



LANDLORDS' ASSOCIATION
FOR NORTHERN IRELAND

2 October 2015

Dr Kevin Pelan
Clerk
Committee for Social Development

Room 410
Parliament Buildings
BELFAST
BT4 3XX

Dear Mr Pelan

Houses in Multiple Occupation (HMO) Bill

The Landlords Association for Northern Ireland (LANI) welcomes the opportunity to give comment on the above.

In view of the limited time available, less than one month, we are confined to submitting our response in form of comment on the various articles. We look forward to addressing the Committee on 22nd October and to elaborating on the points made.

Yours faithfully

Robert Greer for
Raymond Crooks, Chairman

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**Northern Ireland
Assembly**

COMMITTEE FOR SOCIAL DEVELOPMENT

Please use this form to submit written submissions in relation to the Houses in Multiple Occupation (HMO) Bill. Return to committee.socialdevelopment@niassembly.gov.uk by Tuesday 6 October.

Name: Mr Raymond Crooks, Chairman

Organisation: (if applicable) Landlords Association for Northern Ireland

Date: 02 October 2015

(where possible, please structure your response to the specific clauses of the Bill and, if appropriate, suggest alternative or additional wording to clauses, which may assist the Committee's consideration of the need for any amendments to the Bill)

**DRAFT RESPONSE FROM LANDLORD'S ASSOCIATION FOR
NORTHERN IRELAND (LANI) HOUSES IN MULTIPLE OCCUPATION
BILL 2015 1ST READING**

The Landlord's Association for Northern Ireland (LANI) is the largest Association of Landlord's in the province and represents the views of Landlord's and agents working in the field of Residential Lettings and Management. They are therefore best qualified to comment on this Bill from the supply side of the Industry.

The following are simply points to be made from this very comprehensive Bill of which our time for comment is very limited due to the fact that we have had less than four weeks' notice of said Bill and we are a voluntary organisation with limited resources.

PART 1

ARTICLE 1 - There has been a change in the definition of an HMO so that properties which are divided into self-contained flats of one or two bedrooms will no longer be considered to be an HMO property. This has the following consequences.

- (a) These properties will not benefit from the Health and Safety conditions attached to HMO's as they are presently. You could therefore have a converted or new build

building built or divided into any number of one and two bedroom flats which will not be inspected by HMO Staff or Licenced for this purpose.

- (b) These flats can be rented without reference to the planning conditions attached to registerable HMO's, as they shall no longer be considered as HMO's.
- (c) Family Homes can be converted into as many one and two bedroom flats as normal planning rules will allow and likely will destroy existing communities of family homes and lead to the growth of what are effectively HMO's by stealth.

PART 2

ARTICLE 7 (3)(e) – An HMO Licence must specify a managing agent if any. What happens if the Landlord needs to change Agents during the term of the licence? If no agent noted on the Licence, how does a Landlord appoint an agent to the Licence? Please see Article 33 which forbids an agent to act unless his name is on the Licence even in a Let Only instruction. At best the Landlord is tied to the existing agent. No allowance appears to have been made for Joint Agencies.

This Article, taken together with Article 33 is wholly unworkable and shows little or no understanding of the workings of the residential letting industry.

ARTICLE 10. Fit and Proper Person – We are particularly concerned with subsections 6 and 7 of this article as it would appear to hold the Landlord responsible for the antisocial behaviour of their tenants and other occupants in the property and indeed in the locality.

Your attention is drawn to Girvan J's judgement 14/03/05 Ref GIRC 5216 LANI v. DSD & NIHE when the definition of a Landlord's responsibilities was defined in the Judgement and did not include the locality. A Landlord can only be responsible for the conduct of the tenants named on the tenancy agreement within the curtilage of the Landlord's property.

ARTICLE 12 – There is already an HMO Subject Plan in place which restricts the relevant percentage of HMO's in each street to between 10% and 30% as the case may be. It appears that this Clause will allow the relevant Council to override this Subject Plan.

ARTICLE 13 – We are surprised by a number of provisions in this Article that lack clear definition. 13(2)(b) and (d) are particularly disturbing. Please examine Article 13 4(b) and 5(g). In the former, the Landlord may meet the standards set down by the Department yet the relevant Council may decide to limit the number of persons entitled to occupy the premises. Further, Article 13, 5(g) will allow an official to determine whether the property is suitably painted internally and externally and to then grant / revoke HMO licences. There is no statement as to the grounds on which these may occur.

ARTICLE 28 (1) – Is wholly unworkable, as at the date of sale the HMO licence becomes null and void and the new owner will not have had any time whatsoever to obtain a new licence. There needs to be a bridging period of perhaps six months for the new owner to obtain their licence. There is no reason why the new owner cannot be simply registered immediately on the existing licence subject to a fit and proper person test. In all transfer cases the Council will get paid twice for the unexpired period on the vendors licence. A new licence will even have to be sought for a transfer between spouses.

ARTICLE 29(1) – This is a further clause that is wholly unworkable as probate will often take longer than three months and applications have to be made to the Council by personal representatives. It would be more appropriate if the time period was three months after the grant of probate.

PART 3

ARTICLE 30(1) – Agent held liable in the event he permits or facilitates the occupation of an unlicensed HMO. This lacks definition.

ARTICLE 33 – To be read with Article 7(3)(e) – This presents a problem where a Landlord wants to change agents or appoints an agent where there is none previously appointed. It means that an agent cannot act for any Landlord unless the Agent is named on the licence for that property. What is the procedure to change or appoint a new agent, how much will it cost and how long will it take. This clause has been drafted by person(s) who have little knowledge of the letting industry. This clause is wholly unworkable.

ARTICLE 62 – HMO Landlords will consider this clause as the most important and contentious article in this bill. They will note that their name appears on a public register available in full to any person on the payment of a small fee. We have no doubt that our names and our property addresses will appear on the internet within weeks of this bill becoming Law. We believe strongly that the safety and security of Landlords, Agents and their families will be compromised. We believe that Landlord's will be possible victims of extortion by organised crime, vigilante groups and disaffected tenants.

In addition, Article 62(5) permits a council to publish whatever additional information on the public register that it deems fit, without any apparent safeguard being in place.

We note that some 11 years ago the NIHE attempted to adopt a similar public register of Landlord's which was not pursued after lengthy discussions with the Landlords Association of Northern Ireland and the Police. We see no purpose in this provision other than to lay the Landlord and his agent naked to the public examination and possible intimidation.

We would reluctantly accept the concept of a limited access to extracts of the public register, but only to persons who are affected by the HMO in question who must present themselves to council officials and have proof of their interest. A similar concept is presently used by NIHE HMO Unit and is acceptable to Landlords.

FIXED Penalty Notices.

ARTICLE 64(4) – We believe that the level of fines available under fixed penalty notices are too high and in particular 4(a)(b) and (c). Opportunity must be available to have the matter contested in a court of Law. We are not in favour of fixed penalty notices as they have consequences under the "fit & proper person" tests, which may cause Landlords / Agents to lose their livelihood.

Schedule 1

2. We are concerned that residential buildings controlled by NIHE and Housing Associations such as large hostels for single persons will be exempt from HMO regulations. In particular they will escape the anti-social provisions of this Bill and planning permissions specific to

HMO's. Such accommodation will not benefit from independent inspection by HMO officials.

5. We believe that to exclude University owned and University controlled accommodation is incorrect. We submit the following:

- (a) Under this Bill the Universities will henceforth be exempt from all planning regulations specific to HMOs. Queens University has had difficulty with several proposals for residential development in South Belfast under the HMO subject plan.
- (b) The Universities will not under this Bill pay HMO fees as they do presently, thus adding to the burden of other Landlord's. This exempt provision is contrary to the judgement of Girvan J Girc 5216 where he struck down the Fees Order.
- (c) University accommodation is managed with a business approach to maximising income for the Institution, thus the opportunity to let said accommodation to non-students outside term time and particularly during the summer months to maximise income is facilitated bt 5(1)(a). This clause allows these Institutions to avoid HMO fees and regulations, even though they are in direct competition with the private sector.

Schedule 2

We are concerned for the safety and welfare of Landlords and their agents with respect to the publication of applications for an HMO, in particular the notice provisions under 6(1) which would appear to require the applicants name and address to be attached to subject building for 21 days. Further the Council is given power under 5(a) to publish notice of application for an HMO licence in the local press. It would appear that this will include names and addresses of Landlord's.

We have taken it that Schedule (2) is solely in relation to application for new HMO's and not renewal of existing HMO licences.

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