

## **AN OVERVIEW OF LANDLORD AND TENANCY REGISTRATION SCHEMES IN THE PRIVATE RENTED SECTOR**

### **INTRODUCTION**

1. The introduction of a mandatory landlord registration scheme for the private rented sector in Northern Ireland is an issue which has received significant attention in recent years. It has, for example, been the subject of two debates in the Assembly, i.e. on the [1 October 2007](#) it was resolved that, *“this Assembly calls upon the Minister for Social Development to legislate for the mandatory registration of all landlords in the private sector”*<sup>1</sup>; and on the [13 October 2008](#) the Assembly resolved to recognise *“the intention of the Minister for Social Development to bring forward legislation to regulate private landlords; and calls on the Minister to ensure that these regulations tackle unfitness in the sector, whilst ensuring that unnecessary bureaucracy is avoided”*<sup>2</sup>. Importantly the issue has also been subject to recent consideration in the Department for Social Development’s consultation on a Strategy for the Private Rented Sector (see [‘Building Sound Foundations – A Strategy for the Private Rented Sector’](#))<sup>3</sup>.
2. In order to assist with deliberations of the various registration schemes, the purpose of this briefing paper is twofold, firstly it will provide a broad overview of the schemes in Great Britain, Northern Ireland and the Republic of Ireland and secondly it will provide an overview of DSD’s private rented sector strategy consultation and subsequent consultation responses in respect of landlord registration.

### **LANDLORD AND TENANCY REGISTRATION SCHEMES IN GREAT BRITAIN, NORTHERN IRELAND AND THE REPUBLIC OF IRELAND**

3. In short, the position of the various jurisdictions in respect of mandatory registration or tenancy registration schemes for the private rented sector is as follows:
  - **Scotland** has had a statutory mandatory registration scheme for private landlords since around 2006 the purpose of which was to make

---

<sup>1</sup> Northern Ireland Assembly Official Report, 1 October 2007, [www.niassembly.gov.uk/record/reports2007/071001.htm#5](http://www.niassembly.gov.uk/record/reports2007/071001.htm#5)

<sup>2</sup> Northern Ireland Assembly Official Report, 13 October 2008, [www.niassembly.gov.uk/record/reports2008/081013.htm#3](http://www.niassembly.gov.uk/record/reports2008/081013.htm#3)

<sup>3</sup> Department for Social Development (2009). Building Sound Foundations – A Strategy for the Private Rented Sector. Consultation paper. [www.dsdni.gov.uk/consultation-building-sound-foundations.doc](http://www.dsdni.gov.uk/consultation-building-sound-foundations.doc)

improvements in the private rented sector by removing the worst landlords from the market and promoting higher accommodation standards<sup>4</sup>.

- The **Republic of Ireland** has had a mandatory tenancy registration scheme set up under the Residential Tenancies Act 2004 which requires private landlords to register details of their tenancies within one month of their commencement.
- There is currently no mandatory landlord registration scheme in **England** (although there is an HMO registration scheme). However, in May 2009 the Department of Communities and Local Government issued for consultation proposals for a “light touch” web-based national register of landlords<sup>5</sup>.
- There is no mandatory landlord registration scheme in **Northern Ireland**, however, there is a statutory registration scheme for HMOs which was introduced by the Northern Ireland Housing Executive in 2004.

### SCOTLAND

4. Almost all private landlords in Scotland must apply for registration with their local authority under [Part 8 of the Antisocial Behaviour etc. \(Scotland\) Act 2004](#) and the scheme came into effect on the 30 April 2006. It was the original intention that the scheme should be as ‘light touch’ as possible to minimise its impact on the majority of landlords who provide good services to their tenants<sup>6</sup>. The scheme has a number of aims: to improve private renting in Scotland by enforcing minimum standards in letting; to oblige those not providing a minimum service to improve, or leave the sector; to allow tenants, neighbours and local authorities to identify and contact landlords and agents of private rented property; and to provide information on the scale and distribution of the private rented sector in Scotland<sup>7</sup>.
5. In terms of who must register, the onus is placed upon the *owner* of the property to register and they must declare any agents (e.g. a professional letting agent) that they use to manage the property. Private landlords can register the property via a central online system<sup>8</sup>. Landlords must register with each local authority in whose area they let property. However, if a landlord owns property in more than one local authority area they can use the online system to register in all authorities in one application thereby reducing the registration fee applicable.
6. There are a number of exemptions from registration, for example, properties used solely as holiday lets, properties regulated by the Care Commission, or properties owned by a religious organisation and occupied by a leader or preacher of that faith. Properties subject to an HMO licence must also be included on the register,

---

<sup>4</sup> Scottish Executive News Release. ‘Landlord Registration Scheme’, 30 April 2006. [www.scotland.gov.uk/News/Releases/2006/04/28144943](http://www.scotland.gov.uk/News/Releases/2006/04/28144943)

<sup>5</sup> Department of Communities and Local Government Press Release. ‘Real Help for Tenants – Margaret Beckett’. 13 May 2009. [www.communities.gov.uk/news/corporate/1230528](http://www.communities.gov.uk/news/corporate/1230528)

<sup>6</sup> Scottish Executive (2005) Regulation of Private Landlords under the Antisocial Behaviour etc (Scotland) Act 2004, p1. <http://www.scotland.gov.uk/Resource/Doc/55971/0015379.pdf>

<sup>7</sup> Scottish Executive News Release. ‘Landlord Registration Scheme’, 30 April 2006. [www.scotland.gov.uk/News/Releases/2006/04/28144943](http://www.scotland.gov.uk/News/Releases/2006/04/28144943)

<sup>8</sup> See [www.landlordregistrationscotland.gov.uk/Pages/Process.aspx?Command=ShowHomePage](http://www.landlordregistrationscotland.gov.uk/Pages/Process.aspx?Command=ShowHomePage)

however, licensed HMO landlords will automatically be entered on the register by the licensing authority.

7. In order to be registered landlords must be ‘fit and proper’ to let residential tenancies. To assess this, local authorities will use any relevant information available to them to reach a decision as to whether a landlord is fit and proper and they must take into account any evidence of fraud, dishonesty, violence or drugs; unlawful discrimination; breaches of law relating to housing; and failure to act in relation to anti-social behaviour. If a local authority decides that a landlord does not meet the ‘fit and proper test’ the local authority may provide advice as to how they can improve in order to be registered<sup>9</sup>. If a landlord lets property in more than one local authority area, the authorities will share information to ensure that they have all the relevant details but each authority will make its decision independently<sup>10</sup>.
8. In respect of registration costs, each landlord and agent applying for registration should pay a principal fee of £55 to each local authority in which they apply and, in the case of landlords, a property fee of £11 for each property registered. There are a number of exemptions to these fees, e.g. charities, current HMO licence holders. A discount of 50% is available for applications made to multiple local authorities. Where an application is made using the online system a 10% discount is provided<sup>11</sup>. Registration lasts for three years starting from the date it was approved by the local authority.
9. A landlord who fails to register can be fined up to £5,000. As an alternative, or in addition to seeking prosecution, the local authority can also serve a Rent Penalty Notice which means that landlords will not be able to collect any rent until they successfully register with the local authority.
10. The landlord registration scheme is not funded by fees alone but receives grant funding from the Government, the table below provides an example of grant distribution from 2005-06 to 2007-08<sup>12</sup>.

**Table 1: Landlord Registration Grant Distribution by Local Authority Area 2005-06 to 2007/08:**

Local Authority	Grant	Grant	Grant
	Distribution	Distribution	Distribution
	2005-06	2006-07	2007-08
	(£)	(£)	(£)
Aberdeen City Council	68,585	108,365	108,365
Aberdeenshire Council	50,540	79,853	79,853

<sup>9</sup> Information extracted from the Better Renting Scotland website - [www.betterrentingscotland.com/prh/prh\\_dt\\_top\\_mainpage.jsp?pContentID=281&p\\_applic=CC&p\\_service=Content.show&](http://www.betterrentingscotland.com/prh/prh_dt_top_mainpage.jsp?pContentID=281&p_applic=CC&p_service=Content.show&)

<sup>10</sup> Information extracted from [www.landlordregistrationscotland.gov.uk/Pages/Process.aspx?Command=ShowHelpFitPrope](http://www.landlordregistrationscotland.gov.uk/Pages/Process.aspx?Command=ShowHelpFitPrope)

<sup>11</sup> Information extracted from [www.landlordregistrationscotland.gov.uk/Pages/Process.aspx?Command=ShowHelpFitPrope](http://www.landlordregistrationscotland.gov.uk/Pages/Process.aspx?Command=ShowHelpFitPrope)

<sup>12</sup> Table extracted from Scottish Parliament Question S3W-9370 from Elaine Murray, MSP. Lodged 1 February 2008.

Local Authority	Grant	Grant	Grant
	Distribution	Distribution	Distribution
	2005-06	2006-07	2007-08
	(£)	(£)	(£)
Angus Council	33,896	53,556	53,556
Argyll and Bute Council	35,701	56,407	56,407
City of Edinburgh Council	182,337	288,093	288,093
Clackmannanshire Council	12,516	19,775	19,775
Comhairle nan Eilean Siar	12,646	19,980	19,980
Dumfries and Galloway Council	51,825	81,884	81,884
Dundee City Council	56,576	89,390	89,390
East Ayrshire Council	18,954	29,948	29,948
East Dunbartonshire Council	13,773	21,762	21,762
East Lothian Council	21,463	33,912	33,912
East Renfrewshire Council	13,097	20,693	20,693
Falkirk Council	19,283	30,466	30,466
Fife Council	63,493	100,319	100,319
Glasgow City Council	149,911	236,859	236,859
Highland Council	60,424	95,470	95,470
Inverclyde Council	19,782	31,255	31,255
Midlothian Council	16,808	26,557	26,557
Moray Council	34,006	53,729	53,729
North Ayrshire Council	23,965	37,864	37,864
North Lanarkshire Council	26,624	42,065	42,065
Orkney Islands Council	12,536	19,807	19,807
Perth and Kinross Council	51,032	80,631	80,631
Renfrewshire Council	29,221	46,169	46,169
Scottish Borders Council	41,360	65,349	65,349
Shetland Islands Council	11,791	18,630	18,630
South Ayrshire Council	25,551	40,370	40,370
South Lanarkshire Council	31,326	49,496	49,496
Stirling Council	25,393	40,121	40,121
West Dunbartonshire Council	13,842	21,870	21,870
West Lothian Council	21,743	34,354	34,354
<b>Total</b>	<b>1,250,000</b>	<b>1,975,000</b>	<b>1,975,000</b>

REVIEW OF THE LANDLORD REGISTRATION SCHEME

11. A review of the Private Rented Sector in Scotland was published in March 2009 which looked at, amongst many other issues, the landlord registration scheme. The review stated that the majority of landlords accepted the principle that risks to tenants should be minimised but they were highly critical of schemes such as Landlord Registration and HMO Licensing. A number of specific criticisms were raised during focus groups, i.e. the registration process was unnecessarily cumbersome; that registration had increased in complexity for those trying to run their businesses responsibly; and landlords argued that whilst local authorities collected large amounts of data from landlords they were unprepared to share data about tenants when landlords wanted to chase rent arrears or find out if a tenant had left their property permanently so that they could reclaim possession<sup>13</sup>. The review also highlighted that only around three in ten tenants had heard of the registration scheme (a particular problem in rural areas and that

<sup>13</sup> Scottish Government (2009) Review of the Private Rented Sector: Volume 1: Key Findings and Policy Implications, p64. [www.scotland.gov.uk/Resource/Doc/264996/0079349.pdf](http://www.scotland.gov.uk/Resource/Doc/264996/0079349.pdf)  
*Providing research and information services to the Northern Ireland Assembly*

further work needed to be done to promote a more effective communication of the scheme to tenants<sup>14</sup>.

12. The DSD consultation paper on a Strategy for the Private Rented Sector in Northern Ireland, has outlined what it sees as the main difficulties with the Scottish Registration Scheme:

*“No comprehensive evaluation of the Scottish arrangements in terms of their impact on improving tenancy management has yet been completed. Since 2006 to date the focus has been on completing registration rather than on improving tenancy management. Action to enforce the registration provisions is still in the very early stages.....It is fair to say that significant problems and deficiencies have been identified with the current arrangements. Start up costs in Scotland of £5.2m for the period February 2006 to March 2008, were provided by the Scottish Government, with the intention thereafter that the scheme would be self funded through fees. However, there have been a number of problems with the IT system, which initially cost £500,000 and ongoing costs of £250,000, which are being met by public expenditure”<sup>15</sup>.*

13. In April 2009 Shelter Scotland completed a report entitled '[Landlord Registration in Scotland: three years on](#)' which called for an urgent review into a registration scheme which it believed was failing to 'weed out' a minority of bad landlords and protect tenants from poor practice. The report also called for a national publicity drive as research revealed that there was a lack of awareness amongst landlords and tenants about their renting rights and responsibilities. However, the report did identify a number of examples of ways in which landlord registration had been a useful tool in improving private renting, i.e.

- The setting up of landlord forums for those landlords who wanted to engage positively;
- The provision of advice, training and information for landlords;
- Tackling complaints regarding bad practice by encouraging landlords to change their practice and providing advice and support; and
- The establishment of voluntary sector accreditation schemes to highlight and reward good standards<sup>16</sup>.

14. However, it does appear that the Scottish Government have taken a number of steps to address many of the deficiencies of the registration scheme. In 2008, for example, the Scottish Government commissioned a [Good Practice Review](#) on the implementation of the Landlord Registration Scheme in 2007/08<sup>17</sup>. The review made a number of recommendations to improve the landlord registration process and service delivery in a number of areas including – the optimum management structure within councils to improve the implementation and enforcement of registration; the staffing structures and resources that are necessary; the linking of landlord registration to wider council corporate policy; improving monitoring and performance in tracking and recording applications; improving the registration

---

<sup>14</sup> Ibid, p60.

<sup>15</sup> Department for Social Development (2009), op cit. p25.

<sup>16</sup> Shelter Scotland (2009) Landlord Registration: three years on. [http://scotland.shelter.org.uk/\\_data/assets/pdf\\_file/0005/189734/Landlord\\_registration\\_3\\_years\\_on.pdf](http://scotland.shelter.org.uk/_data/assets/pdf_file/0005/189734/Landlord_registration_3_years_on.pdf)

<sup>17</sup> Arneil Johnston (2008) Good Practice Review of the Implementation of Landlord Registration. [www.scotland.gov.uk/Publications/2008/07/17153219/0](http://www.scotland.gov.uk/Publications/2008/07/17153219/0)

payment and refund process; improvements in processing and checking applications; and improvements to the 'fit and proper' test.

15. The Scottish Government maintains that these good practice recommendations have been or are in the final stages of being implemented and that significant improvements to the IT system have also been made. It is also maintained that there was significant improvements in local authority approval of applications in 2007-08, with the approval rate standing at around 88%. At the end of February 2009 a total of 138,194 landlords and agents had applied for registration, including joint owners, and 193,170 properties were included in their applications. Using the number of estimated households in the PRS as a proxy for the number of properties (233,000 – Scottish Household Survey) it was estimated that the scheme had achieved coverage of 83% of private rented housing in Scotland. However, it is acknowledged that there is still work to be done to ensure that landlords comply with the requirements and for councils to start using their enforcement powers. The Scottish Government have made a commitment to conduct an evaluation of the registration scheme in 2010<sup>18</sup>.

## **ENGLAND**

16. Recommendations for a 'light touch' mandatory licensing scheme for landlords within the private rented sector were contained within the independent [Review of Private Rented Sector Housing](#)<sup>19</sup> published in October 2008. The review, known as the 'Rugg Review', was conducted by the Centre for Housing Policy at the University of York at the request of the Department of Communities and Local Government<sup>20</sup>. On 13 May 2009 the then Housing Minister, Margaret Beckett announced that the Department for Communities and Local Government (DCLG) would consult upon proposals to introduce a 'light touch' national register for private landlords with a view to increasing protection for vulnerable tenants and good landlords<sup>21</sup>.
17. It is envisaged that the national register will be run by an independent organisation and landlords will be required to register for a nominal fee to cover administration costs. It is also anticipated that the register will be web-based and will require minimal information such as the name of the landlord, their address and addresses of the properties being let. In return, the web-based system will offer landlords such property advertising and free documents such as tenancy agreements.
18. In terms of taking a 'do nothing' versus a full licensing approach to landlord registration, DCLG have stated that,

*"Given the findings of the Rugg Review and the concerns of our stakeholders, making no change to the current arrangements is not a sensible option. As already explained, landlords do not take up voluntary training and support in any great numbers, vulnerable tenants continue to be exploited by unscrupulous landlords and "amateur" landlords continue to do business in ignorance of their*

---

<sup>18</sup> Scottish Government (2009) op. cit. p67.

<sup>19</sup> Rugg, J. & Rhodes, D. (2008) The Private Rented Sector: its contribution and potential. [www.york.ac.uk/inst/chp/publications/PDF/prsreviewweb.pdf](http://www.york.ac.uk/inst/chp/publications/PDF/prsreviewweb.pdf)

<sup>20</sup> The Department of Communities and Local Government is responsible for setting Government policy on housing in England.

<sup>21</sup> Department of Communities and Local Government Press Release. 'Real Help for Tenants – Margaret Beckett'. 13 May 2009. [www.communities.gov.uk/news/corporate/1230528](http://www.communities.gov.uk/news/corporate/1230528)

*obligations. Many commentators have pressed the Government to go down the path of.. a full licensing regime for all private rented sector property....It has a high cost and will impose a significant administrative burden on all landlords rather than focusing on the minority who act poorly*<sup>22</sup>.

19. The DCLG have stated that it sees the introduction of a 'light touch' national register as vital to the professionalisation of the private rented sector and maintain that the register would play a key role in disseminating information to landlords. DCLG are also of the view that it would be the best means to tackle the problem of poor landlords. It proposes to establish a mechanism by which enforcement agencies, voluntary bodies and individual tenants can register with an independent body where there are problems with a particular landlord. Where there are serious concerns about a landlord, they would be removed from the register and would not be able to operate as a landlord. At this stage it is planned that a local authority or a regulated management agent would step in to manage the property for the landlord using the rental income to make improvements<sup>23</sup>.
20. In June 2009, DCLG published an '[Impact Assessment of a National Register for Landlords](#)' which outlined a cost/benefit analysis of a national landlord register. It is envisaged that set-up costs will be covered by fees. It is estimated that the average cost of operating the web-based registration scheme would be around £40m per year and that this would be less expensive than a full licensing regime which it believes would cost an estimated £300m per year. The average annual costs for landlords would be around £30-50 per year under the web-based scheme. Set up costs for the scheme are assumed to be derived by annual membership fees. It is proposed that the running of the register will be contracted out by competitive tender and therefore it is believed that there will be no up front costs for Government, revenue for the registration scheme will be incurred on an annual basis in the form of membership fees<sup>24</sup>.
21. The deadline for responding to the DCLG was in August 2009 and the Government has yet to announce its final decision on the matter of landlord registration. If plans for a national register of landlords in England does progress it is believed that the required primary legislation to take this forward would not be in place until 2011 at the earliest<sup>25</sup>.

## **REPUBLIC OF IRELAND**

22. Legislation introducing the mandatory registration of tenancies in the Republic of Ireland was based on recommendations made by the Commission on the Private Residential Sector (the Commission's [report](#) published was July 2000)<sup>26</sup>. The recommendations included the establishment of the Private Residential

---

<sup>22</sup> Department for Communities and Local Government (2009) Impact Assessment of a national register for landlords, p12.

[www.communities.gov.uk/documents/housing/pdf/1243567.pdf](http://www.communities.gov.uk/documents/housing/pdf/1243567.pdf)

<sup>23</sup> Department for Communities and Local Government (2009) Impact Assessment of a national register for landlords, p12.

[www.communities.gov.uk/documents/housing/pdf/1243567.pdf](http://www.communities.gov.uk/documents/housing/pdf/1243567.pdf)

<sup>24</sup> Ibid, pp5-8.

<sup>25</sup> Ibid, p17.

<sup>26</sup> See

<http://www.environ.ie/en/DevelopmentandHousing/Housing/PrivateRentedHousing/PublicationsDocuments/FileDownload,1994,en.pdf>

Tenancies Board to deal with landlord/tenant disputes and the compulsory registration of tenancies.

23. There is a requirement under the [Residential Tenancies Act 2004](#) on landlords to register the details of their tenancies within one month of their commencement. The register is maintained by a body known as the [Private Residential Tenancies Board](#) (PRTB). The register is available for public inspection, however, the published register does not contain any information that could lead to the disclosure of the landlord or tenant or the rent payable on the property. It is possible, however, to search online to check if a property has been registered by searching for the address.
24. It is the responsibility of the landlord to register the details of the tenancy with the Board and both landlord and tenant are entitled to a copy of their details entered on the register. Once a tenancy is registered it remains a registered tenancy for as long as the tenancy remains in existence. Once the tenancy has terminated any new tenancy must be registered with the Board. If a tenancy has not previously been terminated it will be deemed to be terminated when it has lasted four years, a new tenancy must be commenced between the parties and this must be registered. There are certain dwelling exempt from registration, for example, holiday lets, properties in which the landlord is also resident, and dwellings which are occupied rent free.
25. The following registration fees are applicable<sup>27</sup>:
- |      |   |
|------|---|
| €70  | Per tenancy registered on time (i.e. within one month after the commencement of the tenancy).   |
| €300 | For multiple tenancies in the one building being registered at the same time and all on time.   |
| €140 | Late fee – in all circumstances where the tenancy is being registered more than one month after the commencement of the tenancy, an additional fee of €70 is payable for these late registration (i.e. the total fee is €140 per tenancy. There are no exceptions to the late fee and the composite fee is not available to late registrations of multiple tenancies within one building. |
26. In terms of funding, during 2008 the Board underwent a period of financial restructuring towards a more self-financing structure with a reduction in Exchequer funding from €5.7m in 2007 to €1m in 2009. Previously the Board could retain two sevenths of the fees generated for operational costs but this has been increased to four sevenths<sup>28</sup>.
27. In terms of enforcement for non-registration, the Board provides the following overview of the steps to be taken in respect of non-registration<sup>29</sup>:

---

<sup>27</sup> Information extracted from [www.prtb.ie/landlord\\_pubregfaq.htm#lq1](http://www.prtb.ie/landlord_pubregfaq.htm#lq1)

<sup>28</sup> Private Residential Tenancies Board (2008) Annual Report and Accounts 2008, p8. [www.prtb.ie/DownloadDocs/PRTB%20AR%2008%20Final.pdf](http://www.prtb.ie/DownloadDocs/PRTB%20AR%2008%20Final.pdf)

<sup>29</sup> Information extracted from [www.prtb.ie/landlord\\_pubregfaq.htm#lq3](http://www.prtb.ie/landlord_pubregfaq.htm#lq3)



28.

**What is the PRTB doing about unregistered landlords?**

The steps being taken by the PRTB to pursue compliance with the registration requirement are in accordance with the provisions of the Residential Tenancies Act 2004, and in particular, sections 144 and 145. They include the issue of notices to landlords and/or occupiers of the dwelling in question, and the prosecution of offenders for non-compliance with the registration requirement.

**Landlord 1<sup>st</sup> Notice – section 144(2)**

Where the landlord's address is available to the PRTB, a notice is served on the landlord stating that in the PRTB's opinion there is a tenancy in the dwelling in question that requires to be registered and that an application for registration be made. The notice requests the landlord to furnish within 14 days the reasons why the landlord may consider that they do not have to register.

**Landlord 2<sup>nd</sup> Notice – section 144(3)**

Where the landlord fails to respond to the 1<sup>st</sup> notice within the 14 day period or a response was received with the 14 day period which did not result in the PRTB changing their opinion on the registration requirement applying, a notice is served on the landlord stating that the landlord is required to register within 14 days and failure to register within this timeframe will result in the landlord being guilty of an offence under the Residential Tenancies Act 2004.

**Occupier's Notice – section 145(4)**

Where the landlord's name or address is not supplied, a notice is served on the occupiers requiring them to supply within 14 days any information in their possession that could lead to PRTB ascertaining the identity of the landlord. Failure to respond within 14 days will result in the occupier being guilty of an offence under the Residential Tenancies Act 2004.

*(Source: Private Residential Tenancies Board website)*

29. Landlords failing to register a tenancy may be guilty of an offence and upon conviction may be liable to a fine of up to €3,000 and/or up to 6 months in prison, along with a daily fine of up to €250 for a continued offence. As an incentive to register the Finance Acts in the Republic of Ireland have been amended to provide that compliance with the registration process is a condition of eligibility for mortgage interest relief on residential properties. The Board has served over 7,800 enforcement notices on landlords and has issued a number of solicitor's letters. The Board maintain that these measures are usually enough to ensure compliance and up until the end of 2008 the Board had only prosecuted one landlord for non-compliance<sup>30</sup>.
30. One of the other main functions of Board is to offer a **dispute resolution service** between landlords and tenants. This involves mediation, adjudication and tribunal hearings. Landlords can only avail of the dispute service if the tenancy has been registered, tenants can avail of the service regardless of it being registered providing it is not an exempt property.

REVIEW OF THE TENANCY REGISTRATION SCHEME

31. At the end of 2008, around 206,000 tenancies had been registered with the Board (equating to 101,000 landlords and more than 350,000 tenants) and the Board has reported that it is "very pleased with the relatively high level of compliance by

<sup>30</sup> Private Residential Tenancies Board (2008) op. cit. p22.  
[www.prtb.ie/DownloadDocs/PRTB%20AR%2008%20Final.pdf](http://www.prtb.ie/DownloadDocs/PRTB%20AR%2008%20Final.pdf)

landlords”<sup>31</sup>. However, it is fair to say that the Board has experienced a number of operational difficulties and has incurred significant expenditure in terms of the legal costs associated with its dispute resolution service.

32. One of the primary operational difficulties is that it does not currently offer a web-based registration and fee payment process. Registration is by way of hardcopy forms which must be registered manually thereby creating difficulties during peak registration times. However, the Board is in the process of improving their IT systems and there are plans from 2010 to offer an interactive web-enabled service for landlords and tenants with secure e-payment facilities<sup>32</sup>.
33. Other identified difficulties relating to procedural complexities and delays include, for example, the fact that 30% of tenancy registration applications forms submitted by landlords are without the requested information leading to backlogs and unnecessary re-work. In 2009 the Board announced that due to considerable backlogs it would take up to 16 weeks to process a tenancy registration form once it was received.
34. Furthermore, a recent article in the Irish Independent has also criticised the payment of rent supplements to tenants whose tenancy arrangements have not been registered with the Private Residential Tenancies Board. The article highlights that the Department for Social and Family Affairs will continue to pay rent supplements to tenants even if there has been a failure to register the tenancy<sup>33</sup>.

#### **NORTHERN IRELAND**

35. There is currently no wholesale mandatory landlord registration or tenancy registration scheme in Northern Ireland. However, there is a statutory registration scheme for Houses in Multiple Occupation (HMOs) which was introduced by the Northern Ireland Housing Executive in 2004. There are an estimated 14,000 HMOs in Northern Ireland and they form an important source of accommodation for those who are single, in temporary employment, those on low incomes, migrant workers and students<sup>34</sup>.
36. The Northern Ireland Housing Executive has acknowledged that, “*At the moment, the Registration Scheme is perceived as enforcement without teeth*”. It also maintains that the maximum fine for non-compliance needs to be increased to bring it more into line with England (£20,000). The Executive further suggest that without such measures many smaller landlords will continue to operate ‘*under the radar*’ with huge resources being spent trying to track them down<sup>35</sup>.
37. A 2008 study in HMO registration by the Housing Executive identified the need for better communication with tenants to ensure that they can easily access

---

<sup>31</sup> Ibid, p22.

<sup>32</sup> Ibid, p7.

<sup>33</sup> Irish Independent. ‘Unregistered landlords paid rent supplement: Department by-passes its own watchdog and subsidises rentals not on the books of the PRTB, 13 September 2009. [www.independent.ie/national-news/unregistered-landlords-paid-rent-supplement-1885321.html](http://www.independent.ie/national-news/unregistered-landlords-paid-rent-supplement-1885321.html)

<sup>34</sup> Northern Ireland Housing Executive (2009) Northern Ireland Housing Market, Review and Perspectives 2009-2012, pp13-16. [www.nihe.gov.uk/index/about-us-home/media\\_centre/news-2.htm?newsid=14341](http://www.nihe.gov.uk/index/about-us-home/media_centre/news-2.htm?newsid=14341)

<sup>35</sup> Ibid, p83.

information on their rights and responsibilities. The study also identified a need to inform tenants about HMO standards and how they can access support from statutory agencies and other relevant bodies. With regards to landlords, the study recognised that landlords needed a simpler and clearer explanation of what the HMO standards are along with some additional one to one assistance with the more complex aspects of the standards, e.g. fire precautions<sup>36</sup>. The Northern Ireland Housing Executive's '[Houses in Multiple Occupation Strategy](#)' published in May 2009 sets out a number of actions which will be taken to address the concerns<sup>37</sup>.

DSD CONSULTATION PAPER ON A STRATEGY FOR THE PRIVATE RENTED SECTOR

38. The introduction of a mandatory landlord registration scheme for landlords in private rented sector in Northern Ireland has received significant attention in recent years. Factors such the ever expanding social housing waiting lists and issues over first time buyer affordability has meant that increasing attention has been focused on the private rented sector and its regulation.
39. In May 2009, the Department for Social Development published a consultation paper entitled '[Building Sound Foundations – A Strategy for the Private Rented Sector](#)'. The paper examined a number of proposals for the private rented sector including the issue of landlord registration and concluded that,
- “Based on the findings from both Scotland and the Republic of Ireland, the cost implications of mandatory registration for Northern Ireland would be very significant with no assurance that the quality of tenancy management would improve. More importantly no clear evidence of the extent and incidence of bad tenancy management in Northern Ireland is currently available to justify such a requirement.....*
- Overall it is thought that mandatory registration of landlords at this time would put an unnecessary and unfair focus on those landlords who are already complying with legislation and acting responsibly”<sup>38</sup>.*
40. The Department maintain that a mandatory registration scheme would not provide the most effective means of targeting those landlords who do not comply with the law and that such landlords are likely to continue to evade registration schemes. Instead the Department favours targeting resources at schemes which would support and promote good tenancy management, encourage landlord professionalisation and improve monitoring and enforcement procedures. The Department also propose that a longer term solution to improving landlord/tenancy management is through a voluntary landlord accreditation scheme with incentives to join such as access to legal advice, competitive insurance and advice on tenancies and tenancy disputes.
41. The Department's consultation ended in August 2009 and the responses to the consultation can be viewed on the DSD website<sup>39</sup>. In general terms, the majority of respondents, particularly local councils and voluntary/community bodies,

---

<sup>36</sup> Ibid,p83.

<sup>37</sup> Northern Ireland Housing Executive (2009) Houses in Multiple Occupation Strategy 2009. [www.nihe.gov.uk/hmo\\_strategy\\_2009.pdf](http://www.nihe.gov.uk/hmo_strategy_2009.pdf)

<sup>38</sup> Department for Social Development (2009). op. cit. p27.

<sup>39</sup> See [www.dsdni.gov.uk/index/hsdiv-housing/private\\_rented\\_sector/private\\_rented\\_sector-strategy/private\\_rented\\_sector-strategy\\_consultation\\_responses-2.htm](http://www.dsdni.gov.uk/index/hsdiv-housing/private_rented_sector/private_rented_sector-strategy/private_rented_sector-strategy_consultation_responses-2.htm)

supported the introduction of mandatory registration for landlords. Those local councils that responded felt that a mandatory registration scheme would assist councils in discharging their enforcement responsibilities. Councils also expressed the view that Housing Benefit should only be paid to those landlords who are registered.

42. There are of course a number of opposing views as to the effectiveness of a mandatory registration schemes on the perceived small percentage of genuinely 'unscrupulous' landlords within the sector. The response from the School of the Built Environment at the University of Ulster maintains that mandatory registration would put unnecessary and unfair focus on those landlords who comply with the legislation and act responsibly. It proposes that a better route would be to incentivise landlords to join a voluntary scheme in return for guaranteed housing benefit payments and information, training and advice<sup>40</sup>.
43. Issues relating to the registration of landlords/tenancies in the private sector are likely to remain to the forefront of public housing policy in all jurisdictions for the foreseeable future given the increasingly important role of the private rented sector in meeting housing need. It would therefore be prudent to monitor developments such as the outcome of the DSD consultation on a private rented sector strategy for Northern Ireland, the Department for Communities and Local Government consultation on a 'light touch' web-based landlord registration scheme for England, and the Scottish Government's evaluation of its landlord registration scheme proposed to take place in 2010.

**October 2009**

---

<sup>40</sup> University of Ulster, School of the Built Environment. Response to the DSD consultation paper on Building Sound Foundations, A Strategy for the Private Rented Sector.  
[www.dsdni.gov.uk/ulster\\_uni\\_bse\\_response.doc](http://www.dsdni.gov.uk/ulster_uni_bse_response.doc)