relevant landlord or landlord's representative (as the case may be)
19 continues to meet the personal conduct requirements.

20 (2) Before making its decision, the Department may seek further information
21 from the relevant landlord or, where the decision is in respect of a
22 landlord's representative, the relevant landlord and the landlord's
23 representative.

24 (3) Before making a decision that it is not satisfied that the personal conduct
25 requirements are met, the Department must —

26 (a) inform the relevant landlord and (where the decision is in respect
27 of a landlord's representative) the landlord's representative that it
28 is no longer satisfied, on the evidence available to it, that the
29 landlord or landlord's representative (as the case may be) meets the
30 personal conduct requirements; and

31 (b) consider any representations made by the relevant landlord or
32 landlord's representative (as the case may be) before the end of the
33 period of 14 days beginning with the date on which the landlord or
34 the landlord's representative (as the case may be) was informed.

35 (4) If the Department is not satisfied that the personal conduct requirements
36 continue to be met by a relevant landlord, the Department must give
37 notice to the relevant landlord that —

38 (a) requires the relevant landlord to nominate a landlord's
39 representative who meets the conditions in section 14(4)
40 (determination of application: relevant landlords) as a condition of
41 the continuance of the landlord's registration;

Landlord Registration (Private Housing) Bill 2020 Section 40

c Page 49

1 (b) requires the relevant landlord to nominate such landlord's
2 representative within a specified period;
3 (c) advises the relevant landlord —

4 (i) that the undertaking by the landlord of any property
5 management activity in breach of the registration
6 requirement in section 11(1)(c)(ii) (registration
7 requirements) is an offence;
8 (ii) that failure to comply with the requirements in paragraphs
9 (a) and (b) may result in revocation of the landlord's
10 registration;
11 (iii) of when the decision made under subsection (1) takes effect;
12 and
13 (iv) of the relevant landlord's right to appeal the decision under
14 Part 5.
15 (5) If the Department is not satisfied that the personal conduct requirements
16 continue to be met by a landlord's representative, the Department must
17 give notice to the landlord's representative and the applicable relevant
18 landlord —
19 (a) that the undertaking of any property management activity by the
20 landlord's representative is a breach of the registration
21 requirements in section 11(1)(e);
22 (b) of the offence under section 37(2)(b) (offences for breach of
23 property management activity restrictions);

COMMENT: Which is automatic. Should this not be only in the event that they fail to nominate within the specified time period??

24 (c) if the relevant landlord is required to nominate a landlord's
25 representative to meet the registration requirements in section
26 11(1)(c)(ii), that the landlord must nominate a replacement
27 landlord's representative within the period specified in the notice;
28 (d) if the relevant landlord is not required to nominate a landlord's
29 representative to meet the registration requirements, that the
30 landlord may nominate a replacement landlord's representative or
31 undertake the property management activities without a landlord's
32 representative;

COMMENT: And thereby avoid the offence. It surely can only be in the event of failure that an offence is committed?

33 (e) that failure to comply with the requirements of the notice within
34 the specified period may result in revocation of the relevant
35 landlord's registration;
36 (f) of when the decision made under subsection (1) takes effect; and
37 (g) of the right of the relevant landlord to appeal the decision under
38 Part 5.

39 (6) Subject to the Commissioners staying the decision under section 49(4)
40 (application and appeal to the Commissioners), a decision by the
41 Department under subsection (1) that it is not satisfied that the personal
42 conduct requirements are met takes effect following the expiry of the
Section 41 Landlord Registration (Private Housing) Bill 2020

Page 50 c

1 period permitted to a relevant landlord to make an appeal to the
2 Commissioners.

3 DIVISION 4 – REVOCATION OF REGISTRATION

4 41 Grounds for revocation

5 (1) Section 42 (revocation of registration) applies if the relevant landlord
6 has—

7 (a) made a declaration or provided information or a document in
8 connection with the landlord's registration which is false,
9 misleading or deceptive in a material particular, contrary to section
10 64(1) (false or misleading statements);

COMMENT: Should include the word "knowingly"

11 (b) failed to pay any fee in connection with the landlord's registration
12 specified in regulations under section 21 (registration regulations);
13 (c) failed to comply with section 19 (changes during the registration
14 period);

15 (d) failed to comply with an improvement notice, contrary to section
16 34(7) (compliance with an improvement notice);

17 (e) undertaken property management activity or permitted another to
18 do so when prohibited under section 37 (offences for breach of
19 property management activity restrictions);
20 (f) failed to comply with section 38(1) (duty to notify of changes
21 affecting registration requirements and conditions of registration)
22 contrary to section 38(5);
23 (g) failed to comply with the requirements of a notice issued under
24 section 39 (action on breach of requirement to have a landlord's
25 representative);
26 (h) failed to comply with the requirements of a notice issued under
27 section 40 (action regarding personal conduct requirements); or
28 (i) breached a condition of registration,
29 whether or not the relevant landlord has been charged with, or convicted
30 of, an offence in respect of a matter in this subsection.

COMMENT: Surely a landlord should only ever be charged or convicted as a last resort? One would therefore assume that one would need to be charged with an offence ONLY AFTER they have been struck off??

It seems that in circumstances where in order to be registered and stay registered you have to meet a million and one requirements, there is no need to seek to prosecute them all individually

The Bill is extremely complicated, complex and convoluted. Isn't it just that these are the requirements to be registered. If you don't meet them you will be struck off and/or liable to an offence. It is madness to have all these sections aimed at prosecution for each individual "offence".

The offences are committed without even being given the opportunity to fix them, and without any requirement to have any notice of the need to do so.

The penalties are Draconian and onerous.

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

Landlord Registration (Private Housing) Bill 2020 Section 42

1 42 Revocation of registration

2 (1) Where this section applies, the Department may, subject to the provisions
3 of this section,—

4 (a) revoke a relevant landlord's registration for a particular rented
5 dwelling; or

6 (b) revoke a relevant landlord's registration in its entirety.

7 (2) Before revoking a relevant landlord's registration under subsection (1) on
8 any grounds other than those specified in section 41(1)(d) or (h) (grounds
9 for revocation), the Department must —

10 (a) give notice to the relevant landlord, and any landlord's
11 representative or occupier likely to be affected, of its intention to
12 revoke the landlord's registration and the reasons why; and

13 (b) consider any representations made by the relevant landlord before
14 the end of the period of 7 days beginning with the date the on

COMMENT: 7 days is VERY short. Is that 7 calendar days or 7 working days?

15 which landlord was notified.

16 (3) If the Department revokes a relevant landlord's registration under
17 subsection (1), it must give notice to the relevant landlord of —

18 (a) its decision and the reasons for the decision;

19 (b) the date on which the decision takes effect;

20 (c) the effects of revocation for the landlord and any occupier of a
21 rented dwelling affected by the revocation; and

22 (d) the landlord's right to appeal the decision under Part 5.

23 (4) If the Department revokes a relevant landlord's registration under
24 subsection (1), it must give notice of the revocation, the date on which the
25 notice takes effect and the relevant landlord's right of appeal to —

26 (a) a landlord's representative recorded on the register as being
27 nominated by the landlord for a rented dwelling affected by the
28 revocation; and

29 (b) the occupier of a rented dwelling affected by the revocation,

30 but failure to provide the notice under this subsection does not affect the

31 validity of the notice of revocation under subsection (3).

COMMENT: See previous comments regarding notice.

32 (5) The notice given under subsection (3) and (4) must explain the effect of the
33 revocation and the consequences of being an unregistered relevant
34 landlord.

35 (6) Subject to the Commissioners staying the effect of the notice under section
36 49(4) (application and appeal to the Commissioners), a revocation of
37 registration under this section takes effect following the expiry of the
38 period permitted to a relevant landlord to make an appeal to the
39 Commissioners.

Section 43 Landlord Registration (Private Housing) Bill 2020

Page 52 c

1 43 Effect of revocation of registration

2 (1) If a registration is revoked the registration ceases, or, if revoked only with
3 respect to a particular rented dwelling, it ceases for the rented dwelling to
4 which it applies.

5 (2) A person who is a relevant landlord for a rented dwelling in respect of
6 which registration has been revoked is an unregistered relevant landlord
7 in respect of that dwelling.

8 (3) A person whose registration has been revoked in its entirety —

9 (a) may not apply for registration as a relevant landlord for at least 12

10 months from the date on which that the revocation takes effect; and

11 (b) if an application is made following the period in paragraph (a) and

12 is refused, may not make a further application for at least 12

13 months from the date on which the refusal takes effect.

COMMENT: What happens if a person only owns one property? If it is revoked in respect of that
property, surely it is revoked in its entirety?

14 (4) A relevant landlord who is registered but whose registration has been
15 revoked with respect to a particular rented dwelling may, at any time
16 following the revocation, apply for registration in respect of the dwelling
17 if —

18 (a) the relevant landlord has invited an authorised officer to inspect
19 the dwelling to assess whether it meets the minimum standards
20 and the authorised officer considers that the minimum standards
21 have been met; or
22 (b) there has been a material change in the rented dwelling since the
23 registration was revoked and the relevant landlord has some
24 evidence to support that material change.
25 (5) An application made in the circumstances of subsection (4) is made, and
26 is determined by the Department, in the same way as any other
27 application for registration in respect of a rented dwelling.

28 **DIVISION 5 – OTHER ENFORCEMENT PROVISIONS**

29 44 Occupier may terminate lease or licence

30 (1) An occupier may terminate with immediate effect a lease or a licence in
31 respect of a rented dwelling on the grounds that the landlord for the
32 rented dwelling is an unregistered relevant landlord in respect of that
33 dwelling.

34 (2) An occupier's right under subsection (1) may be exercised —

35 (a) from the date of a disqualification order under section 27(2)
36 (disqualification of a relevant landlord) in respect of the relevant
37 landlord; or

38 (b) from the date on which any one of the following notices (a copy of
39 which is provided to the occupier) takes effect —

Landlord Registration (Private Housing) Bill 2020 Section 45

c Page 53

1 (i) a notice under section 15(6) (determination of application:
2 rented dwellings) that an application for the registration of
3 the relevant landlord in respect of the rented dwelling has
4 been refused;
5 (ii) a notice under section 26(1) (notice of non-registration)
6 which relates to the rented dwelling; or
7 (iii) a notice under section 42(4) (revocation of registration) that

8 the relevant landlord's registration in respect of the rented
9 dwelling is revoked.

10 (3) A provision in a lease or licence —

11 (a) purporting to disapply, or to impose a penalty for exercising, an
12 occupier's right to terminate a lease or licence under this section; or

13 (b) requiring notice of termination to be given where this section
14 applies,

15 is void and without effect.

16 45 Circumstances when no rent is payable

17 (1) This section applies if—

18 (a) the Department issues a relevant notice;

19 (b) the notice has taken effect; and

20 (c) on the notice taking effect, the relevant landlord in receipt of the
21 notice is an unregistered relevant landlord in respect of the rented
22 dwelling to which the notice relates.

23 (2) Where this section applies —

24 (a) despite the terms of a lease or licence for the rented dwelling to

25 which the relevant notice relates, no rent is due or payable in

26 respect of the rented dwelling from the date on which the relevant

27 notice takes effect until the date on which this section ceases to

28 apply; and

29 (b) the relevant landlord is not entitled to terminate the lease or licence

30 of the rented dwelling or require an occupier to give up occupancy

COMMENT: What if this is required in order to carry out works in order to comply with the notice?
Effectively a tenant could live rent free for a long period of time on the basis that they are
preventing compliance with the notice.

Shouldn't this be dependant on what the issue of non-compliance is? What if it is incredibly minor?

This is a charter for rogue tenants

31 of the rented dwelling on the grounds of a failure to pay the rent

32 during the period specified in paragraph (a).

33 (3) Nothing in this section affects the right of a relevant landlord to terminate

34 a lease or licence with an occupier on any grounds other than those

35 mentioned in subsection (2)(b).

36 (4) This section ceases to apply from the date on which the relevant landlord

37 —

38 (a) is registered in respect of the rented dwelling; or

39 (b) ceases to be a relevant landlord for that dwelling.

Section 46 Landlord Registration (Private Housing) Bill 2020

Page 54 c

1 (5) A relevant landlord must repay to an occupier any rent to which the

2 relevant landlord is not entitled under this section, and if the landlord fails

3 to do so, the rent is recoverable as provided in section 46 (recovery of rent).

COMMENT: Isn't the fact that you can be prosecuted enough? Or couldn't this be used instead of prosecution?

The penalties are EXTREMELY onerous.

Why not make it a criminal offence to remain in a property in relation to which the tenancy has expired?

Why not make a registry of all Tenants for this purpose??

The tenant already has the right to withhold rent if (truly), minimum standards are not met. Landlords already have a duty to provide accommodation fit for purpose. We really do not need this ridiculously long piece of legislation with 1001 penalty clauses.

4 (6) The Department must, on issuing a relevant notice, inform all recipients

5 of the notice of the effect of this section.

6 (7) In this section —

7 (a) a “relevant notice” is one of the following notices —

8 (i) a notice under section 15(6) (determination of application:

9 rented dwellings) that an application for registration in

10 respect of a rented dwelling has been refused;

11 (ii) a notice under section 26(1) (notice of non-registration); or

12 (iii) a notice under section 42(4) (revocation of registration); and

13 (b) “rent” does not include an amount payable, or consideration due,

14 for a service as specified in paragraph (b) of the definition of “rent”

15 in section 3 (interpretation), where the amount payable, or

16 consideration due, for a service is separately specified in the lease

17 or licence.

18 46 Recovery of rent

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

23 47 Part 4 regulations

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

26 (a) the form of, and any additional information to be included in, a
27 notice issued under this Part; and

28 (b) any further procedural requirements with regard to the serving of
29 a notice under this Part.

30 Tynwald procedure – approval required.

31 **PART 5 –APPEALS**

32 48 Decisions subject to appeal

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

Landlord Registration (Private Housing) Bill 2020 Section 49

c Page 55

1 (a) a refusal to grant a registration of the relevant landlord under
2 section 14 (determination of application: relevant landlords) or
3 18(6) (registration period, expiry and re-application);

4 (b) a refusal to grant a registration of a rented dwelling under section
5 15 (determination of application: rented dwelling) or 18(6) as part
6 of the relevant landlord's registration;

7 (c) a decision to impose conditions on the registration of the relevant
8 landlord or the registration of the relevant landlord in respect of a
9 rented dwelling under section 14 or 15;

10 (d) a decision to issue a notice of non-registration to the relevant
11 landlord under section 26(1) (notice of non-registration);

12 (e) a decision to issue an improvement notice under section 33(1)
13 (improvement notices), or regarding the period within which such
14 a notice must be complied with;
15 (f) a decision to issue a notice under section 40(4) or 40(5) (action
16 regarding personal conduct requirements); and
17 (g) a decision to revoke the registration of the relevant landlord or the
18 landlord's registration for a rented dwelling under section 42
19 (revocation of registration).

20 49 Application and appeal to the Commissioners

COMMENT: Who will be the commissioners? What will their qualifications be? How will the department ensure they are suitably qualified to make these decisions? How many will there be? How often will they sit?

21 (1) A relevant landlord who is not satisfied by a decision subject to appeal
22 under this Part may appeal to the Commissioners against the decision.

23 (2) An appeal to the Commissioners under this section —

24 (a) is by way of rehearing; and

25 (b) must be made and determined in accordance with rules of
26 procedure.

27 (3) Unless rules of procedure provide otherwise, an appeal to the
28 Commissioners must be made within 21 days of the date of the notice of
29 the decision.

30 (4) The Commissioners may, on application by a relevant landlord, stay the
31 effect of any decision for which an appeal is made under this Part pending
32 the outcome of the appeal.

COMMENT: Surely "MUST". Particularly as rent can be withheld and landlords could be prosecuted in the meantime?

It was presumed that when reading previous sections that the decision would NOT take effect until the outcome of the appeal.

This seems to suggest "only IF you make an application" ?? Otherwise, how will the landlord be compensated in the event that the decision is late overturned?

33 (5) Notice of —

34 (a) an application to stay the effect of a decision; and

35 (b) an appeal against a decision under this Part,

36 must be copied by the Commissioners to the Department and the
37 Department is a party to any proceedings before the Commissioners under
38 this Part.

Section 50 Landlord Registration (Private Housing) Bill 2020

Page 56 c

1 (6) Rules of procedure may provide that a relevant landlord must give notice
2 of the making of an application or appeal under this Part to any landlord's
3 representative or any occupier of a rented dwelling to which the
4 application or appeal relates.

5 (7) Despite subsection (6), a notice of the making of an application or appeal
6 under this Part must be given to an occupier of a rented dwelling to which
7 the application or appeal relates when the application or appeal affects —
8 (a) an occupier's rights under section 44 (occupier may terminate lease
9 or licence); or

10 (b) an occupier's liability to pay rent under section 45 (circumstances
11 when no rent is payable).

12 (8) On determination of an appeal under this section, the Commissioners may
13 confirm, vary or revoke the decision appealed against.

14 (9) Notice of the outcome of an application or appeal must, in accordance with
15 rules of procedure, be given by the Commissioners to —

16 (a) the relevant landlord;

17 (b) the Department; and

18 (c) the occupier of, and a landlord's representative (if any) for, a rented
19 dwelling to which the application or appeal relates.

20 (10) A notice under subsection (9) in respect of the outcome of an appeal must
21 include a statement that the relevant landlord or the Department may
22 appeal against the decision to the High Court on a question of law in
23 accordance with subsection (12).

24 (11) Without limiting subsection (12), a decision of the Commissioners on an
25 appeal under this section is binding on the Department and the relevant
26 landlord.

27 (12) The Department or the relevant landlord may appeal to the High Court,
28 in accordance with rules of court, from a decision of the Commissioners
29 on a question of law.

COMMENT: There MUST be a right to appeal to the High Court in respect of the decisions of the Commission. It would be highly unusual to limit this as a question of Law?

30 (13) In this section, “rules of procedure” means rules made under section 8
31 (rules of procedure) of the Tribunals Act 2006 governing the procedure of
32 the Commissioners for the purpose of enabling the Commissioners to
33 carry out their functions under this Act.

34 50 Nature of appeals

35 (1) Subject to subsection (2), in respect of an appeal against a decision to the
36 Commissioners under this Part —

37 (a) unless the Commissioners order a stay of the effect of a decision
38 under section 49(4) (application and appeal to the Commissioners),
39 the making of an appeal does not stay the effect of the decision

40 appealed against pending the outcome of the appeal; and

COMMENT: It HAS to, given the consequences , leaving the landlord liable to prosecution, but also in light of the fact that during this time the tenant can live rent free, with no mechanism for compensation in the event that the commission eventually determine that the decision was wrong.

Landlord Registration (Private Housing) Bill 2020 Section 51

c Page 57

1 (b) a variation or revocation of the decision does not affect the previous
2 operation of the decision or anything duly done or suffered under
3 it.

4 (2) In respect of an appeal to the Commissioners of a decision to issue a
5 relevant notice, on a revocation or variation of the decision the
6 Commissioners may determine the date from which rent is due or payable
7 for the purposes of section 45 (circumstances when no rent is payable),
8 which may be during the period the notice was in operation.

9 (3) In this section, “relevant notice” has the meaning given in section 45(7).

10 51 Commissioners’ power to stay effect of outcome of appeal

11 (1) This section applies to an appeal against a decision described in section

12 48(a), (b), (d) and (g) (decisions subject to appeal).

13 (2) On confirming or varying a decision subject to an appeal to which this
14 section applies, the Commissioners may stay the effect of the outcome of
15 the appeal if they are satisfied that, in all the circumstances of the case and
16 having regard to the matters specified in subsection (3), it is equitable to
17 do so.

18 (3) The matters to which the Commissioners must have regard under
19 subsection (2) are —

20 (a) the length of the remainder of a lease or licence granted by the
21 relevant landlord making the appeal in respect of a rented dwelling
22 to which the appeal relates;

23 (b) the circumstances of —

24 (i) the relevant landlord making the appeal; and

25 (ii) an occupier of a rented dwelling to which the appeal relates,
26 on the outcome of the appeal taking effect; and

27 (c) the application of section 45 (circumstances when no rent is
28 payable) on the outcome of the appeal taking effect.

29 (4) The Commissioners may stay the effect of the outcome of an appeal under
30 this section for a maximum period of 3 months.

31 **PART 6 – OCCUPANCY DEPOSIT REGULATION AND**

32 **PROTECTION**

COMMENT: There is absolutely no need for a deposit protection scheme in the Isle of Man.

It doesn't appear that any studies have been done to determine whether this is required or desired by anyone.

Who is responsible for the costs?

This is likely only to spawn further litigation, clogging up an already overworked court system.

An ombudsman scheme would be far more efficient and cost effective.

If it has not yet been determined whether to have one, why include it in the Bill?

Why not simply make it the law that a landlord should hold the money in a designated account?

33 52 Meaning of “occupancy deposit”

34 In this Part, an “occupancy deposit” means any money paid by or on behalf of

35 an occupier that is intended to be held (by a relevant landlord or otherwise) as
36 security for —

37 (a) the performance of any obligation of the occupier; or

Section 53 Landlord Registration (Private Housing) Bill 2020

Page 58 c

1 (b) the discharge of any liability of the occupier,

2 arising under or in connection with a lease or licence granted by a relevant

3 landlord in respect of a rented dwelling.

4 53 Occupancy deposit protection schemes

5 (1) With the concurrence of the Treasury, the Department may make a scheme

6 for the purpose of safeguarding occupancy deposits.

7 Tynwald procedure – approval required.

8 (2) The Department may, with the concurrence of the Treasury, make

9 arrangements with a person, under which the person undertakes to

10 administer and maintain a scheme made under subsection (1).

COMMENT: At what cost?

11 (3) Arrangements made under subsection (2) may include arrangements for

12 the remuneration of the person for administering and maintaining a

13 scheme.

14 54 Scheme provisions

15 (1) A scheme made under section 53 (occupancy deposit protection schemes)

16 may contain such provisions as the Department considers appropriate for

17 the proper functioning of the scheme.

18 (2) Without limiting subsection (1), a scheme may make provision for —

19 (a) the powers and duties of a scheme administrator;

20 (b) the manner and circumstances in which an occupancy deposit must

21 be paid, held and repaid under the scheme;

22 (c) authorising the Department to make payments, or to give

23 guarantees or other assistance, in connection with —

24 (i) the creation, administration or operation of the scheme; or

25 (ii) the resolution of disputes relating to the scheme;

26 (d) making the scheme mandatory in the case of specified occupancy

27 deposits;

28 (e) a fee to be charged in connection with the scheme, and to set the

29 amount or maximum amount of the fee;

COMMENT: Landlords will pass this cost on to the tenant.

Any attempt to limit deposits for this purpose would likely be detrimental to tenants. Currently many landlords take additional deposits for e.g. pets. They may simply stop tenants having pets if a limit is place upon deposits.

We are unaware of many disputes arising as to return of deposits, therefore why is this required?

30 (f) the procedures for the operation of the scheme and for any appeal

31 to be brought against a decision of the scheme administrator;

32 (g) requiring information to be provided to the Department, the

33 scheme administrator or any other person for a purpose connected

34 with the exercise of functions under the scheme, but any

35 requirement for information must not contravene the data

36 protection legislation;

37 (h) sanctions for failure to comply with the scheme;

COMMENT: More??

Landlord Registration (Private Housing) Bill 2020 Section 55

c Page 59

1 (i) any exemptions or exceptions to specified requirements of the

2 scheme; and

3 (j) procedures for the resolution of disputes concerning the scheme.

4 55 Amount of occupancy deposits

5 (1) The Department may by regulations provide that a relevant landlord or

6 person acting on the landlord's behalf must not require an occupier to

7 make a payment in respect of an occupancy deposit in excess of an amount

8 specified in the regulations.

COMMENT: Why should the Government have a say in this? Surely the market should dictate?

See above. Any cap is likely to be detrimental to tenants. Currently higher deposits are often taken where tenants have pets. The unintended consequence is that landlords will simply not allow pets any longer or will increase the rent in order to compensate.

If it is not yet determined whether it is required, why is this being included?

9 Tynwald procedure – approval required.

10 (2) Regulations made under subsection (1) must specify the maximum

11 amount of occupancy deposit permitted with reference to a number of

12 weeks' rent.

13 (3) A term of a lease or licence which breaches the regulations made under

14 subsection (1) by requiring an occupier to make a payment in respect of an

15 occupancy deposit in excess of the specified amount is not binding on an

16 occupier in respect of the amount of the excess.

17 (4) Where, and to the extent that, a term of a lease or licence is not binding on

18 an occupier under subsection (3), the lease or licence continues, so far as

19 practicable, to have effect in every other respect.

PART 7 – INFORMATION

1 Monitoring of the private rented sector

(1) The Department has the function of monitoring the private rented sector in the Island for the purpose of —

(a) improving or targeting public services within the scope of its statutory functions to individuals and households within the sector; and

(b) informing strategic policy formulation with respect to the sector.

(2) The Department may from time to time require information from —

(a) relevant landlords;

(b) landlord's representatives; and

(c) persons who have an estate or interest in a rented dwelling, for the purpose of enabling the Department to carry out its function described in subsection (1).

COMMENT: Unlimited, unspecified information. Why should landlords have to do this? What other private sector is monitored in this way?

This is hugely objectionable.

Without specifics as to the use of the information, this could breach GDPR rules.

(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.

COMMENT: Who determines whether it is requested or required?

Who determines whether the purpose for which it is requested is legitimate?

(5) Section 57 (power to obtain documents and information) applies to the information required under this section but —

COMMENT: See above comment. Hugely objectionable.

(a) is subject to this section; and

(b) does not apply to information requested under subsection (3).

(6) In this section, “private rented sector” means —

(a) rented dwellings, or dwellings intended to be used as rented dwellings;

(b) the activities of a relevant landlord under a lease or licence in respect of a rented dwelling; or

(c) the activities of a relevant landlord or a landlord’s representative in the undertaking of a property management activity.

57 Power to obtain documents and information

(1) The Department may exercise the powers in this section in relation to documents or information reasonably required by the Department for any purpose connected with the exercise of any of the Department’s functions under this Act.

COMMENT: Who determines what is reasonably required?

What other PRIVATE sector is required to give this information?

(2) The Department may give notice to a relevant person requiring that person to produce a document or provide information which—

(a) is specified or described in the notice or which falls within a

category specified or described; and

COMMENT: Massively UNSPECIFIED.

(b) is, in the case of documents, in the person’s custody or under the person’s control or, in the case of information, known to the person.

(3) A notice under subsection (2) may specify —

(a) the time and place for the provision of the document or information; or

(b) the form or manner in which information must be provided.

(4) A notice under subsection (2) must advise the recipient of the matters in subsections (7) and (8).

(5) A notice under subsection (2) may be given to a relevant person by an authorised officer in relation to documents or information reasonably required by the authorised officer for any purpose connected with the exercise of any of the authorised officer's functions under this Act.

(6) The Department or an authorised officer may **copy any document** provided to it in accordance with a notice under this section.

COMMENT: ?? GDPR??

(7) **No person may be required under this section to provide information or any document which the person would be entitled to refuse to provide in court proceedings on grounds of legal privilege.**

COMMENT: What about other grounds? Breach of confidentiality? Any other contractual or statutory duties?

Also, it does not fit with the Draft Regulations, which suggest you cannot disclose e.g. identity of a tenant.

(8) **A person who, without reasonable excuse, fails to comply with a requirement made to that person in a notice under this section commits an offence.**

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

(9) In this section, a "relevant person" is any of the following —

(a) a relevant landlord;

(b) a landlord's representative;

(c) a person who has an estate or interest in a rented dwelling.

COMMENT: This is hugely objectionable. Why should landlords be required to do this? For what purpose?

And to make it an offence not to do so when the parameters of what is to be requested and for what purpose is so unspecified.

This need to be looked at objectively.

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.

COMMENT: WHO??

(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.

COMMENT: Why should the Government be able to do this here and not elsewhere?

What is the purpose of this section and Information sharing?

Why are the Government not subject to the same DATA protection Rules as everybody else?

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.

COMMENT: Then there should be no information sharing. This directly contradicts the previous sections.

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.

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

COMMENT: What about its owner? Do they have NO rights?

(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.

COMMENT: It would help if some of the provisions of the Bill and Regulations did not contradict well established principles of Law.

(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.

COMMENT: This makes no sense whatsoever

So a tenant can live rent free for any period of time in the event that the action requires a tenant move out in order to rectify and a landlord can be prosecuted and struck off the register in the meantime because they could not rectify because they could not get the tenant out.

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;

COMMENT: So the Landlord will be required to pay the fee, and probably pay for them to come and inspect? These costs will then be passed onto the tenants.

(b) permit a person to exercise a discretion in respect of any matters specified in the scheme, order or regulations;

(c) contain any consequential, incidental, supplemental, transitional, transitory or saving provisions that the Department considers necessary or expedient for the purposes of the scheme order, or regulations; and

(d) provide for contravention of the scheme, order or regulations to be an offence with a maximum penalty on summary conviction of a fine not exceeding level 4 on the standard scale.

(2) Before making or amending any regulations under this Act (apart from regulations made under section 55(1) (amount of occupancy deposits)), the Department must consult the Department of Environment, Food and Agriculture.

(3) Any fees received under a scheme, order or regulations made under this Act form part of the General Revenue.

64 False or misleading statements

COMMENT: It is a shame the Minister, Mr Baker, cannot be prosecuted for making (arguably) misleading statements in respect of this Act., its costs and its consequences.

(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.

COMMENT: Draconian and onerous when compared to other offences.

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.

COMMENT: Even if their actions are at huge cost to a landlord and are eventually proven wrong?

- (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.

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 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);
- (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.

2 Information on a landlord's representative in register entry

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

- (a) the name and correspondence address of any person nominated by the relevant landlord as a landlord's representative, and the address of each registered rented dwelling to which the nomination relates;
- (b) if the landlord's representative is an individual, the representative's principal residential address;
- (c) if the landlord's representative is a 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 date of a nomination of a landlord's representative and the date on which the Department was notified of the nomination;
- (e) the date on which a landlord's representative ceased to act for a relevant landlord and the date on which the Department was notified that the landlord's representative had ceased to act; and

(f) details of any notices issued to the landlord's representative under section 40(5) (action regarding personal conduct requirements), including the date on which the notice was issued and the date on which it took effect.

3 Information on rented dwellings in register entry

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

- (a) the address of the rented dwelling;
- (b) a description of the building of which the rented dwelling forms the whole or a part;
- (c) the number of bedrooms in the rented dwelling;
- (d) the name and correspondence address of any person other than the relevant landlord who has an estate or interest in the rented dwelling;
- (e) the date of initial registration;
- (f) the date of each subsequent grant of registration;
- (g) any conditions on the grant of registration;
- (h) where registration has expired, the date of expiry;
- (i) where an application for registration of the rented dwelling 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 the registration of the rented dwelling has been revoked under section 42 (revocation of registration) —
 - (i) the fact and date of the revocation;
 - (ii) the reasons for the revocation; and
 - (iii) whether the decision to revoke registration was appealed against and the outcome of any appeal;
- (k) details of any enforcement action taken under Division 2 of Part 4 concerning the rented dwelling and whether the action was appealed against and the outcome of any appeal; and
- (l) the date and details of any changes with regard to the registration of the rented dwelling and the date on which the Department was notified of such change.

PART B

– INFORMATION THE REGISTER MAY CONTAIN