

Final CRWIA - Web publication Secondary Legislation CRWIA

CRWIA title:

The Private Landlord Registration (Information) (Scotland) Regulations 2019 and The Private Landlord Registration (Fees) (Scotland) Regulations 2019

Executive Summary

Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004 (“the 2004 Act”) places a duty on local authorities to prepare and maintain a public register of private landlords. Mandatory private landlord registration was implemented in April 2006.

The evidence demonstrates links between poor housing and poor educational and health outcomes. By improving the quality of accommodation that children and young people live in, so that the Private Rented Sector (PRS) represents a good place to live, we anticipate this could have a positive impact on health and educational attainment.

The policy broadens the prescribed information to ask applicants about their compliance with specific existing legal responsibilities, in relation to property management and condition. The policy also introduces an increase to landlord registration application fees. The new fee reflects the increased costs to local authorities of administering landlord registration.

The policy aims to:

- raise awareness about landlord responsibilities;
- identify where further advice or support may be required;
- ensure that local authorities are better informed and resourced to carry out the fit and proper person test; and
- improve confidence that anyone who is approved and entered onto the register is a suitable person to let houses.

The overarching objective is to improve standards for those living in the PRS, including children and young people.

The policy covered by this CRWIA will contribute to the National Outcomes:

- “We live in communities that are inclusive, empowered, resilient and safe”; and
- “We tackle poverty by sharing opportunities, wealth and power more equally”

The policy also contributes to the Scottish Government’s

vision that all people in Scotland live in high quality, sustainable homes that they can afford and that meet their needs.

We consider that, of the eight wellbeing indicators (Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible, Included (known by the acronym SHANARRI)), the policy relates to:

- **Achieving:** Being supported and guided in their learning and in the development of their skills, confidence and self-esteem at home, at school and in the community.
- **Included:** Having help to overcome social, educational, physical and economic inequalities and being accepted as part of the community in which they live and learn.
- **Nurtured:** Having a nurturing and stimulating place to live and grow.
- **Healthy:** Having the highest attainable standards of physical and mental health, access to suitable healthcare, and support in learning to make healthy and safe choices.

Of the UNCRC considerations, the policy relates to:

- **Article 6 (2) The right to life.** That is, 'ensure to the maximum extent possible the survival and development of the child'.
- **Article 23 (1) The rights of a disabled child.** That is, 'a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community'.
- **Article 27 (1-3) Adequate standard of living.** That is, 'the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development'.
- **Article 28 (1e) Right to education.** That is, 'takes measures to encourage regular attendance at schools and the reduction of drop out rates'.

The available evidence shows us that the number of families and young people within the PRS has grown significantly in recent years and that a secure home protects and promotes the wellbeing of children and young people.

We have identified that In 2017, around a quarter of PRS households included children, with the sector providing a home for almost 150,000 children. We have also been able to identify a number of possible positive outcomes for

	<p>different groups of children and young people.</p> <p>The results of this CRWIA demonstrate that it complies with the UNCRC requirements and has the potential to advance the realisation of children’s rights and wellbeing.</p> <p>This CRWIA was informed by a range of evidence and consultations.</p>
Background	<p>The legislation requires that private landlords register with the local authority in which they let property. To apply for registration, landlords must provide certain prescribed information and submit the appropriate application fee. The prescribed information helps local authorities in their assessment of whether the applicant is a fit and proper person to let houses. The application fee represents a reasonable charge for the work undertaken by local authorities to process applications, including deciding whether to approve or refuse entry to the landlord register.</p> <p>Despite the current registration process, the available evidence, including for example in relation to property condition, shows that some private landlords let houses without meeting their legal obligations. The application process requires some limited information to be provided but relies largely on a general self- declaration that the applicant complies with all their legal responsibilities.</p> <p>Requiring landlords to confirm compliance with specific individual legal duties will help to raise standards for children and young people living in the PRS.</p>
Scope of the CRWIA	<p>The likely effects of the policy were informed by a range of evidence, including public consultation and stakeholder engagement on the content of the Private Rented Housing (Scotland) Bill, the Scottish Government Strategy for the Private Rented Sector in Scotland; the Housing (Scotland) Bill. Scottish Government officials also examined evidence from a range of studies, reports and surveys, including:</p> <ul style="list-style-type: none"> • The Scottish Government’s 2009 Review of the Private Rented Sector. This provided a detailed primary evidence base on the sector in Scotland, including information relating to the protected characteristics (vulnerable groups). • The Scottish Government’s 2013 Evidence Review of the Private Rented Sector Tenancy Framework in Scotland. This provided an overview of some of the key issues relating to the PRS in Scotland. • Homeless Action 2013 and Youth Homelessness in Scotland 2013 Surveys. These surveys provide

	<p>information on housing experiences of tenants in the PRS.</p> <ul style="list-style-type: none"> • Craigforth’s 2014 qualitative research to explore the implications for private rented sector tenants and landlords of longer term and more secure tenancy. This provided an outline of tenants’ experiences of the current tenancy, including its advantages and disadvantages. • Analysis of Equality Results from the 2011 Census – Part 2. This data provided further information regarding the profile of tenants across equality groups within the PRS. • The Scottish Government (2010) A Thematic Review of Literature on the Relationship between Housing, Neighbourhoods and Schools. This presents a comprehensive review of the evidence relating to the relationship between housing and education. • Scottish Government (2013) Growing Up in Scotland. Growing Up in Scotland is the longitudinal research study tracking the lives of thousands of children and their families from the early years, through childhood and beyond. Housing is covered as part of this. • What does the literature tell us about the social and economic impact of housing? CAS report 2010. • Understanding the Housing Aspirations of People in Scotland. This research report provides evidence on the PRS in relation to property condition and low income households (September 2015). • Results from the 2017 Scottish Household Survey and Scottish House Conditions Survey. This provides further detail of the physical condition of housing stock. <p>The policy is designed to improve standards for the benefit of all groups of people living in the PRS, or being adversely affected by poor landlord practice. However, the available evidence indicates that children and young people from certain groups are more likely to be living in poor quality housing such as ethnic minority, migrant families and students.</p> <p>The positive impacts may be felt more by vulnerable children from certain groups. For example, the policy may help to address the problems linked to sub-standard housing for children and young people from low income households, single parent families or at risk of homelessness.</p>
<p>Children and young people’s views and experiences</p>	<p>While there is a lack of research detailing children’s views on the issue of poor housing in the PRS, there is sufficient evidence of the views of parents and young people who are tenants and qualitative research on the views and experiences of those within the sector.</p>

	<p>There is also evidence on the composition of the PRS generally and on the condition of properties within the PRS that allows us to determine where the policy might deliver improvements to those living in the sector. As the rights of children/ young people and their parents/ carers are inextricably linked, we consider that the available evidence provides a good basis for examining the impact of the proposals upon children and young people. The available evidence shows us that the number of families and young people living in the PRS has grown significantly in recent years and that poor quality housing can impact negatively on the wellbeing of children, young people and their families.</p>
<p>Key Findings</p>	<p>The Scottish Household Survey 2017¹ found that there has been a small increase in the share of PRS households with children, which has risen by 4 percentage points since 1999, so that nearly a quarter (24%) of all privately renting households were households with children.</p> <p>There were an estimated 150,000 children living in the private rented sector in 2017, which equates to around 15% of 0-16 year olds in Scotland.</p> <p>The share of all single parent households who live in the PRS rose by 18% from 1999, so that almost a quarter (24%) of single parents were renting privately by 2017. This was equivalent to an increase of 20,000 households from 10,000 to 30,000.</p> <p>The share of all small family households (i.e. households of two adults and one or two children) living in the PRS has also risen, from 3% in 1999 to 14% in 2017, equivalent to an increase of 10,000 households from 10,000 to 40,000.</p> <p>The proportion of young people renting has also risen dramatically in recent years and projections indicate that this will increase further, with diverse demand including from vulnerable and lower income young people. Some, such as students, will be in the sector through choice and value the flexibility that it provides. However, this increase can also partially be attributed to a lack of options due to the growing proportion of young people unable to access home ownership.</p> <p>While specific data on 16 -18 year age group within the PRS is not available, we have identified that the proportion of renters within the 16-34 age group expanded from 13% in 1999 to 60% in 2017. This equates to approximately 40,000</p>

¹ [Scottish Household Survey 2017: annual report](#)

households

The 2009 Review of the Private of the Private Rented Sector included views from tenants on their experience in the PRS, including on the issue of property condition and repairs. The tenant survey included evidence on the experiences of 280 students, as well as tenants with children in the PRS.

Chapter 2 of the Growing up in Scotland (GUS)² considers the characteristics and circumstances of children and parents in relation to Area and Housing. 16% of children were living in private rented homes. The proportion of families in owner occupied homes has decreased (from 62% to 56%) whereas the proportion in the PRS has increased (from 6% to 16%).

The survey found that on the matter of repairs needed to family homes in the PRS, 13% of families needed one repair on their home, 6% needed two and 6% needed three or more. Families living in areas of higher deprivation were more likely to need multiple repairs on their home. 16% of those living in areas in the highest deprivation quintile required two or more repairs compared with 7% living in areas in the lowest deprivation quintile.

To measure satisfaction with their local neighbourhood, parents were asked how satisfied or dissatisfied they were with the area they lived in. The vast majority (84%) of parents in Birth cohort 2³ were satisfied with where they were living. Most parents agreed that they lived in an area that was good for bringing up children (76%) and half (50%) did not want to live in another neighbourhood. The report also stated that the greater numbers of families in rented properties was indicative of many more people having difficulty getting a mortgage or finding suitable homes at affordable prices. The study therefore suggests an increased reliance on the PRS to provide a housing solution for families with children and young people.

A Scottish Government review, A Thematic Review of Literature on the Relationship between Housing, Neighbourhoods and Schools (2010) found that neighbourhood and housing characteristics, including poor property condition, can impact on children's and young people's educational development and outcomes in a number of complex and interrelated ways. Unstable housing, particularly when it arises from moves which are not

² [Scottish Government \(2013\) Growing Up in Scotland: Birth Cohort 2. Results from the First Year;](#)

³ This was a longitudinal study and 'Birth cohort 2' refers to the second group which were studied to track changes.

consciously chosen such as housing problems or instability, result in very negative outcomes for children and young people.⁴

The review concludes that poor quality housing has been identified as exerting a negative impact on educational performance, whether this is through its association with poor health or because at the neighbourhood level poorer neighbourhoods tend to have poorer housing and schools which do not have successful outcomes for pupils. The available evidence demonstrates that better quality housing provision has the potential to advance children's rights and wellbeing in Scotland by allowing those in the PRS to flourish in their chosen community and school.

A 2010 Scottish Government research report looked at the social and economic impacts of housing. The report highlighted a body of research on housing and health that showed in general, poor housing condition in terms of overcrowding, poor heat insulation and air quality problems is a factor in poor physical health as well as stress and mental health problems. The report also indicated a relationship between poor housing and poor health and that inequality in housing wealth is often transmitted into other aspects of life such as health and education.

The qualitative Scottish Government research report (Understanding the Housing Aspirations of people in Scotland) identified⁵ that those with financial resources were able to navigate the market and secure a property that offered a good standard of living and fitted in with their lifestyle. However, at the bottom-end of the market low-income households were in a more vulnerable position, especially in high demand rental markets such as Aberdeen.

The experiences of private renters highlighted the persistence of illegal landlord practices and a lack of enforcement of existing legislation, for example the unwillingness of landlords to carry-out repairs. Most commonly mentioned problems were in relation to draughty properties with poor/faulty heating, highlighting possible breaches of the repairing standard. The report highlighted the reluctance of tenants, including those with children to uphold and enforce their rights in relation to getting repairs

⁴ [The Scottish Government \(2010\) A Thematic Review of Literature on the Relationship between Housing, Neighbourhoods and Schools](#)

⁵ [Understanding the Housing Aspirations of people in Scotland](#), September 2015, Scottish Government

	<p>done for fear of a damaging the relationship with the landlord and being asked to leave the property.</p> <p>Craigforth's 2014 qualitative research⁶ explored the implications for PRS tenants and landlords of having a longer term and more secure tenancy. This included an outline of 63 tenants' (including households with children on low income and students) experiences of living in the sector. The issues raised most frequently and forcefully concerned the condition of the property in which they were living and, more specifically, the difficulties in getting landlords to carry out improvements or repairs. Those experiencing such difficulties tended to be living in the bottom end of the sector and/or in rural areas and some of the problems being reported - particularly in relation to water ingress and dampness - were severe. Those in these situations were clear that the issue they would most like to address was property condition.</p> <p>Those affected by these kinds of issues were looking for a quick and easy route by which landlords could be required to carry out repairs and, in particular, for an independent body or bodies to take responsibility for carrying out condition checks and ensuring that landlords carry out any necessary repairs.</p> <p>The Scottish House Condition Survey 2017⁷ found that 49% of households in the PRS lived in houses with some disrepair to critical elements of the building e.g. roof; external walls; foundations; wet/dry rot. 24% of households in the PRS lived in houses with problems of both critical and urgent disrepair which, if not rectified, would cause the fabric of the building to deteriorate further and/or place the health and safety of the occupier at risk.</p> <p>2% of PRS homes failed the basic Tolerable Standard which is a "condemnatory" standard. In other words, it is not reasonable to expect people to continue to live in a house that falls below it.</p>
<p>Conclusions and Recommendations</p>	<p>The Scottish Government has found that the proposals do not impinge negatively upon articles on the UNCRC or the indicators of wellbeing (SHANARRI) and that there are no issues that will impact negatively upon children and young people in the PRS.</p>

⁶ [The Scottish Government \(2014\) Qualitative](#) research to explore the implications for private rented sector tenants and landlords of longer term and more secure tenancy

⁷ [The Scottish House Condition Survey 2017 – Key findings](#)

	<p>We would consider that the policy has the potential to improve the quality and safety of PRS homes, thereby having a positive effect on all children and young people within the sector. The proposals comply with the UNCRC requirements and have the potential to advance the realisation of the rights and wellbeing of children and young people in Scotland. This may be particularly relevant for those living in vulnerable households who may find it difficult to assert their rights as a tenant.</p> <p>We recognise that the data available does not allow a complete picture of the experiences and views of children and young people within the PRS. However, the CRWIA has provided the opportunity to consider the potential impact of the policy on them.</p> <p>The potential positive indirect impacts for children and direct impacts for young people who rent in the PRS lead to a recommendation to proceed with the policy.</p>			
Monitoring and review	The Better Homes Division will monitor the impact of the policy through the collection of data from local authorities.			
Bill - Clause	Aims of measure	Likely to impact on	Compliance with UNCRC requirements	Contribution to wellbeing indicators
<p>1) The Private Landlord Registration (Information) (Scotland) Regulations 2019</p> <p>2) The Private Landlord Registration (Fees) (Scotland) Regulations 2019</p>	<p>1) Provide a robust application process that requires landlords to confirm their compliance with specific legal duties relating to property management and condition.</p> <p>2) Ensure that landlord registration application fees are proportionate to the costs administration of the regime</p>	Tenants living in the PRS and the wider community; local authorities who administer landlord registration; private landlords.	<p>The policy does not impinge negatively on any of the UNCRC articles.</p> <p>We would consider that it advances:</p> <p>Article 2: Non-discrimination. Article 6: Life, survival and development. Article 27 (1-3): Adequate standard of living. Article 28 (1e): Right to education.</p>	<p>The policy does not impinge negatively on any of the indicators.</p> <p>We would consider that it advances:</p> <p>Achieving; Included; Healthy Nurtured.</p> <p>Evidence indicates a link between housing quality, health and educational attainment. Further, findings show</p>

				that the policy may have a greater effect on vulnerable children, young people and their families. Improving the standard of homes that they live in should help to address inequalities in the ways in which they live and develop.
CRWIA Declaration				
Tick relevant section, and complete the form.				
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√				
Authorisation				
Policy lead Denise Holmes Senior Policy Advisor Better Homes Division			Date 13/03/19	
Deputy Director or equivalent Dave Signorini Deputy Director Better Homes Division			Date 25/04/19	