



Northern Ireland
Assembly

Research and Information Service Briefing Paper

Paper 97/12

15 May 2012

NIAR 368-12

Eleanor Murphy

Landlord Registration

1 Introduction

The Committee for Social Development will soon **consider draft regulations for a Northern Ireland Landlord Registration Scheme**. Scotland is currently the only other jurisdiction with the UK to operate a widespread mandatory landlord registration scheme. The purpose of this paper is to provide the Committee with information on the Scottish Landlord Registration scheme and the potential lessons that can be adopted for a Northern Ireland Scheme¹.

An **overview of schemes in other jurisdictions:**

- In **England** there are a few small area-based landlord *licensing* schemes operated by Local Authorities (known as '**selective licensing**'). Recommendations for a widespread 'light touch' web-based mandatory landlord registration scheme was proposed under the previous Labour Government. However, this decision was overturned by the Coalition Government.
- The **Republic of Ireland** has a mandatory *tenancy* registration scheme which requires private landlords/their agents to register details of their tenancies with the Private Residential Tenancies Board. In November 2010, the Minister for Housing and Local Services announced details of a legislative initiative to address regulatory non-compliance by landlords (at that time there had been a media articles reporting

¹ Assembly Research papers from the previous mandate on landlord registration are listed at the end of this briefing paper.

that housing benefit continued to be paid in respect of tenancies that had not been registered). The Minister subsequently announced his intention to shift the registration focus from tenancies to dwellings.

- In **Wales**, the recently published White Paper (May 2012) proposes to modernise the private rented sector by introducing a mandatory landlord registration and accreditation scheme for private landlords, lettings and management agents based on agreed Codes of Practice. The registration scheme will be used to promote other initiatives such as the Green Deal².

2 The Scottish Landlord Registration Scheme

The Scottish landlord registration scheme came into effect on the 30 April 2006 and its statutory basis is set out in [Part 8 of the Antisocial Behaviour etc. \(Scotland\) Act 2004](#)³. The registration scheme was part of a much wider drive by the then Scottish Executive to provide local authorities and other local agencies with the tools to tackle anti-social behaviour within their communities. The main elements of the landlord registration scheme are as follows⁴:

- Landlords, their agents and any properties he or she lets must be listed on a public register. The landlord must be judged a 'fit and proper person' to let houses. In making this judgement, the local authority will consider any previous convictions, the landlord's track record on tackling anti-social behaviour and any other material believed to be relevant;
- If a person fails the 'fit and proper person test', their application for registration will be refused. Information which comes to light after a person has been registered can lead to them being removed from the register. However, there is a right to appeal against these decisions;
- Once registered, the landlord has a duty to make sure that the information they have provided is kept up to date.
- A landlord who lets a property without being registered will be committing a criminal offence. From 31 August 2011 the maximum fine for operating as an unregistered landlord is £50,000.

Further details on the Scheme (registration process, fees etc.) can be found in [Appendix 1](#).

It is important to note that the landlord registration scheme is only one part of a package of initiatives aimed at regulating and improving standards in the private rented sector in Scotland. Other key initiatives include:

² Welsh Government (2012) White Paper. Homes for Wales: A White Paper for Better Lives and Communities. <http://wales.gov.uk/docs/desh/consultation/120521whitepaperen.pdf>

³ Part 8, Antisocial Behaviour etc (Scotland) Act 2004. www.legislation.gov.uk/asp/2004/8/part/8

⁴ Scottish Executive (2004) guide to the Anti-Social Behaviour etc. (Scotland) Act 2004.

- **Voluntary Landlord Accreditation:** a scheme by which private sector landlords and letting agents can assure tenants that their tenancy arrangements adhere to the standards set out in the '[Scottish Core Standards for Accredited Landlords](#)'⁵.
- **Mandatory Licensing of Houses in Multiple Occupation:** applies to houses or flats occupied by three or more unrelated people who share bathroom or kitchen facilities.
- **The Repairing Standard:** came into effect in 2007 and brought together and extended the existing statutory and contractual repairing obligations of private landlords⁶.
- **The development of schemes to safeguard tenancy deposits**⁷ and the establishment of the **Private Rented Sector Housing Panel** which works to ensure fair rents for tenants and landlords⁸.

3 Evaluation of the Scottish Registration Scheme

The Scottish Landlord Registration Scheme has been in operation for six years and it would be fair to state that it has been an ongoing and evolving process. It was an innovative scheme in that it was the first national landlord registration scheme in the UK. However, it has experienced a number of operational difficulties and revisions to the scheme have been made by the Scottish Government. For example, a review of the Private Rented Sector in Scotland (published March 2009) highlighted that landlords has raised a number of issues with the scheme, i.e. that the registration process was unnecessarily cumbersome; that the registration has increased in complexity for those trying to run their businesses responsibly; landlords argued that whilst local authorities collected large amounts of data from landlords they were unprepared to share data about tenants when landlords sought to chase rent arrears or find out if a tenant had left their property permanently so that they could reclaim possession⁹. The review also highlighted that only around three in ten tenants had heard of the registration scheme and that further work needed to be done to promote more effective communication of the scheme to tenants¹⁰.

A further report by Shelter Scotland (published April 2009) entitled '[Landlord Registration in Scotland: three years on](#)' called for an urgent review into the registration scheme which it believed was failing to "weed out" a minority of bad landlords and protect tenants from poor practice. The report called for a national publicity drive as research revealed that there was a lack of awareness amongst landlords and tenants

⁵ Landlord Accreditation Scotland website - www.landlordaccreditationscotland.com/

⁶ For further information on the Repairing Standard see www.scotland.gov.uk/Topics/Built-Environment/Housing/privaterent/landlords/physical/rules/repairing

⁷ For further information on Scottish Tenancy Deposit Schemes see www.scotland.gov.uk/Topics/Built-Environment/Housing/privaterent/government/SGTD1

⁸ For further information on the Panel see www.prhpscotland.gov.uk/prhp/121.html

⁹ Scottish Government (2009) Review of the Private Rented Sector: Volume 1: Key Findings and Policy Implications, p64. www.scotland.gov.uk/Resources/Doc/264996/0079349.pdf

¹⁰ Ibid, p60.

about their renting rights and responsibilities. However, the report did identify a number of ways in which landlord registration had been a useful tool in improving private renting, i.e.

- Led to the setting up of landlord forums for those landlords who wanted to engage positively;
- The provision of advice, training and information for landlords; and
- The establishment of voluntary sector accreditation schemes to reward good standards¹¹.

The Scottish Government has taken a number of steps to address many of the deficiencies in the Landlord Registration Scheme. In 2008, it commissioned a [Good Practice Review](#) on the implementation of the registration scheme¹². This 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 Local Authorities to improve implementation and enforcement of registration; the need for an effective and efficient IT system; the staffing structures and resources that are necessary; the linking of landlord registration to wider corporate policy (e.g. housing benefit, building standards); improving the monitoring and performance in tracking and recording applications; improving the registration payment, refund and renewal process; improvement in processing and checking applications; and improvements in the application of the ‘fit and proper’ test.

The Scottish Government commissioned a [further review of the impact of landlord registration in Scotland](#) (published July 2011). Key findings of the review were as follows¹³:

- The Landlord Registration Scheme had created **a register in excess of 175,000 private landlords in Scotland** but that it continues to be difficult to quantify exactly how many landlords had not registered and whether they do not register because they are unaware of the requirement or simply choose to ignore it.
- Research indicates that the Landlord Registration Scheme has had **some impact in meeting its goal of raising standards in the private rented sector** with evidence that the sector is now more aware of its obligations and there have been some improvements in landlord behavior.
- There is **now good evidence of collaboration by local authorities** in relation to landlord registration, both within teams in local authorities such as HMO licensing,

¹¹ 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

¹² Arneil Johnston (2008) Good Practice Review on the Implementation of the Landlord Registration.

www.scotland.gov.uk/Publications/2008/07/17153219/0

¹³ DTZ (2011) Evaluation of the Impact and Operation of the Landlord Registration Scheme in Scotland.

www.scotland.gov.uk/Publications/2011/07/13111732/0

legal services council tax and environmental health, and between local authorities and other agencies such as the police.

- There is a general feeling that **too few sanctions are available to local authorities** when landlords do not comply. Legislation has been strengthened in this area, i.e. the maximum fine for non-registration increased from £5k to £50k. However, only four local authorities have made reports to the Procurator Fiscal in relation to prosecution. [One recent **case brought by the City of Edinburgh Council** against a landlord who failed to register three of his seven properties resulted in a fine of just £65 for each of the unregistered properties. It cost the Local Authority around £2k-£3k to bring about the prosecution]¹⁴.
- The **Rent Penalty Notice** is thought to be the most effective sanction in relation to a breach in landlord registration requirements. **Late registration fees** are thought to be effective in ensuring compliance.
- Local Authorities have, in the spirit of the legislation, adopted a **'light touch' approach** to landlord registration. Advice and information was said to be the main focus in encouraging landlords to register. Although it was recognised that not all Local Authorities had landlord registration awareness raising strategies in place.
- Many Local Authorities still did not have a **performance monitoring system** in place for Landlord Registration.
- The **IT system for Landlord Registration** had improved but problems were still ongoing. The **Landlord Registration website** had experienced problems with user friendliness and landlords still reported problems in registering online.
- **Fees do not cover Local Authority costs of administering the scheme** and many Local Authorities have to supplement from other budgets. Therefore resources tended to be focused on administering the scheme and not on other aspects such as advice and enforcement.
- There is no clear understanding of the overall administrative costs of Landlord Registration and therefore this is **not taken into account in any of the fee structures**.

4 Lessons for the Northern Ireland Landlord Registration Scheme?

A number of key issues for the development of a landlord registration scheme in Scotland may have implications for the consideration of a scheme for Northern Ireland:

- A core issue is where should **responsibility for management** of such a scheme rest? Would it be more appropriate and more cost effective for one body to manage the scheme (unlike in Scotland where the scheme is managed by numerous Local Authorities)? Should this be a statutory body or an independent non-government

¹⁴ Information extracted from Scotland Parliament, Local Government and Communities Committee Report. Stage 1 Report on the Private Rented Housing (Scotland) Bill. 2nd Report, 2011 (Session 3).
<http://archive.scottish.parliament.uk/s3/committees/lgc/reports-11/lgr11-02.htm>

body? If it is managed by a single body then how can buy-in from councils, tenants, landlords, property agents, community organisations, other government bodies (e.g. social security agency in relation to housing benefit) be assured?

- What would be a **realistic and acceptable timetable for the development of a landlord registration scheme**? Even a light touch web-based scheme will take time to develop and roll-out, there will need to be sufficient time given to put in place IT systems, a website, design of user guides and application process systems, advice and training for landlords, a widespread advertising campaign. One clear message from the Scottish experience is that taking sufficient time to plan out a scheme is fundamental.
- It is also evident from the Scottish Scheme that one would need to be absolutely clear about **what the objectives of the scheme are to be**. A light touch registration scheme will provide valuable data on the private rented sector and will verify if a landlord has not registered but further investment will be needed to raise standards in the private rented sector – including investment in enforcement, investment in accreditation for landlords and advice for tenants.
- It is important to think about the **resource and staffing implications** for a registration scheme, this is also clear message coming from the Scottish review – many local authorities were simply unprepared for the scale of the undertaking in Scotland – didn't have enough staff or didn't have staff with the right mix of skills to deal with enforcement, advice provision to landlords.
- It is also important to consider **what information landlords should have to supply for registration** and how much of this information should be available to the public.
- Should tenancy management companies have to register?
- Should there be a **'fit and proper' test** similar to that in Scotland and in relation to this how light touch should a light touch system be, i.e. should landlords simply be registered until cause for concern arises. Should there be a review list similar to Scotland, i.e. a list of landlords with criminal convictions, history of anti-social behaviour from which applications can be cross-referenced?
- **Enforcement of the scheme is a big issue** for Scotland – what sanctions should be applied to a scheme for Northern Ireland, what is the best means of identifying non-registered landlords (note good practice in Scotland whereby some local authorities cross reference with housing benefit, mortgage lenders, confidential helplines to tenants/neighbours to inform on suspected non-compliant landlords);
- **How much emphasis should be placed on enforcement and how much resources should be dedicated to this?** – a need to think about the financial costs in terms of legal costs associated with enforcement and training staff in gathering enough evidence to take a case forward.

Assembly Research Papers – Previous Mandate:

NIAR (2009) An Overview of Landlord and Tenancy Registration Schemes in Other Jurisdictions.

<http://archive.niassembly.gov.uk/researchandlibrary/2009/7709.pdf>

NIAR (2010) Mandatory Landlord Registration Schemes – A Further Examination of the Scottish Model.

<http://archive.niassembly.gov.uk/researchandlibrary/2010/1910.pdf>

NIAR (2010) Recent Developments in Mandatory Landlord Registration

www.niassembly.gov.uk/Assembly-Business/Research-and-Information-Service-RaISe/Publications-2010/

NIAR (2010) Update – Recent Developments in Mandatory Landlord Registration.

www.niassembly.gov.uk/Documents/RaISe/Publications/2010/Social-Development/18910.pdf

Appendix 1:

Scottish Landlord Registration Scheme – Information Extracted from Landlord Registration Scheme Website - www.landlordregistrationscotland.gov.uk

Who has to Register?

Anyone who owns residential property in Scotland which is let must apply to register with the local authority for the area where the property is located, unless they are covered by one of the exemptions below. It is the owner of the property who must register. In some cases this may not be the "landlord" who has the letting agreement with the occupier.

Owners must declare any agents that they use to manage their property. An agent may be a professional such as a letting agent or solicitor, or a friend or relative who looks after the property, arranges repairs, collects rents and so on. Agents may also register in their own right if they wish. If an agent acts in relation to more than 2 properties, it is cheaper for them to register separately. You can also register if you do not own any property, to check that you will be considered fit and proper before you invest in property to let.

In some cases the owner of a property leases it to an organisation or person who then acts as the "landlord" for the occupiers. For example, a private owner may lease a house to a company which lets it out to its employees, or to a charity which lets it to people in need. The lessee may also use an agent to manage the tenancy. In these cases the owner needs to register and the "landlord" is treated as an agent. The agent managing the tenancy must also be declared, this will also include "tied" property and sublet property.

Are there exemptions?

Exemptions apply to properties rather than to people. If all of a landlord's properties in a particular local authority area are covered by one or more of the exemptions, he or she does not need to register with that authority. If some of his or her properties are exempt, the other properties must still be registered. A property is exempt from registration if it is:

- the only or main residence of the landlord, where there are not more than 2 lodgers
- let under an agricultural tenancy and occupied by the agricultural tenant (please note that any properties that you let WILL require to be registered – including tied property, unless specifically exempt e.g. holiday accommodation)
- let under a crofting tenancy
- occupied under a liferent
- used for holiday lets only
- regulated by the Care Commission, in certain categories
- owned by a religious organisation and occupied by a leader or preacher of that faith
- occupied only by members of a religious order
- let to members of the landlord's family only
- held by an executor for a period less than 6 months
- possessed by a heritable creditor for a period less than 6 months
- owned by a person acting as an insolvency practitioner for a period less than 6 months, unless the appointment is made by the Accountant in Bankruptcy. In that case, crown immunity applies and there is a permanent exemption from registration.
- owned by a local authority or Registered Social Landlord

When to Register?

The requirement to be registered came into effect on 30 April 2006. It is now an offence for anyone to own residential property in Scotland which is let, if they are not registered with the relevant local authority, or have not made a valid application to register, unless they are covered by an exemption. It is not an offence to let property if you have submitted a valid application for registration which has not yet been processed by the local authority. An application is valid if you have completed all the required information accurately, and paid the appropriate fee.

If you are searching to see if a landlord or property is registered, please be aware that only approved registrations appear on the register. It is likely to take local authorities some time to process all the applications they receive initially.

Registration lasts for 3 years from the date the application is approved by the local authority.

Fit and Proper Person Test?

To be registered, owners and their agents must be *fit and proper* to let residential property. Local authorities must take account of any evidence that the person has:

1. Committed any offence involving fraud, dishonesty, violence or drugs
2. Practised unlawful discrimination in connection to any business
3. Contravened any provision of the law relating to housing, or landlord and tenant law, and the person's actions, or failure to act, in relation to any antisocial behaviour affecting a house they let or manage, and must take account of the fact and nature of any agency arrangement.

In addition to the information provided on the form, the local authority will also take account of any other relevant information they hold about the applicant. They will make a balanced judgement on the basis of all the available information, there is no automatic refusal.

From 31 August 2011, local authorities have the power to require a criminal record certificate when applying the fit and proper person test. Particularly if the local authority has reasonable grounds to suspect that the information provided is, or has become, inaccurate.

If you let property in more than one local authority area, the authorities will share information to ensure they have all relevant details, but each authority will make its decision independently.

What information is available to the public?

Information available through the website

If you know the name and address of a person or company, you can find out if they are registered with a particular local authority. The search will simply confirm they are registered.

If you have the address of a let property, you can find out the name of the owner and any agent they use, and a contact address to get in touch about any problems.

If you do not find the person, organisation or property you are looking for, please contact the relevant local authority.

The landlord you are looking for may have submitted an application which has not yet been processed by the local authority, in such cases they will not appear until their application is approved.

From the local authority

The local authority may give out additional information, such as the owner or agent's home or office address, and addresses of other properties the owner lets, if they are satisfied it is appropriate to do so. Any request for information other than what is available through the website will be considered under Freedom of Information legislation.

Information is exempt from being released under Freedom of Information if releasing it would breach the Data Protection Principles.

You can find out more about Freedom of Information from the Scottish Information Commissioner's website, <http://www.itspublicknowledge.info/> And about the Data Protection Principles from the UK Information Commissioner's website, www.ico.gov.uk

Withheld information

The local authority can withhold information from the register if it believes that publishing that information could put people or properties at risk. For example, the register will not identify women's refuges.

Personal information

The other information that has to be supplied in an application for registration is personal information and will be handled in accordance with the Data Protection Act. You can find out more about the Data Protection Act from the Information Commissioner's website - www.ico.gov.uk

How much does it cost?

Principal and Property Fee

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.

Exemptions

The following exemptions apply to both the principal fee and the property fee:

Charities

Charities receive a 100% discount on both the principal and property fee.

Joint Owners

If a property is jointly owned then a 'lead' owner should be designated by the owners from amongst their number. The lead owner will pay both the principal fee and the property fee(s) for each of the jointly owned properties. Any joint owner who is not the lead joint owner is exempt from paying both the principal fee and any property fees for the jointly owned properties. If a non-lead joint owner also rents out properties which are not jointly owned then they should pay the relevant fee for registering these properties.

HMO Licence Holders

HMO Licence holders do not pay a fee in the local authority which they hold that licence and for any HMO property covered by that licence.

Discounts

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 will be provided.

Additional Fee - Late Applications

Where an application is submitted only after the local authority has issued two separate requests for an application to be made, an additional fee of £110 is payable.

Agent Fee

If you use an unregistered agent then you must pay an agent fee of £55 in order for your agent to be assessed as fit and proper. *Please contact your local authority for further details.*

How to pay

You can make a single payment online for all your applications, using a debit or credit card. These payments go to a bank account owned by the Scottish Government, and the relevant amounts are then distributed to local authorities. The Scottish Government does not see the information in your application, just the information it needs about your payment card and a reference number which the local authorities can use to match the payment to the application.

What information will a landlord need to provide?

You need to provide the following information to complete an application for registration. You can save your application without all the details, and come back to put them in later. But you are not protected from committing an offence (from 30 April 2006) until you have completed all the information required, and paid for your application.

You will be asked for:

1. for an individual, your full name, any other names you are or have been known by (including any maiden name or previous married names), and your date of birth.
2. for an organisation, the name of the organisation and the contact person dealing with the application. Companies will need to enter their company registration number, charities need to enter their charity number.
3. your home or company address. For an individual, any other addresses where you have lived in the past 5 years.
4. your email address and a contact telephone number. A local authority may use these to contact you if they have any questions about your application. Email addresses and telephone numbers will not appear on the register of landlords.
5. details of any HMO licences and voluntary accreditations you hold in Scotland, and any registration, licence or voluntary accreditation which has been refused or revoked in connection with letting in the UK.
6. details of any convictions, and any court or tribunal judgements against you under discrimination legislation. Please note that as of 31 August 2011 local authorities can require a criminal record certificate if it deems this is necessary when applying the fit and proper person test. If an applicant for registration fails to provide this they will not be placed on the register. A registered landlord who fails to provide it may be removed from the register.
7. the address of each house you own which is let
8. details of any agent(s) who act for you in relation to each property. Your agent must be entered on the system first before you can add them to your application. Please ask them for their registration number (for the relevant authority). If your agent is not registered then contact your local authority for advice. Please note that as of 31 August 2011 it is an offence if landlords do not notify the local authority if they appoint an agent. This is punishable by a maximum fine of £1,000.
9. details of any joint owners of each property. If the joint owner has already registered or applied for registration, please ask for their registration number (for the relevant authority).
10. contact address for each property. This is the address tenants or neighbours can use to get in touch about the property. It may be your agent's address, your own home or office address, or another address you choose to use for this purpose.

You will be asked to confirm:

1. that you comply with all legal requirements relating to the letting of houses. If in doubt about legal requirements you should consult a solicitor or professional letting agent.
2. that the information you have provided is correct to the best of your knowledge. It is a criminal offence to give false information or fail to give information required in an application for registration.