

EXPLANATORY MEMORANDUM TO

The Landlord Registration Scheme Regulations (Northern Ireland) 2012

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the above Regulations which are laid under the draft affirmative resolution process before the Northern Ireland Assembly.
- 1.2 These Regulations are made under Article 65A of the Private Tenancies (Northern Ireland) Order 2006.

2. Purpose

- 2.1 The purpose of the Regulations is to give effect to the landlord registration scheme including the functions and responsibilities of the scheme registrar. They detail the information which a landlord must provide to the registrar in order to register and continue to be registered. A landlord as well as any person acting on behalf of the landlord in relation to a tenancy must register.

3. Background

- 3.1 In March 2010, the Department published its strategy for the private rented sector 'Building Sound Foundations' which included a number of recommendations for the sector. The introduction of a mandatory 'light touch' landlord registration scheme will establish better regulation of the sector.
- 3.2 A register of all private landlords will give councils the means to work and communicate with landlords, allow them to ensure that landlords comply with the law, raise standards and where necessary take enforcement action.

4. Consultation

4.1 Building on the provisions in the Housing (Amendment) Act (Northern Ireland) 2011, which was consulted on at the beginning of 2010 a landlord registration stakeholder forum representing all relevant parties with an interest in the private rented sector was established. This group used the learning and experience from Scotland where landlord registration has been in existence since 2006, to develop a specification and subsequently a set of draft regulations.

5. Equality Impact

5.1 The Department considers that this legislation is in compliance with Section 75 of the Northern Ireland Act 1998. A full equality impact assessment did not have to be carried out as the policy has been screened out. No adverse equality differentials are foreseen on Section 75 groups and it will have a positive impact on all equality groups.

6. Regulatory Impact

6.1 A Regulatory Impact Assessment (RIA) has been prepared for the Landlord Registration Scheme Regulations (Northern Ireland) 2012 and is attached to this memorandum at Annex A.

6.2 DSD has considered how the Regulations meet with the requirement for Better Regulation and it is considered that a registration scheme will have a positive impact on business.

7. Financial Implications

7.1 Initial start up costs are likely to be incurred by the Department. However, the running and maintenance costs for the scheme will be met through a fee payable by the landlord (amount of which remains under consideration) for a three year period.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department has considered its obligations under section 24 of the Northern Ireland Act 1998. It is the Department's judgement that the Landlord Registration Scheme Regulations (Northern Ireland) 2012:-

- are not incompatible with the Convention rights;

- are not incompatible with Community law;
- do not discriminate against any person or class of person on the ground of religious belief or political opinion; and
- do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1 Not applicable

10. Parity or Replicatory Measure

- 10.1 This is stand alone legislation for Northern Ireland and there is no impact on GB devolved administrations.
- 10.2 In Scotland provisions for landlord registration are contained in the Anti-social Behaviour etc. (Scotland) Act 2004.
- 10.3 In the Republic of Ireland provision for tenancy registration are contained in the Residential Tenancies Act 2004.
- 10.4 In early 2012, both **Wales** and the **Isle of Man** announced proposals to bring forward landlord registration schemes. In the **Isle of Man**, it is hoped to have legislation in place by 2013, although a voluntary code is being implemented earlier.
- 10.5 In August 2009, it was announced that a landlord registration scheme would be introduced in **England**. However, following a change in administration, these plans were shelved in June 2010, much to the disappointment of Shelter and the Association of Residential Letting Agents. More recently, in November 2011, the Coalition Government launched its Housing Strategy for England which avoids regulatory burdens on landlords and relies on local authorities to make full use of their robust powers to tackle rogue landlords.

11. Additional Information

11.1 Not applicable

Regulatory Impact Assessment - Landlord Registration

Proposed and Intended Effect of Measure

The consultation document, 'Building Sound Foundations' (15 May 2009 to 7 August 2009) proposed landlord accreditation as a means to improve landlord tenancy management and professionalise the private rented sector. Responses to the consultation agreed the need to secure greater professionalism and that a more rigorous approach, based on mandatory landlord registration was needed to ensure effective enforcement and compliance with the law. As a result, the Department launched its strategy for the private rented sector 'Building Sound Foundations' which put in place a number of initiatives including the implementation of a landlord registration scheme to gather relevant data and play an integral part of the wider package of measures for the private rented sector.

The purpose of this assessment is to consider the impact which the implementation of a landlord registration scheme may have on business and the ability of those working in the sector to carry out their business. In addition, it considers the alternatives/options to a landlord registration scheme.

Objective

Implementation of a landlord registration scheme has a number of objectives including:

- to promote good landlord practice and to prevent bad landlords from working in the sector;
- to ensure provision of appropriate advice and assistance to those living and working in the sector;
- to provide essential information for councils in support of their enforcement and compliance activities; and
- to gather relevant data on private landlords and their properties in order to underpin policy development and provide a better understanding of the sector.

Options

- 1) Do nothing.
- 2) Self regulation/accreditation.
- 3) Mediation/arbitration.
- 4) Light touch mandatory registration.

Option 1 - to do nothing will not meet any of the policy objectives. Evidence following public consultation presented a clear case for improved regulation of the sector.

Option 2 - to move to self regulation or accreditation requires a professional body to deliver courses, forums and oversee the continuing professional development in the sector, such as the new Level 2 Certificate for Landlords (QCF) launched by CIH and Smartmove in November 2011 and supported by the Department. Alongside the introduction of tenancy deposit schemes, landlord registration is one of the first steps in a process to enhance the private rented sector. The next stage of work will focus

on delivering other elements of the strategy, which are vital in the continuing professionalising of the sector and meeting the policy objectives of collecting comprehensive information about the sector. Self regulation would be unrealistic as many private landlords are ignorant of the law governing the private rented sector.

Option 3 - deals with management issues such as rent arrears, withholding deposits (the withholding of deposits will be addressed following the introduction of a tenancy deposit scheme in 2013), anti social behaviour and issues over repairs, but it is narrow in scope and would not satisfy at least one of the policy objectives (collecting data on the sector). There is currently significant intervention by council environmental health personnel in addressing many of these tenancy management issues.

Option 4 - introducing a mandatory 'light touch' landlord registration scheme will meet all policy objectives. As mentioned previously, following consultation, a large number of responses supported the introduction of a mandatory 'light touch' registration scheme. It is envisaged that it will improve management practice, contribute to the professionalising of the sector, give tenants greater confidence as they will view the sector as a more attractive form of tenure and assist statutory bodies in the dissemination and collection of appropriate information.

Benefits

A mandatory 'light touch' landlord registration scheme will:

- be a low cost scheme with minimum hurdles and few levels of bureaucracy;
- contribute towards an increase in management and physical standards of/in properties as councils will provide landlords with advice and support;
- offer tenants an assurance that their tenancy will be managed in accordance with the law governing the sector;
- enhance confidence in the private rented housing sector thus providing greater choice, sustainability and flexibility;
- provide reassurance for those landlords who comply fully with the requirements of the legislation that those landlords who do not, will face the full rigours of the law (this in turn may remove unfair competition and give registered landlords a marketing advantage); and
- assist statutory bodies in the dissemination/collection of information thus making available appropriate information to draw robust analysis and support good long term decision making for the sector.

Costs

There will be initial set up costs to be met by the Department and the Registrar of approximately £700k. As the scheme is expected to be self funding/cost neutral, the administration and operation of the scheme will be met by the fee payable by a landlord on registration and thereafter, at the end of each three year period to meet the requirement of continuing registration. At the date of preparing this assessment, it is estimated that the fee payable for electronic registration will be £70 and for non-electronic registration, it will be £80. This fee is for a three year period and represents less than £0.50p per week per landlord.

Consultation with Small Business – the Small Business Impact Test

The majority of landlords in Northern Ireland operate on a small scale, evidenced by research undertaken by the University of Ulster in 2011¹ on behalf of the Northern Ireland Housing Executive which indicates that approximately 70% of responses were small scale landlords owning 5 properties or less. The introduction of a landlord registration scheme will have an equal impact on the business of all landlords regardless of the size of a landlord's portfolio as the scheme's register is a register of landlords names rather than a register of landlords properties i.e. all landlords will pay the same fee. Given that local councils will assist landlords in all aspects of registration and provide comprehensive information on all aspects of letting in the private rented sector following registration, it is considered that a registration scheme will have a positive impact on all business regardless of size.

Enforcement & Sanctions

The Private Tenancies (Northern Ireland) Order 2006 (the legislation governing the private rented sector) includes provision that where a landlord is convicted of an offence in relation to landlord registration, he shall have 14 days to make good the offence and avoid paying the fine. Where the landlord fails to pay the fine within the specified time, he can be served with a further notice which carries the same terms as the original fine.

A landlord is guilty of an offence where:

- he provides false information;
- he fails to register and continues to let property; and
- he fails to provide evidence of his registration in certain circumstances.

Monitoring & Review

Following the date of implementation, the scheme will be evaluated at the end of year one and thereafter, every two years to assess and measure its impact and contribution towards achieving the four primary objectives mentioned earlier.

Consultation

Date	Issue
May – August 2009	Public consultation on proposals for the private rented sector, including a proposal to introduce some form of voluntary landlord accreditation. Responses received indicated a strong level of support for the introduction of mandatory landlord registration.
March 2010	Strategy for the private rented sector (Building Sound Foundations) launched by Minister Ritchie. Included measures for the introduction of a landlord registration scheme.
May 2010	Stakeholder forum established to assist in the development of the detail of the scheme. The forum represented all relevant bodies to ensure that the development and introduction of landlord registration will meet the needs of landlords and tenants. The forum will shortly receive for consideration/comment the draft Regulations to enable the

¹ Gray, P. and McAnulty, U (2011): Private Rented Sector in Northern Ireland. Living in the Private Rented Sector: Landlord Perspectives Report. Report 6'.

	practical application of the measures included in the landlord registration scheme (November 2011).
May 2011	Housing (Amendment) Act (Northern Ireland) 2011 (consulted on in early 2010) which includes provision for the introduction of a landlord registration scheme receives Royal Assent.

Summary & Recommendations

It is recommended that the Department will implement a light touch mandatory landlord registration scheme which will offer a number of positive benefits. It will provide comprehensive information about the private rented sector, give councils the means to communicate with private landlords allowing them to work with them to ensure compliance, raise standards and where necessary, take enforcement action. It is considered that landlord registration will have a positive impact on business.

July 2012