

**LANDLORD AND TENANT (PRIVATE HOUSING)
BILL 2014**

Explanatory Memorandum

1. This Bill is promoted by the Department of Social Care (“DSC”). The purpose of the Act resulting from the Bill (“the Act”) is to achieve a fair and reasonable balance between the rights of landlords and tenants under privately-rented tenancies (other than for some exempted ones).
2. The core aspects of the Act are that it will:
 - Require landlords of rented dwellings who are not exempted to be registered.
 - Require landlords, certain letting agents and rented dwellings to comply with minimum standards made by the Department of Health and Social Care (“DHSC”).
 - Empower DHSC to enforce those standards.

PART 1 – OPENING PROVISIONS

Division 1 – Introductory

3. Division 1 (clauses 1 to 6) provides for the short title and the commencement and the purposes of the Act, the privately-rented tenancies to which the Act will apply and for exemptions from the Act.
4. Under clause 2, the Act will be brought into operation on a day or days appointed by the DSC.

Division 2 – Interpretation

5. Division 2 (clauses 7 to 11) provides for definitions and other interpretative matters. Clause 8 incorporates into the Act the existing minimum standards published for the voluntary scheme and for how they can be amended. Under clause 8(3), there is the safeguard that affirmative Tynwald approval is required for any amendment that prejudices, or might prejudice, anyone’s right or interests.

PART 2 – LANDLORD REGISTRATION

Division 1 – Registration-related offences

6. Division 1 (clauses 12 to 14) creates offences for certain landlords not to be registered, for certain landlords or letting agents to manage the letting of dwellings and for prohibitions on certain advertising in relation to dwellings.

Division 2 – Additional civil consequences of not being registered

7. Division 2 (clauses 15 to 19) provides for the civil consequences as between the landlord and tenant of the landlord not being registered as required and for remedies for those consequences.

Division 3 – Obtaining registration

8. Division 3 (clauses 20 to 25) provides for the process for landlord registration and its duration.

Division 4 – Landlords register

9. Division 4 (clauses 26 to 30) makes provisions about the register, requirements to notify of changes to information held in the register, access to it and for the bodies to which DHSC can give information from the register.

Division 5 – Miscellaneous

10. Division 5 (clauses 31 and 32) provides for the renewal of registration and makes it an offence to knowingly or recklessly make a false or misleading statement to DHSC in relation to registration.

PART 3 – COMPLIANCE WITH MINIMUM STANDARDS

Division 1 – Landlord’s duty to comply

11. Division 1 (clauses 33 and 34) makes it an offence for a landlord not to ensure the rented dwelling complies, and continues to comply, with the minimum standards. However, there is a defence for conduct engaged in by the tenant or if the tenant prevented compliance (the term “engage in conduct” doing an act, or omitting to do an act).

Division 2 – Notices to remedy noncompliance

12. Under Division 2 (clauses 35 to 42), DHSC is empowered to give ‘notices of non-compliance’ notices to landlords if DHSC believes a rented dwelling does not comply with the minimum standards. Following a period in which the landlord may make submissions in relation to the notice of non-compliance, DHSC may give the landlord an ‘improvement notice’, which may require the landlord to take steps to remedy the contravention. Improvement notices also bind future landlords of the same dwelling.
13. Under clause 40, it will be an offence to contravene an improvement notice, but there is a defence for subsequent landlords in certain circumstances (clause 41). Also, an acquittal for the relevant contravention for an improvement notice has the effect of quashing the notice from the start (clause 42).

Division 3 – Contravention action

14. Under Division 3 (clauses 43 to 47), DHSC is empowered to take suspension, cancellation or disqualification action against landlords contravening the Division, after affording procedural fairness.
15. Under Subdivision 3 of Division 3 (clause 48), a disqualified person may apply to DHSC for re-qualification if certain conditions are met. An application for re-qualification is to be decided in the same way as a registration application.

Division 4 – Authorised officers and inspections

16. Division 4 (clauses 49 to 53) provides for the appointment of authorised officers to monitor or enforce compliance with the Act, and for their entry and other powers.
17. Those powers are linked to those of authorised officers under the Local Government Act 1985. However, there is an important exception that, under this Act, an authorised officer can only enter a privately-rented dwelling if its occupier consents or the entry is under a warrant (clauses 52 and 53).

PART 4 – REVIEW OF DECISIONS

18. Part 4 (clauses 54 to 58) provides for review of decisions on the merits against DHSC's decisions under the Act. A landlord may first appeal to DHSC for internal review of the decision and then to the Isle of Man Rates, Rent and Landlord and Tenant Tribunal. This Tribunal already exists as the Isle of Man Rent and Rating Appeal Commissioners. Consequential amendments to change the name of the Tribunal are included in Schedule 2.
19. A decision of the Tribunal may be appealed on a question of law to the Civil Division.

PART 5 – MISCELLANEOUS

20. Part 5 (clauses 59 to 66) provides for certain evidentiary matters, interpretation of concepts in relation to offences, the liability of officers of bodies, a power of DHSC to make required forms for use under the Act, a general regulation-making power for the Act and for a requirement for approval by Tynwald of regulations.

PART 6 – TRANSITIONALS

21. Part 6 (clauses 67 to 69) provides for the landlords register under DHSC's voluntary registration scheme set up before the Act to become the landlords register, for registration fees until a regulation is made to prescribe them and gives effect to Schedule 2, which contains consequential amendments.

SCHEDULE 1

22. Schedule 1 is a list of all definitions for the Act. Terms defined in the body of the Act are signposted in the Schedule.

SCHEDULE 2

23. Schedule 2 makes consequential amendments to a number of Acts to change references from the Isle of Man Rent and Rating Appeal Commissioners to the Isle of Man Rates, Rent and Landlord and Tenant Tribunal, as well as other consequential amendments that arise from this name change.
24. It is not envisaged the Act will have any significant cost implications and the Act will be funded from registration fees. The Act is not expected to increase Government expenditure or reduce its income.

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



Ellan Vannin

LANDLORD AND TENANT (PRIVATE HOUSING) BILL 2014

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LANDLORD AND TENANT (PRIVATE HOUSING) BILL 2014

1 **A BILL** about landlord registration and minimum standards for privately-
2 rented tenancies; 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:—

3 **PART 1 – INTRODUCTORY**

4 **DIVISION 1 - INTRODUCTORY**

5 **1 Short title**

6 The short title of this Act is the Landlord and Tenant (Private Housing) Act
7 2014.

8 **2 Commencement**

9 (1) This Act, other than this section and section 1, commences on the day
10 DHSC by order appoints and different days may be appointed for
11 different provisions and for different purposes.

12 (2) An order under subsection (1) may make consequential, incidental,
13 supplemental, transitional and saving provisions the Authority considers
14 necessary or expedient.

15 (3) Before making the order, DHSC must consult the Department of
16 Environment, Food and Agriculture.

17 **3 Purpose of Act and its achievement**

18 (1) The purpose of this Act is to achieve a fair and reasonable balance
19 between the rights of landlords and tenants under privately-rented
20 tenancies not exempted under section 5.

21 (2) The purpose is achieved mainly by —

- 1 (a) requiring landlords to be registered;
- 2 (b) requiring landlords, certain agents and rented dwellings to
- 3 comply with certain standards; and
- 4 (c) provisions to enforce the standards.

5 **4 Application of Act**

- 6 (1) This Act applies to a lease or other agreement under which a person is,
- 7 for the payment of rent, granted a right to exclusively occupy —
- 8 (a) a dwelling; or
- 9 (b) a part of a dwelling (with or without the right to use another part
- 10 of the dwelling).
- 11 (2) However, this Act does not apply to —
- 12 (a) a privately-rented tenancy exempted under section 5;
- 13 (b) a publicly rented tenancy; or
- 14 (c) an agreement under which a dwelling is used to provide a care
- 15 service regulated by the *Regulation of Care Act 2013*.
- 16 (3) For subsection (1), it does not matter —
- 17 (a) what the agreement is called;
- 18 (b) whether it is written or oral; or
- 19 (c) whether there are separate agreements for different components
- 20 of the rent or for other terms.
- 21 (4) A lease or agreement to which this Act applies is a “**privately-rented**
- 22 **tenancy**”.
- 23 (5) A dwelling or part of a dwelling mentioned in subsection (1) is a “**rented**
- 24 **dwelling**”.
- 25 (6) This Act applies despite the terms of any privately-rented tenancy.
- 26 (7) If a term of a privately-rented tenancy and a provision of this Act
- 27 conflict, the term is of no effect to the extent of the conflict.
- 28 (8) In this section —
- 29 “lease” includes —
- 30 (a) a sublease or subtenancy; and
- 31 (b) an agreement for a lease or tenancy; and
- 32 “publicly-rented tenancy” means —
- 33 (a) a lease granted by DHSC, a local authority or a joint board
- 34 established under section 7 of the *Local Government Act 1985*
- 35 (“**LGA 1985**”) performing functions under an Act as follows, or a
- 36 scheme under any of those Acts —
- 37 (i) the *Housing Act 1955*;

- 1 (ii) the *Ramsey Town Act 1970*;
- 2 (iii) the *Housing (Miscellaneous Provisions) Act 1976*; or
- 3 (iv) the *Housing (Miscellaneous Provisions) Act 2011*; or
- 4 (b) a lease under which an approved housing association under the
- 5 *Housing (Miscellaneous Provisions) Act 1976* is the landlord.

6 5 Exemption of certain privately-rented tenancies from Act

- 7 (1) For section 4(2), a privately-rented tenancy is exempted —
- 8 (a) if the rented dwelling is, or forms part of —
- 9 (i) an agricultural holding under the *Agricultural Holdings Act*
- 10 *1969*;
- 11 (ii) business premises under the *Tenancy of Business Premises*
- 12 *Act 1971*;
- 13 (iii) tourist premises under the *Tourist Act 1975*; or
- 14 (iv) a farm business premises under the *Agricultural Tenancies*
- 15 *Act 2008*;
- 16 (b) if the tenant is a lodger and —
- 17 (i) the building that the rented dwelling comprises or forms
- 18 part of continues to be the landlord's main place of
- 19 residence; and
- 20 (ii) the landlord has no more than one other lodger in the
- 21 building;
- 22 (c) if the rented dwelling is used by the tenant under —
- 23 (i) the scheme known as the 'The Isle of Man Homestay
- 24 Scheme' conducted by the Department of Economic
- 25 Development for races under the *Road Races Act 1982*; or
- 26 (ii) another scheme (whatever called) that is similar to that
- 27 scheme;
- 28 (d) if the landlord and the tenant are closely related;
- 29 (e) if the landlord is acting as a personal representative and —
- 30 (i) is not a disqualified person; and
- 31 (ii) has not so acted for more than 6 months;
- 32 (f) if the landlord is acting as a liquidator and —
- 33 (i) is not a disqualified person; and
- 34 (ii) has not so acted for more than 6 months; or
- 35 (g) in a prescribed circumstance.
- 36 (2) If, because of an exemption under subsection (1), this Act does not apply
- 37 to a landlord for a particular privately-rented tenancy, the landlord is an
- 38 “**exempt landlord**” for the rented dwelling.

- (3) In this section —
- “closely related”: a person is closely related to another person if the persons are connected by whole blood, half blood or by marriage, civil partnership or some affinity other than kinship; and
- “liquidator” means —
- (a) the receiver or manager of the property of a body corporate or partnership;
 - (b) a liquidator or provisional liquidator of a body corporate; or
 - (c) the trustee in bankruptcy of a person.

6 Relationship with other Acts applying to privately-rented tenancies

- (1) This Act does not prevent another Act applying for a privately-rented tenancy.

Example:

Part 3, Division 2 (notices to remedy non-compliance) does not prevent the giving of notices under Part I (provisions for securing the repair, maintenance and sanitary condition of houses) or III (abatement of overcrowding) of the Housing Act 1955 or affect the powers of inspection of local authorities for a rented dwelling.

- (2) However, if there is an inconsistency between a provision of this Act and a provision of the other Act, the provision of this Act prevails to the extent of the inconsistency.

DIVISION 2 – INTERPRETATION

7 “Landlord” and “tenant”

- (1) A “**landlord**” means —
- (a) in the case of a dwelling, a person who is the owner of the dwelling; or
 - (b) in the case of a rented dwelling, a person who lawfully grants a right of occupancy in the rented dwelling.
- (2) A “**tenant**” is a person (other than the owner of a leasehold estate covered by paragraph (3)(b)) who, under a privately-rented tenancy, is granted the right to exclusively occupy a rented dwelling.
- (3) An “owner”, of a dwelling, means —
- (a) in the case of a dwelling located on land the title to which is a leasehold estate in the land for a term greater than 21 years, the person who wholly or partly owns the leasehold estate; or
 - (b) in any other case, the person who wholly or partly owns the land on which the dwelling is located.
- (4) A person who “wholly or partly owns” an estate includes —

- 1 (a) a trustee of a Trust that owns the dwelling wholly or partly; and
2 (b) another person in actual receipt of rents of the dwelling other than
3 as a letting agent.

4 *Example for paragraph (b):*

5 *A mortgagee of land subject to a tenancy who has entered into possession*
6 *of the land and who is receiving rents personally.*

7 8 “Minimum Standards”

- 8 (1) The “**minimum standards**” are the requirements of the part of the
9 registration document headed “Standards for Registration”, subject to
10 any amendment from time to time under subsection (2).
- 11 (2) DHSC may amend the minimum standards by publishing the following
12 for public viewing, free of charge, on the Government website or another
13 website DHSC considers is appropriate for that purpose —
- 14 (a) the text of amendment and the minimum standards as amended
15 by the amendment;
- 16 (b) a note about when the publication was first made.
- 17 (3) However, if the amendment prejudices, or might prejudice, anyone’s
18 right or interests, the amendment of the text must be laid before Tynwald
19 as soon as practicable after they are made, and if Tynwald at the sitting
20 at which the regulations are laid or at the next following sitting fails to
21 approve them, they cease to have effect.
- 22 (4) In this section —
- 23 “amendment”, of the minimum standards, includes a remake of them, either as
24 part of a remake of the registration document, or another similar
25 document or as a separate document; and
- 26 “registration document” means the document published by DHSC titled “The
27 Voluntary Landlord Registration Scheme 2013”.

28 9 Compliance with the minimum standards

- 29 (1) A person “**complies**” with the minimum standards as a landlord or
30 prospective landlord only if the person complies with all of the personal
31 requirements under the standards for a person to be a landlord.
- 32 (2) A person “**complies**” with the minimum standards as a letting agent
33 only if the person complies with all of the personal requirements under
34 the standards for a person to be a letting agent.
- 35 (3) A dwelling “**complies**” with the minimum standards only if —
- 36 (a) it complies with all requirements under the minimum standards
37 to the extent the requirements apply to the dwelling; and

- (b) the landlord has complied with all requirements under the minimum standards for the dwelling as a rented dwelling.

10 Definitions generally

Schedule 1 has other definitions for this Act.

11 Provision to put into context certain references to defined terms

The following apply for this Act, subject to any intention to the contrary —

- (a) in a provision about a particular privately-rented tenancy or rented dwelling, a reference to the landlord or the tenant is a reference to the particular one under the tenancy;
- (b) in a provision about a particular privately-rented tenancy, a reference to the dwelling is a reference to the particular one the subject of the tenancy, and *vice versa*;
- (c) in a provision about a particular registration application or registration, a reference to the dwelling is a reference to all dwellings the subject of the application or registration;
- (d) in a provision about an improvement notice or other notice by DHSC, a reference to the dwelling is a reference to the particular one the subject of the notice.

PART 2 — LANDLORD REGISTRATION

DIVISION 1 — REGISTRATION-RELATED OFFENCES

12 Offence: being an unregistered landlord

- (1) A person must not become, or continue to be, a landlord for a rented dwelling unless the person is registered for the dwelling.

Maximum penalty (summary) — £20,000.

- (2) A person must not become, or continue to be, a landlord for a rented dwelling unless the person is registered for the dwelling in one or more of the following circumstances —

- (a) the defendant was previously registered for the dwelling, which registration was suspended or cancelled under section 44;
- (b) the defendant is a disqualified person;
- (c) the defendant has previously been convicted of an offence against this section.

Maximum penalty (on information) — custody for 6 months, or a fine, or both.

- (3) However, subsections (1) and (2) do not apply if the person is an exempt landlord for the rented dwelling.

1 **13 Offences: illegal management by or for noncompliant landlord**

2 (1) This section applies to a registered person if the landlords register
3 records under section 22(5) that only a particular representative agent
4 can manage the letting of the dwelling.

5 (2) The person must not engage in conduct to manage the letting of the
6 dwelling.

7 Maximum penalty (summary) — £20,000.

8 (3) The person must not authorise or allow anyone other than the
9 representative agent to engage in conduct to manage the letting of the
10 dwelling.

11 Maximum penalty (summary) — £20,000.

12 **14 Offences relating to advertising**

13 (1) A person who is registered for a dwelling or that person's letting agent
14 must not cause to be published an advertisement to let the dwelling
15 unless the advertisement bears the relevant registration number.

16 Maximum penalty (summary) — £5,000.

17 (2) In this section —

18 “advertisement” means an advertisement in any form or medium, wherever
19 published (whether inside or outside the Island);

20 *Example:*

21 *Posting or otherwise making available from inside or outside the Island a notice on the*
22 *internet that a dwelling is available for rent.*

23 “publish” includes publish on the internet; and

24 “relevant registration number” means the registered person's registration
25 number for the dwelling given under section 24(1)(c).

26 **DIVISION 2 — ADDITIONAL CIVIL CONSEQUENCES OF NOT BEING**
27 **REGISTERED**

28 **15 Application of Division**

29 (1) This Division applies if, in contravention of section 12, a person becomes,
30 or continues to be, a landlord for a rented dwelling without being
31 registered for it.

32 (2) This Division applies whether or not the landlord has been charged with,
33 or convicted of, an offence relating to the contravention.

1 **16 Privately-rented tenancy generally not affected**

2 Subject to the other provisions of this Division, the contravention does not, of
3 itself, affect the validity of the privately-rented tenancy.

4 **17 Tenant may terminate tenancy**

5 (1) The tenant may, at any time after discovering the contravention, give the
6 landlord one month's notice terminating the privately-rented tenancy on
7 the ground of the contravention.

8 *Note:*

9 *For service of the notice, see section 13 of the Landlord and Tenant Act 1954.*

10 (2) To remove any doubt, the termination is still effective even though the
11 landlord becomes registered or becomes an exempt landlord for the
12 dwelling during the period of the notice.

13 **18 Notice of contravention by DHSC and its effects**

14 (1) DHSC may, at any time, give the landlord a notice of the contravention.

15 (2) Subsections (3) to (5) apply if the landlord does not become registered for
16 the dwelling during the period (the "contravention period") that —

17 (a) starts 6 months from when the notice was given; and

18 (b) ends when the contravention ends.

19 (3) The landlord is not entitled to —

20 (a) claim, sue for, recover or retain rent for the dwelling that is
21 attributable to all or part of the contravention period ("excluded
22 rent"); or

23 (b) terminate the privately-rented tenancy because of a failure to pay
24 excluded rent.

25 (4) However, subsection (3) does not apply —

26 (a) to an amount that is a charge for a service provided in connection
27 with the right to occupy the dwelling;

28 (b) if the landlord becomes, and continues to be, registered or an
29 exempt landlord for the dwelling; or

30 (c) to anyone else who —

31 (i) becomes the landlord for the dwelling; and

32 (ii) becomes, and continues to be, registered or an exempt
33 landlord for the dwelling.

34 (5) Also, subsection (3) does not affect a right of the landlord to terminate
35 the tenancy on a ground other than failure to pay excluded rent.

36 (6) In this section —

1 “rent”, for the dwelling, includes an amount (whatever called) that, other than
2 for this section, might be claimable for or as an occupation rent for the
3 dwelling (whether claimed in restitution, as an occupation rent or
4 otherwise); and

5 “terminate” the privately-rented tenancy includes requiring the tenant to give
6 up occupancy of the dwelling.

7 **19 Tenant’s right to recover amounts**

8 (1) This section applies if the tenant pays the landlord an amount to which
9 the landlord is not entitled under section 18(3).

10 (2) The tenant may recover the amount from the landlord as a debt.

11 (3) A court convicting the landlord for the contravention may order the
12 landlord to pay the amount to the tenant.

13 DIVISION 3 – OBTAINING REGISTRATION

14 **20 Applicants**

15 (1) A landlord, or a prospective landlord, who is not a disqualified person
16 may apply to DHSC to be registered as the landlord for the dwelling (a
17 “**registration application**”).

18 (2) A person (a “**nominated agent**”) may make a registration application on
19 behalf of the landlord only if the nominated agent complies with the
20 minimum standards as a letting agent.

21 (3) An application may relate to one or more dwellings for the same
22 landlord.

23 **21 Application details**

- 24 (1) An application must —
- 25 (a) be in the form required by DHSC (if any);
 - 26 (b) be accompanied by —
 - 27 (i) any documents that are required by DHSC (if any); and
 - 28 (ii) the application fee prescribed; and
 - 29 (c) be accompanied by a statutory declaration by the applicant that,
30 on the making of the application —
 - 31 (i) the applicant does or does not comply with the minimum
32 standards as a landlord or prospective landlord;
 - 33 (ii) any nominated agent complies with the minimum
34 standards as a letting agent; and
 - 35 (iii) the dwelling complies with the minimum standards.

1 (2) If the declaration is that the applicant does not comply with the
2 minimum standards as a landlord or prospective landlord, the
3 application must also —

4 (a) state why the applicant does not; and

5 (b) include a representative agent for the dwelling who does.

6 22 Deciding application

7 (1) DHSC must consider each registration application and decide whether to
8 grant the applicant registration.

9 (2) DHSC may refuse registration if it considers the dwelling does not
10 comply, or may reasonably be expected not to continue to comply for the
11 period of registration, with the minimum standards.

12 (3) Subsections (4) and (5) apply if DHSC considers the dwelling complies
13 with the minimum standards, but the applicant as a landlord or
14 prospective landlord does not.

15 (4) DHSC may grant registration only if the applicant has a representative
16 agent.

17 (5) A decision to grant registration must record that only the representative
18 agent can manage the letting of the dwelling.

19 (6) In considering the matters under this section, DHSC may have regard
20 to —

21 (a) the applicant's history of compliance with the minimum
22 standards for any rented dwelling as a landlord; and

23 (b) if there is a letting agent, the agent's history of ensuring the
24 agent's principals comply with the minimum standards as
25 landlords.

26 (7) For subsection (6), the applicant's history may be established by
27 reference to a contravention of any other relevant Act.

28 23 Representative agents

29 (1) A “**representative agent**” is a person who —

30 (a) is nominated by an applicant to whom section 22(3) applies to
31 manage the letting of a dwelling on behalf of the applicant; and

32 (b) who complies with the minimum standards as a letting agent.

33 (2) In this section, “manages” means managing all aspects of the letting of a
34 dwelling on behalf of the applicant, including —

35 (a) bringing together, or taking steps to bring together, the applicant
36 and a tenant for the purpose of entering into a privately-rented
37 tenancy for the dwelling;

- 1 (b) negotiating the terms of a privately-rented tenancy for the
2 dwelling;
- 3 (c) receiving rent from the tenant;
- 4 (d) undertaking repairs or maintenance work on the dwelling;
- 5 (e) entering the dwelling for any purpose other than a purpose under
6 this Act; or
- 7 (f) initiating any contact with the tenant, or a prospective tenant, in
8 relation to the letting of the dwelling.

9 **24 Procedure following decision**

- 10 (1) If DHSC decides to grant a registration application, it must —
- 11 (a) register the applicant as the landlord of the dwelling;
- 12 (b) include in the landlords register —
- 13 (i) details of the applicant;
- 14 (ii) details of any nominated agent of the applicant; and
- 15 (iii) if the decision includes any record required under section
16 22(5) (requirement to have a representative agent), that
17 record and details of the representative agent of the
18 applicant;
- 19 (c) give the registration a unique number; and
- 20 (d) give the applicant notice of the decision and the number.
- 21 (2) If DHSC makes a decision as follows it must give the applicant an appeal
22 notice about the decision —
- 23 (a) a decision to refuse to grant registration; or
- 24 (b) a decision that —
- 25 (i) the applicant does not comply with the minimum
26 standards as a landlord or prospective landlord; and
- 27 (ii) DHSC may grant registration only if the applicant has a
28 representative agent.
- 29 (3) To remove any doubt, subject to Part 3, Division 3 (contravention action),
30 a prospective landlord may be registered and continue to be so.

31 **25 Duration of registration**

- 32 Registration continues for 3 years, but —
- 33 (a) ceases for a particular dwelling if the registered person —
- 34 (i) surrenders the registration for the dwelling by notice to
35 DHSC; or
- 36 (ii) ceases to own the dwelling; and

- 1 (b) is subject to section 45 (effect of suspension, cancellation or
2 disqualification).

3 DIVISION 4 — LANDLORDS REGISTER

4 **26 The register**

- 5 (1) DHSC must keep a register (the “**landlords register**”) containing details
6 of —
7 (a) registration applications and the information required to be
8 included in it under section 24, as changed from time to time
9 under this Division;
10 (b) improvement notices; and
11 (c) notices under section 35 (notice of noncompliance).
12 (2) DHSC may —
13 (a) include in the landlords register any other information it
14 considers appropriate; and
15 (b) keep the landlords register in any form it considers appropriate,
16 including in electronic form.
17 (3) If, under this Act, there is a change to information kept in the registers,
18 DHSC must amend the information to reflect the change.

19 **27 Appointment or change of agent after registration**

- 20 (1) If a registered person does not have a nominated agent for a dwelling,
21 the person may appoint a nominated agent for the dwelling only by a
22 notice to DHSC.
23 (2) If a registered person has a letting agent for a dwelling, the landlord may
24 change the agent for the dwelling only by a notice to DHSC.
25 (3) A notice under this section must be accompanied by or include a
26 statutory declaration by the landlord that the agent complies with the
27 minimum standards as a letting agent.
28 (4) If there is a required form for a notice or statutory declaration under this
29 section, the notice or declaration must be in that form.

30 **28 Requirement to notify DHSC of changes to details**

- 31 (1) Subsection (2) applies if —
32 (a) a registered person’s details change; or
33 (b) there is a change to the details of a registered person’s letting
34 agent.
35 (2) The landlord must give DHSC notice of the change as soon as
36 practicable.

1 Maximum penalty (summary) — £ 5,000.

2 (3) If a registered person ceases to be a landlord of the relevant building, the
3 person must give DHSC a notice of that fact as soon as practicable.

4 Maximum penalty (summary) — £ 5,000.

5 (4) If there is a required form for a notice under this section, it must be in
6 that form.

7 **29 Access to information in landlords register**

8 If a person asks DHSC for information from the landlords register DHSC must
9 give it if DHSC is satisfied —

- 10 (a) the information relates to the person or to a privately-rented
11 tenancy to which the person is the landlord or the tenant; or
12 (b) the person has an appropriate interest in obtaining the
13 information.

14 *Examples of persons with an appropriate interest:*

- 15 1. *A purchaser, or proposed purchaser, from the owner of the*
16 *dwelling.*
17 2. *An applicant, or proposed applicant, for a privately-rented*
18 *tenancy of the dwelling.*

19 **30 DHSC's notification powers**

20 DHSC may give information from the landlords register to —

- 21 (a) another Department;
22 (b) a Statutory Board;
23 (c) a local authority; or
24 (d) an authority under a law of the United Kingdom performing
25 functions similar to DHSC's functions under this Act.

26 **DIVISION 5 — MISCELLANEOUS**

27 **31 Renewal of registration**

- 28 (1) A registered person may apply to renew the registration.
29 (2) Divisions 3 and 4 apply for the application as if it were a registration
30 application, and with any other necessary changes.

31 **32 False or misleading statements**

32 A person must not, in relation to an application under this Part, give DHSC a
33 document or information that is false or misleading in a material particular if
34 the person —

- 1 (a) knows it is false or misleading in a material particular; or
2 (b) is reckless as to whether it is false or misleading in a material
3 particular.

4 Maximum penalty (summary) — £ 20,000.

5 **PART 3 — COMPLIANCE WITH MINIMUM STANDARDS**

6 **DIVISION 1 — LANDLORD’S DUTY TO COMPLY**

7 **33 Offence: landlord’s failing to ensure compliance**

8 A landlord must ensure the rented dwelling complies, and continues to comply,
9 with the minimum standards (the “**standards offence**”).

10 Maximum penalty (summary) — £20,000.

11 **34 Defence: tenant’s or agent’s conduct**

12 In a proceeding for the standards offence, it is a defence for the landlord to
13 prove —

- 14 (a) the contravention of the minimum standards in question was
15 caused by conduct engaged in by —
16 (i) the tenant of the dwelling; or
17 (ii) a letting agent of the person for the dwelling; and
18 (b) the tenant or letting agent prevented the landlord from complying
19 with the minimum standards.

20 **DIVISION 2 — NOTICES TO REMEDY NON-COMPLIANCE**

21 **SUBDIVISION 1 — NOTICES OF NON-COMPLIANCE**

22 **35 Notice of noncompliance**

23 (1) Before giving an improvement notice, DHSC must give the landlord a
24 notice stating —

- 25 (a) the landlord’s name;
26 (b) the address of the rented dwelling;
27 (c) that DHSC believes the rented dwelling does not comply with the
28 minimum standards;
29 (d) reasons for the belief; and
30 (e) that the landlord may, within a stated period after the notice is
31 given make submissions to DHSC about the proposal.

32 (2) DHSC may, but need not, give the tenant a copy of the notice.

36 Considering submissions

- (1) Before deciding whether or not to give the landlord an improvement notice, DHSC must consider any submissions the landlord made to DHSC within the period stated in the notice given under section 35.
- (2) To avoid any doubt, subsection (1) does not prevent DHSC considering written or oral submissions from the tenant in question.
- (3) DHSC must give the landlord notice of the decision.
- (4) DHSC may, but need not, give the tenant a copy of notice of the decision and, if the decision is to give an improvement notice, the improvement notice.

SUBDIVISION 2 – IMPROVEMENT NOTICES

37 Power to give improvement notice

- (1) This section applies if DHSC reasonably believes a rented dwelling does not comply with the minimum standards (the “contravention”).
- (2) DHSC may, after complying with Subdivision 1, give the landlord a notice (an “**improvement notice**”) requiring the landlord to remedy the contravention within a stated reasonable period.
- (3) To remove any doubt, this section applies whether or not the landlord has been charged with, or convicted of, the standards offence in relation to the contravention.

38 Improvement notices: content requirements

- (1) An improvement notice must —
 - (a) be in the required form (if there is one);
 - (b) state —
 - (i) the landlord’s name;
 - (ii) the rented dwelling;
 - (iii) the contravention of the minimum standards required to be remedied; and
 - (iv) the period (the “**required period**”) within which the contravention must be remedied; and
 - (c) include, or be accompanied by, a notice about appealing, under the *Local Government Act 1985*, the decision to issue the improvement notice and to fix the required period.
- (2) An improvement notice may, but need not, state the steps DHSC recommends for remedying the contravention.

- 1 (3) The recipient of the notice is taken to have complied with it if all of the
2 recommended steps are taken within the required period.
- 3 (4) Subsection (3) does not prevent the recipient from remedying the
4 contravention in another way.
- 5 (5) If there are no recommended steps, the recipient must decide all steps
6 necessary to remedy the contravention and take those steps.

7 **39 Improvement notice binds subsequent landlords**

- 8 (1) Unless it is withdrawn, an improvement notice binds its recipient and
9 any subsequent landlord of the rented dwelling from time to time (a
10 “**subsequent landlord**”).
- 11 (2) To remove any doubt, subsection (1) applies even if the required period
12 ended before the subsequent landlord became the landlord of the rented
13 dwelling.

14 **40 Offence: contravention of improvement notice**

15 A person commits an offence if —

- 16 (a) the person is bound by an improvement notice by section 39; and
17 (b) the person does not remedy the contravention of the minimum
18 standards required to be remedied by the notice.

19 Maximum penalty (summary) — £20,000.

20 **41 Defence for subsequent landlord**

- 21 (1) This section applies to a proceeding for an offence against section 40 if
22 the defendant is a subsequent landlord.
- 23 (2) It is a defence for the defendant to prove that the defendant —
24 (a) did not know of the notice;
25 (b) took all reasonable steps to find out whether any improvement
26 notice had been given for the relevant land; and
27 (c) took all reasonable steps to comply with the notice after finding
28 out about it.
- 29 (3) In this section, “reasonable steps” includes an appropriate search of the
30 landlords register.

31 **42 Effect of acquittal for relevant contravention**

- 32 (1) If the recipient of an improvement notice is acquitted of the standards
33 offence in relation to the contravention the subject of the notice, the
34 notice is taken never to have had any effect.

- 1 (2) However, subsection (1) does not invalidate or otherwise affect any
2 action taken by DHSC relating to the notice.

3 DIVISION 3 – CONTRAVENTION ACTION

4 SUBDIVISION 1 – GENERAL

5 **43 Application of Division**

- 6 (1) This Division applies if DHSC considers a registered person has
7 committed –
8 (a) an offence against section 32 (false or misleading statements) in
9 the obtaining of the registration; or
10 (b) an offence against this Part.
11 (2) This Division applies whether or not the person has been charged with,
12 or convicted of, the offence.
13 (3) However, if the person is acquitted of the offence, this Division ceases to
14 apply, and is taken to never have applied to the person.

15 **44 DHSC’s powers**

- 16 (1) Subject to complying with Subdivision 2, DHSC may decide to do any or
17 all of the following (“**contravention action**”) –
18 (a) suspend or cancel the person’s registration for –
19 (i) a particular dwelling;
20 (ii) all dwellings for which the person is registered;
21 (b) disqualify the person from being registered for any dwelling.
22 (2) To avoid any doubt, disqualification may be decided even if the person is
23 not, or has ceased to be, a landlord for the dwelling for which this
24 Division applies, or for any dwelling.
25 (3) DHSC must give the person an appeal notice about the decision.
26 (4) The decision takes effect when the notice is given, or on a later day of
27 effect stated in the notice.

28 **45 Effect of suspension, cancellation or disqualification**

- 29 (1) This section applies for the person’s registration if contravention action is
30 taken.
31 (2) During the period of a suspension, the registration is ineffective for all
32 rented dwellings to which the suspension applies.
33 (3) On cancellation, the registration ends and ceases to have any further
34 effect for all rented dwellings to which the cancellation applies.

1 (4) On disqualification, the registration ends.

2 *Note:*

3 *There are civil consequences of being unregistered, see Division 2 of Part 2. For other*
4 *effects of disqualification, see sections 5(1)(e)(i), 12(1)(b) and (3) and*
5 *20(1)(b)(iii).*

6 (5) This section is subject to sections 48 (re-qualification) and 57(4) (appeal
7 nature and procedure).

8 SUBDIVISION 2 – PROCEDURAL FAIRNESS REQUIREMENTS

9 **46 Notice of contravention action**

10 (1) DHSC must give the registered person a notice stating —

- 11 (a) the contravention action proposed;
- 12 (b) the reasons for the proposed action; and
- 13 (c) that the person may, within a stated period after the notice is
14 given make submissions to DHSC about the proposed action.

15 (2) The stated period must be at least 28 days.

16 (3) DHSC must give any tenant of the person of whom it is aware a copy of
17 the notice.

18 **47 Considering submissions**

19 (1) DHSC must consider any submissions made to it by the registered
20 person or any tenant of the person within the period stated in the notice
21 given under section 46.

22 (2) If DHSC decides not to proceed with contravention action, it must
23 give —

- 24 (a) a notice of the decision to the person; and
- 25 (b) a copy of that notice to any tenant of the person of whom DHSC is
26 aware.

27 SUBDIVISION 3 – CANCELLATION OF DISQUALIFICATION

28 **48 Re-qualification**

29 (1) A disqualified person may apply to DHSC for the cancellation of the
30 disqualification (a “re-qualification application”).

31 (2) However —

- 32 (a) a person cannot make a re-qualification application within 3 years
33 after the disqualification; and

- 1 (b) if a person has already made a re-qualification application that
2 has been refused (the “earlier application”), the person cannot
3 make a re-qualification application, unless –
- 4 (i) more than a year has passed since the making of the earlier
5 application; or
- 6 (ii) DHSC is satisfied there has been an appropriate relevant
7 and material change in the person’s circumstances since
8 that time.
- 9 (3) A re-qualification application must be in the required form (if there is
10 one) and state all dwellings for which the applicant wishes to obtain
11 registration.
- 12 (4) DHSC must consider and decide each re-qualification application.
- 13 (5) DHSC may grant a re-qualification application only if it is satisfied all of
14 the dwellings stated in the application comply, or are likely to comply,
15 with the minimum standards.
- 16 (6) If DHSC decides to refuse a re-qualification application, it must give the
17 applicant an appeal notice about the decision.
- 18 (7) Divisions 3 and 4 of Part 2 apply for the application as if it were a
19 registration application, and with any other necessary changes.

20 DIVISION 4 – AUTHORISED OFFICERS AND INSPECTIONS

21 **49 Appointment and functions**

22 DHSC may, in writing, appoint an appropriate person as an authorised officer
23 to monitor or enforce compliance with this Act.

24 **50 Issue of identity card**

- 25 (1) DHSC must give each authorised officer an identity card.
- 26 (2) The identity card must –
- 27 (a) contain the signature of the individual who authorised the issue
28 of the card;
- 29 (b) identify the person as an authorised officer for this Act; and
- 30 (c) state an expiry date for the card.

31 **51 Proof of authorisation**

32 In exercising a power under this Division in relation to another person in that
33 person’s presence, an authorised officer must –

- 34 (a) produce the authorised officer’s identity card for the person’s
35 inspection before exercising the power; or

- 1 (b) have the identity card displayed so it is clearly visible to the
2 person while exercising the power.

3 52 General powers

- 4 (1) This Part is a relevant enactment for section 35 of LGA 1985 (powers to
5 enter on land).
- 6 (2) However, despite section 35 of LGA 1985, an authorised officer can only
7 enter a privately-rented dwelling if its occupier consents or the entry is
8 under a warrant obtained under section 35.
- 9 (3) The following provisions of LGA 1985 apply for this Part as if references
10 in them to a local authority were a reference to DHSC and a reference to
11 an authorised person were a reference to an authorised officer —
- 12 (a) sections 36 to 41 and 46 to 49 (which concern enforcement powers
13 and the recovery of expenses and charges);
- 14 (b) Part VII of LGA 1985 (legal proceedings).

15 53 Powers on entry

- 16 (1) This section applies when an authorised officer enters premises under
17 section 35 of LGA 1985, with the consent of its occupier or if the entry
18 was under a warrant obtained under that section.
- 19 (2) The authorised officer may do any or all of the following to monitor or
20 enforce compliance with this Part —
- 21 (a) inspect, examine or film any part of the premises or anything at
22 the premises;
- 23 (b) take an extract from, or copy, a document at the premises, or take
24 the document to other premises to copy;
- 25 (c) remain at the premises for as long as is necessary to achieve the
26 purpose;
- 27 (d) take a step necessary to exercise a power under paragraphs (a) to
28 (c).
- 29 (3) If the authorised officer takes a document from the premises to copy it,
30 the officer must copy and return the document to the premises as soon as
31 practicable.
- 32 (4) In this section, “film” includes photograph, videotape or otherwise
33 record an image.

1

PART 4 — REVIEW OF DECISIONS

2

54 Internal review of decisions

3

(1) A landlord who is given, or who is entitled to be given, an appeal notice about a decision of DHSC about registration and who is aggrieved by the decision in relation to which the appeal notice is given may, within 7 days of the date of the notice, apply to DHSC for a review of the decision.

4

5

6

7

(2) The application must be in writing and set out the grounds on which the applicant seeks review.

8

9

(3) DHSC must review the decision —

10

(a) within 14 days of the date of the application; and

11

(b) in accordance with such procedures as DHSC may by order prescribe.

12

13

(4) DHSC may confirm, vary or reverse the decision but any such variation or reversal does not affect the operation of the decision.

14

15

(5) DHSC must give the person a notice about the decision stating —

16

(a) the decision and the reasons for it;

17

(b) that, under section 55, the recipient may appeal against the decision to the Tribunal; and

18

19

(c) how to appeal.

20

(6) An order under this section must be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the orders are laid or at the next following sitting resolves that it is to be annulled, it ceases to have effect.

21

22

23

24

55 Appeal right to the Tribunal

25

A person who is aggrieved by a decision under section 54 may appeal to the Tribunal.

26

27

56 Starting appeal

28

(1) Unless rules of procedure made under section 8 of the *Tribunals Act 2006* provide otherwise, an appeal may only be started within 28 days after the appellant is given notice of the original decision or any longer period the Tribunal allows.

29

30

31

32

(2) Also, an appeal may be started only if it is made under the rules of procedure.

33

34

57 Appeal nature and procedure

35

(1) An appeal is to be —

- 1 (a) by way of rehearing anew; and
2 (b) decided under rules of procedure of the Tribunal.
- 3 (2) Unless the Tribunal orders otherwise, an appeal does not operate to stay
4 the effect of the original decision pending the deciding of the appeal.
- 5 (3) On hearing the appeal the Tribunal may —
6 (a) confirm, vary or reverse the original decision, and for that
7 purpose have the same powers as the person who made the
8 original decision; and
9 (b) make an order as to the costs of the appeal.
- 10 (4) A variation or reversal of the original decision —
11 (a) is taken for this Act, other than this Part, to be and to have always
12 been the original decision; but
13 (b) does not affect its previous operation or anything done or suffered
14 under it.

15 **58 Further appeal**

16 A further appeal from a decision of the Tribunal lies to the Civil Division, under
17 rules of the court, on a question of law.

18 **PART 5 — MISCELLANEOUS**

19 **59 Appointment and authority**

20 In a proceeding under or relating to this Act the following must be presumed,
21 unless a party to the proceeding, by reasonable notice, requires proof of it —

- 22 (a) a person's appointment as an authorised officer;
23 (b) DHSC's or an authorised officer's power to do anything under
24 this Act.

25 **60 General evidentiary provisions**

- 26 (1) This section applies to a proceeding under or relating to this Act.
- 27 (2) A certificate signed, or purporting to be signed, by the chief executive of
28 DHSC, or that person's delegate, stating any of the following matters is
29 evidence of the matter —
30 (a) that a stated document is a copy of, or an extract from or part of,
31 the minimum standards, the landlords register or a notice or
32 another document under this Act;
33 (b) that on a stated day, or during a stated period, a person was or
34 was not —

- 1 (i) a registered person, either at all or for a particular
2 dwelling; or
3 (ii) a disqualified person;
4 (c) that on a stated day a stated person was given a stated notice.

5 **61 Meaning of “maximum penalty”**

- 6 (1) If the words “**maximum penalty**” appear at the end of or after a
7 provision followed by a stated penalty (including the words “a fine”), the
8 words mean that a contravention of the provision is an offence
9 punishable by a penalty not exceeding the stated penalty.
- 10 (2) If the penalty for an offence is a fine and no amount is stated for the fine,
11 there is no limit on the amount of the fine that may be imposed.
- 12 (3) If more than one penalty is stated for an offence joined by the word
13 “and” or “or”, the penalties may be imposed cumulatively or
14 alternatively.

15 **62 Meaning of “on information” and “summary”**

- 16 (1) This section applies if —
17 (a) section 61 applies for a particular provision; and
18 (b) after the words “maximum penalty”, the words “(summary)” or
19 “(on information)” appear after “maximum penalty” (whether or
20 not immediately after those words) but before the stated penalty
21 for the provision.
- 22 (2) The words “(on information)” mean the penalty refers to a conviction on
23 information for the offence mentioned in section 61.
- 24 (3) The words “(summary)” means the penalty refers to a summary
25 conviction for the offence mentioned in section 61.
- 26 (4) If “(summary)”, but not “(on information)”, appear in the provision, or
27 *vice versa*, a proceeding for an offence against the provision is a summary
28 offence or an offence triable only on information, as the case may be.

29 **63 Liability of officers of bodies**

- 30 (1) This section applies if —
31 (a) an offence against this Act is committed by a body corporate, a
32 partnership or an unincorporated body (the “body”); and
33 (b) it is proved an officer of the body authorised, permitted,
34 participated in, or failed to take all reasonable steps to prevent the
35 commission of the offence (“in default”).
- 36 (2) The officer, as well as the body, commits the offence.

1 Maximum penalty (on information) or (summary) — the maximum penalty for
2 the offence by the body.

3 (3) However, the following apply if a company is an officer of the body —

4 (a) if it is proved an officer of the company was in default, both the
5 company and the officer of the company commit the offence;

6 (b) if it is not proved an officer of the company was in default, the
7 company does not commit the offence.

8 (4) In this section —

9 “officer” means —

10 (a) if the body is incorporated, any of the following of the body —

11 (i) a director, secretary or other similar officer;

12 (ii) a person purporting to act as a director, secretary or other
13 similar officer;

14 (iii) if the affairs of the body are managed by its members, a
15 member;

16 (iv) if, under an Act about the incorporation of the body, the
17 body has a registered agent, the registered agent; and

18 (b) if the body is not incorporated —

19 (i) if its affairs are being managed by its members, a member
20 of the body;

21 (ii) if its affairs are not being managed by its members, a
22 member of its governing body; and

23 (iii) a manager, secretary, registered agent or similar officer of
24 the body; or

25 (c) if the body is a partnership, a partner, manager, secretary,
26 registered agent or similar officer of the partnership; and

27 “partner” includes a person holding himself or herself out to be a partner
28 (within the meaning of section 16(1) of the *Partnership Act 1909*).

29 **64 Form-making power**

30 (1) DHSC may make forms for use under this Act.

31 (2) Each form so made is the “**required form**” for the purpose for which it is
32 made.

33 (3) A required form may be made in combination for use under this Act and
34 another Act.

35 **65 Regulations**

36 (1) DHSC may make regulations to give effect to this Act.

37 (2) Regulations may —

- 1 (a) prescribe anything that may be prescribed under this Act;
- 2 (b) prescribe anything that DHSC considers necessary or desirable to
- 3 carry this Act into effect;
- 4 (c) contain incidental, supplementary, consequential, transitory,
- 5 transitional and savings provisions DHSC considers are necessary
- 6 or convenient for the purposes;
- 7 (d) create offences for contraventions of the regulations and impose
- 8 penalties of no more than £ 5,000 for the offences; and
- 9 (e) impose fees for this Act.
- 10 (3) Regulations may make provision in relation to matters by applying,
- 11 adopting or incorporating, with or without modification, the provisions
- 12 of any document as in operation at a particular time, or as in operation
- 13 from time to time.

14 **66 Tynwald approval for regulations**

15 Regulations under this Act do not come into operation unless they are approved

16 by Tynwald.

17 **PART 6 – TRANSITIONAL AND CONSEQUENTIAL**

18 **PROVISIONS**

19 **67 Voluntary registration scheme becomes the landlords register**

- 20 (1) On the passing of this Act, the register DHSC keeps under the voluntary
- 21 scheme for the registration of landlords before the passing (whatever
- 22 called) becomes the landlords register.
- 23 (2) Any registration number given for a landlord's registration for a rented
- 24 dwelling under the voluntary scheme is taken to be the landlord's
- 25 registration number recorded in the landlords register.

26 **68 Interim registration fees**

- 27 (1) The following fees apply until a fee is prescribed under section
- 28 65(1)(e) –
- 29 (a) for a registration application, £55;
- 30 (b) an additional fee of £11 for each rented dwelling –
- 31 (i) the subject a registration application; or
- 32 (ii) of a registered person that the person seeks to include in
- 33 the registration.
- 34 (2) This section expires when a regulation under section 65(1)(e) commences.

1 **69** **Amendment of enactments**

2 Schedule 2 has effect.

1

SCHEDULE 1

2

[Section 10]

3

DEFINITIONS

4

“**appeal notice**”, for a decision, means a notice stating —

5

(a) the decision and the reasons for it;

6

(b) that, under section 54, the recipient may appeal against the decision; and

7

(c) how to appeal;

8

“**authorised officer**” means a person holding an appointment under section 49;

9

“**complies**”, with the minimum standards, see section 9;

10

“**contravention action**” see section 44(1);

11

“**DHSC**” means the Department of Health and Social Care;

12

“**details**”, for a person, means the person’s name and address for service of notices under this Act;

13

14

“**disqualified person**” means a person who is disqualified under section 44(1)(b) which disqualification has not been cancelled under section 48;

15

16

“**dwelling**” includes a proposed dwelling;

17

“**engage in conduct**” means to do an act, or to omit to do an act;

18

“**exempt landlord**” see section 5(2);

19

“**improvement notice**” see section 37(2);

20

“**landlord**” see section 7(1);

21

“**landlords register**” means the landlords register DHSC keeps under section 26;

22

23

“**letting agent**” of a person means a nominated agent or a representative agent for the person;

24

25

“**LGA 1985**” see section 4(8), definition “publicly-rented tenancy”, paragraph (a);

26

27

“**minimum standards**” see section 8(1);

28

“**nominated agent**”, means a person nominated by a landlord for the purposes of section 20(2) and notified to DHSC —

29

30

(a) in the required form for the purposes of an application under section 21(1)(c); or

31

32

(b) under section 27;

33

“**notice**” means a notice in writing;

34

“**original decision**” see section 54;

- 1 “**person**” includes any body of persons, corporate or unincorporated;
- 2 “**prescribed**” means prescribed under regulations made by DHSC;
- 3 “**privately-rented tenancy**” see section 4(4);
- 4 “**recipient**”, for a provision about a notice, means the person to whom the
5 notice has been given;
- 6 “**registered**”, for a provision about a person —
- 7 (a) generally means the person is recorded in the landlords register as a
8 landlord; and
- 9 (b) for a provision about a particular dwelling, means the person is recorded
10 in the landlords register as its landlord;
- 11 “**registration application**” see section 20(1);
- 12 “**rent**” means any amount payable by, and any other consideration that must
13 pass from, a tenant to a landlord for —
- 14 (a) the right to occupy (with or without furniture) a rented dwelling as a
15 residence; and
- 16 (b) for any service provided by or for the landlord to the tenant in
17 connection with the occupancy;
- 18 “**rented dwelling**” see section 4(5);
- 19 “**representative agent**” see section 23(1);
- 20 “**required form**” see section 64(2);
- 21 “**required period**”, for a provision about an improvement notice, see section
22 38(1)(b)(iv);
- 23 “**standards offence**” see section 33;
- 24 “**submissions**” means written submissions;
- 25 “**subsequent landlord**” see section 39(1);
- 26 “**tenant**” see section 7(2); and
- 27 “**Tribunal**” means the Isle of Man Rates, Rent and Landlord and Tenant
28 Tribunal.
29

1

SCHEDULE 2

2

[SECTION 69]

3

AMENDMENT OF ENACTMENTS

4

PART 1 – AMENDMENT OF THE HOUSING (RENT CONTROL)

5

ACT 1948

6

1 Amendment of the Housing (Rent Control) Act 1948

7

The *Housing (Rent Control) Act 1948* is amended in accordance with paragraphs 2 and 3.

8

9

2 Amendment of section 2

10

(1) Section 2 (reference to Commissioners of contracts for letting) of the *Housing (Rent Control) Act 1948* is amended as follows.

11

12

(2) In subsection (1) –

13

(a) for “Commissioners” (wherever occurring) substitute “Tribunal”;

14

(b) for “they” (wherever occurring) substitute “the Tribunal”; and

15

(c) for “them” substitute “it”.

16

(3) In subsection (2) –

17

(a) for “Commissioners” (first and third occurring) substitute “Tribunal”;

18

19

(b) for “Commissioners have” substitute “Tribunal has”;

20

(c) for “they think” (wherever occurring) substitute “it thinks”;

21

(d) for “they” (second occurring) substitute “it”; and

22

(e) for “their” substitute “its”.

23

(4) In subsection (3) –

24

(a) for “Commissioners” (wherever occurring) substitute “Tribunal”;

25

and

26

(b) for “they apply” substitute “it applies”.

27

(5) In subsection (4) –

28

(a) for “Commissioners are” substitute “Tribunal is”; and

29

(b) for “they think” substitute “it thinks”.

30

(6) In subsection (6) –

31

(a) for “Commissioners” substitute “Tribunal”; and

32

(b) for “they are” substitute “it is”.

33

(7) In the marginal note for “Commissioners” substitute “Tribunal”.

- 1 **3 Amendment of other provisions**
- 2 (1) In section 3(2)(c) (register of rents) for “Commissioners” substitute
3 “Tribunal”.
- 4 (2) In section 5 (provision as to notice to quit served after reference to
5 Commissioners) for “Commissioners” (wherever occurring) substitute
6 “Tribunal”.
- 7 (3) In section 5(a) for “they think” substitute “it thinks”.
- 8 (4) For section 7 substitute —
- 9 **“7 Tribunal may act on own knowledge**
- 10 | Where any contract to which this Act applies is referred to the Tribunal,
11 | the Tribunal may act on its own knowledge as well as on any evidence
12 | which may be laid before it.”.
- 13 (5) In section 8(1)(a) (regulations) for “Commissioners” substitute
14 “Tribunal”.
- 15 (6) In section 11(1) (evidence) for “Commissioners” (wherever occurring)
16 substitute “Tribunal”.
- 17 (7) In section 12(1) (interpretation and saving) repeal the definition of “**the**
18 **Commissioners**”.
- 19 (8) In section 12(1) for “Commissioners” in the definition of “**house**”
20 substitute “Tribunal”.
- 21 (9) In section 12(1) after the definition of “**services**” insert —
- 22 | ““**Tribunal**” means the Isle of Man Rates, Rent and Landlord and Tenant
23 | Tribunal; and”.
- 24 (10) In the marginal note for section 5 for “Commissioners” substitute
25 “Tribunal”.

26 **PART 2 – AMENDMENT OF THE RATING AND VALUATION**
27 **ACT 1953**

- 28 **4 Amendment of the Rating and Valuation Act 1953**
- 29 The *Housing (Rent Control) Act 1948* is amended in accordance with paragraphs
30 5 and 6.
- 31 **5 Amendment of section 2**
- 32 (1) In section 2(1) (definitions) repeal the definition of “**the Appeal**
33 **Commissioners**”.
- 34 (2) In section 2(1) after the definition of “**the Treasurer**” insert —

1 | “**Tribunal**” means the Isle of Man Rates, Rent and Landlord and Tenant
2 | Tribunal.”.

3 | (3) In section 2(1) for “Appeal Commissioners” in the definition of “the
4 | Clerk” substitute “Tribunal”.

5 | **6 Amendment of other provisions**

6 | (1) In sections 24 (objections to valuation lists), 25 (sittings of Appeal
7 | Commissioners), 26(3) (revision of valuation list by Treasury), 28(7)
8 | (mode of preparing supplemental lists), 32 (copies of valuation lists to be
9 | deposited for public inspection and reference), 40 (persons entitled to
10 | appeal) and 41 (appeals by persons involving common principle to be
11 | heard as one appeal) for “Appeal Commissioners” (wherever occurring)
12 | substitute “Tribunal”.

13 | (2) In the marginal note for section 25 for “Appeal Commissioners”
14 | substitute “Tribunal”.

15 | **PART 3 – AMENDMENT OF THE RENT AND RATING**
16 | **APPEALS ACT 1986**

17 | **7 Amendment of the Rent and Rating Appeals Act 1986**

18 | The *Rent and Rating Appeals Act 1986* is amended in accordance with paragraphs
19 | 8 and 9.

20 | **8 Amendment of section 1**

21 | (1) Section 1 (constitution of Commissioners) is amended as follows.

22 | (2) After subsection (1) insert —

23 | “(1A) The body constituted under subsection (1) is, on and after the
24 | commencement of this subsection, to be known as the Isle of Man
25 | Rates, Rent and Landlord and Tenant Tribunal.”.

26 | (3) For subsection (2) substitute —

27 | “(2) The Tribunal shall consist of —

- 28 | (a) a chairperson appointed under the *Tribunals Act 2006*; and
29 | (b) 2 members selected as provided under section (b) of the
30 | *Tribunals Act 2006* from a panel appointed under that Act.”.

31 | (4) In subsection (6) for “Commissioners” substitute “Tribunal”.

32 | (5) In the marginal note for section 1 for “Commissioners” substitute
33 | “Tribunal”.

- 1 **9 Amendment of other provisions**
- 2 (1) In sections 3(1), 3(2), 3(3) (proceedings of Commissioners) and 4(1)
- 3 (financial provisions) for “Commissioners” substitute “Tribunal”.
- 4 (2) In section 3(1) for “chairman” substitute “chairperson”.
- 5 (3) In sections 3(3) and 4(1) for “their” substitute “its”.
- 6 (4) In section 5 (interpretation) repeal the definition of “**the**
- 7 **Commissioners**”.
- 8 (5) In section 5 after the definition of “**reference**” insert —
- 9 “; and “**Tribunal**” means the Isle of Man Rates, Rent and Landlord and
- 10 Tenant Tribunal.”.
- 11 (6) In the marginal note for section 3 for “Commissioners” substitute
- 12 “Tribunal”.

13 **PART 4 – AMENDMENT OF THE PROPERTY SERVICE**

14 **CHARGES ACT 1989**

- 15 **10 Amendment of the Property Service Charges Act 1989**
- 16 The Property Service Charges Act 1989 is amended in accordance with
- 17 paragraphs 11 and 12.
- 18 **11 Amendments to change references to the Commissioners**
- 19 In the following provisions for “Commissioners” (wherever occurring but other
- 20 than an occurrence covered by paragraph 12) substitute “Tribunal” —
- 21 (a) sections 2(2A) and (2B) (reasonableness of service charges);
- 22 (b) sections 3(1)(b) and 3(6) (estimates and consultation);
- 23 (c) sections 5(1) and 5(2)(b) (limitation of service charges: costs of
- 24 proceedings);
- 25 (d) section 10B(1) (transfer of cases from High Court);
- 26 (e) paragraphs 8(2) and 8(4) of Schedule 1 (right to challenge choice
- 27 of insurers);
- 28 (f) paragraph 3(1) of Schedule 3 (tenant’s right to apply for
- 29 appointment of manager);
- 30 (g) paragraphs 4(2)(b), 4(2)(c) and 4(4) of Schedule 3 (preliminary
- 31 notice by tenant);
- 32 (h) paragraph 5(1) and its cross-heading of Schedule 3 (application to
- 33 Commissioners for appointment of manager);
- 34 (i) paragraphs 6(1) (first occurring), 6(2), 6(5) (second occurring) and
- 35 6(7) (second occurring) of Schedule 3 (appointment of manager);

- 1 (j) paragraphs 7(1), 7(2) and 7(3) of Schedule 3 (variation and
2 discharge of orders).

3 **12 Amendment of other provisions**

- 4 (1) In section 10B(2) (transfer of cases from High Court) for “Commissioners
5 have” substitute “Tribunal has”.
- 6 (2) In section 13(1) (interpretation) repeal the definition of “**the**
7 **Commissioners**”.
- 8 (3) In section 13(1) after the definition of “**tenant**” insert —
9 “; and “**Tribunal**” means the Isle of Man Rates, Rent and Landlord and
10 Tenant Tribunal.”.
- 11 (4) In paragraph 7(2) of Schedule 1 (right to challenge cover) —
12 (a) for “Commissioners are” substitute “Tribunal is”; and
13 (b) for “they” substitute “it”.
- 14 (5) In paragraph 4(4) of Schedule 3 (preliminary notice by tenant) —
15 (a) for “they are” substitute “it is”; and
16 (b) for “they think” substitute “it thinks”.
- 17 (6) In paragraph 6(1) of Schedule 3 for “Commissioners think” substitute
18 “Tribunal thinks”.
- 19 (7) In paragraph 6(2) of Schedule 3 for “they are” substitute “it is”.
- 20 (8) In paragraphs 6(4), 6(5) and 6(7) of Schedule 3 for “Commissioners
21 think” substitute “Tribunal thinks”.
- 22 (9) In paragraph 6(8) of Schedule 3 for “Commissioners may, if they think
23 fit” substitute “Tribunal may, if it thinks fit”.
- 24 (10) In paragraph 7(2) of Schedule 3 for “they are” substitute “it is”.

25 **PART 5 – AMENDMENT OF THE TRIBUNALS ACT 2006**

26 **13 Amendment of the Tribunals Act 2006**

- 27 For item 6 in Part 1 of Schedule 2 (list of tribunals) to the *Tribunals Act 2006*
28 substitute “The Isle of Man Rates, Rent and Landlord and Tenant Tribunal”.

**PART 6 – AMENDMENT OF THE HOUSING
(MISCELLANEOUS PROVISIONS) ACT 2011**

14 Amendment of the Housing (Miscellaneous Provisions) Act 2011

The *Housing (Miscellaneous Provisions) Act 2011* is amended in accordance with paragraphs 15 and 16.

15 Amendments to change references to the Commissioners

In the following provisions for “Commissioners” (wherever occurring but other than an occurrence covered by paragraph 16) substitute “Tribunal” —

- (a) section 17(1) (tenant’s right to apply to Commissioners for appointment of manager);
- (b) section 18(3) (management application notice);
- (c) sections 19(1) and 19(3)(b) (management application: preconditions);
- (d) sections 20(1), 20(3), 20(4), 20(8) and 20(10) (management orders);
- (e) sections 21(1), 21(2), 21(3), 21(4) (discharge of management orders);
- (f) section 33(5) (discharge of acquisition order and withdrawal by tenants);
- (g) section 34(1) (application by party to lease for variation of lease);
- (h) section 36(1) (application by majority of parties for variation of leases);
- (i) sections 37(1), 37(2), 37(3), 37(7), 37(8), 37(9) and 37(11) (orders varying leases);
- (j) sections 38(3)(b), 38(4), 38(5)(b) (effect of orders varying leases: applications by third parties);
- (k) section 39 (right to make applications not displaced by lease etc.);
- (l) section 41(1) (indemnity);
- (m) section 42(3), 42(5) and 42(6) (proceedings, enforcement of Commissioners’ orders and appeals);
- (n) section 43(2) (public documents);
- (o) the marginal note to section 17.

16 Amendment of other provisions

- (1) In section 3(1) (interpretation) repeal the definition of “**the Commissioners**”.
- (2) In section 3(1) after the definition of “**service charge**” insert —

- 1 | “; and “**Tribunal**” means the Isle of Man Rates, Rent and Landlord and
2 | Tenant Tribunal.”.
- 3 | (3) In section 18(3)(b) —
4 | (a) for “they make” substitute “it makes”; and
5 | (b) for “they think” substitute “it thinks”.
- 6 | (4) In section 19(3) for “Commissioners have” substitute “Tribunal has”.
- 7 | (5) In sections 20(1), 20(7) and 20(8) for “Commissioners think” substitute
8 | “Tribunal thinks”.
- 9 | (6) In section 20(10) for “they make” substitute “it makes”.
- 10 | (7) In section 20(11) for “Commissioners may, if they think fit” substitute
11 | “Tribunal may, if it thinks fit”.
- 12 | (8) In section 35(1) (application by respondent for variation of other leases)
13 | for “Commissioners asking them, in the event of their” substitute
14 | “Tribunal asking it, in the event of it”.
- 15 | (9) In sections 37(2)(b), 37(3) and 37(6) for “Commissioners’” substitute
16 | “Tribunal’s”.
- 17 | (10) In section 37(5) for “Commissioners think” substitute “Tribunal thinks”.
- 18 | (11) In section 37(6) for “they are” substitute “it is”.
- 19 | (12) In section 37(12) for “Commissioners consider” substitute “Tribunal
20 | considers”.
- 21 | (13) In sections 38(4)(a) and 38(4)(b) for “they think” substitute “it thinks”.
- 22 | (14) In section 41(1) for “them” substitute “it”.
- 23 | (15) In sections 42(1) and 42(2) for “Commissioners’” substitute “Tribunal’s”.
- 24 | (16) In the marginal note for section 42 for “Commissioners’” substitute
25 | “Tribunal’s”.

IN THE KEYS

**LANDLORD AND TENANT (PRIVATE HOUSING)
BILL 2014**

A BILL about landlord registration and minimum standards for privately-rented tenancies; and for connected purposes.

Approved by the Council of Ministers
for introduction in the House of Keys.

MR ROBERTSHAW

MARCH 2014