

HOUSING (AMENDMENT) BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial memorandum has been prepared by the Department for Social Development in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The purpose of the Bill is to facilitate the sharing of information in relation to anti-social behaviour and empty homes, and to enable the Housing Executive to register a statutory charge in respect of grants made by way of loan.

CONSULTATION

4. On 2 December 2013 the Department published a consultation document on proposals for future housing legislation. Consultation closed on 24 March 2014 having been extended for an additional 4 weeks. There were 32 responses.
5. The consultation document published on 2 December 2013 referred specifically to proposals relating to a new form of social housing tenancy and eligibility for homelessness assistance. However, the Department has decided not to proceed with those proposals.
6. Proposals for new housing legislation published in December 2009 included measures designed to facilitate information sharing in relation to anti-social behaviour. Consultees expressed support for such measures, with the caveat that the information needs to be handled responsibly. While the consultation document published on 2 December 2013 did not specifically mention information sharing in the context of anti-social behaviour, a number of consultees highlighted the need for improved information sharing in relation to anti-social behaviour.
7. The proposal to improve the sharing of information about empty homes was included in the Department's Housing Strategy which was subject to public consultation in 2012.

OPTIONS CONSIDERED

Information sharing: empty homes

8. Within the framework of its Empty Homes Strategy and Action Plan which issued in September 2013, the Department has considered why homes become empty in Northern Ireland, the profile of empty homes, the benefits of bringing such homes back into use, and who can assist in this process. A lack of reliable data about the location and ownership of empty homes, and the lack of a satisfactory mechanism for exchanging such data, have been identified as impediments to progress.

9. The Department of Finance & Personnel's Land & Property Services holds information on empty homes in the private sector. However, there is no appropriate information sharing gateway under the Data Protection Act 1998 that would enable it to share information on the names and contact details of owners of the empty properties or even the full address of such properties.

10. The "do nothing" option would mean that the Department would be unable to access the information about empty homes held by the Department of Finance & Personnel and would not be in a position to take action to encourage owners to bring those homes back into use. It is therefore proposed to require the Department of Finance & Personnel to share relevant information which it collects for the purposes of rates collection with the Department for Social Development and/or the Housing Executive for the purpose of taking action in relation to empty homes, in particular making contact with the owners of empty properties. It is also proposed to require the Department for Social Development and the Housing Executive to share information about property which is listed as empty, but appears to be occupied, with the Department of Finance & Personnel.

Information sharing: anti-social behaviour

11. Because some organisations are reluctant to provide information about anti-social behaviour to social landlords on the grounds that this could breach data protection legislation, section 13 of the Housing (Amendment) Act (Northern Ireland) 2011 allows any person to disclose "relevant information" to a landlord under a secure tenancy if the information is disclosed for certain purposes. However, the purposes for which information may be disclosed do not include *seeking* an order for possession of a secure tenancy (as opposed to taking certain action where such an order has already been made), and the information which may be disclosed is restricted to information about certain orders of the court. It is therefore proposed to allow any person to disclose such information as may be required for the purpose of enabling the Housing Executive or a registered housing association to take any appropriate action in cases of anti-social behaviour.

12. The "do nothing" option would mean that information about (for example) ongoing investigations by the PSNI could not be made available to social landlords who are seeking an order for possession against a tenant on grounds relating to anti-social behaviour.

13. The Department has considered the need for legislation that would compel persons holding relevant information to disclose it, but feels that this should not be necessary.

Grants by way of loan: registration of statutory charge

14. The Housing Executive is preparing, in co-operation with the Department for Social Development, a pilot scheme of loan assistance for private sector housing repairs and improvements. While the Housing Executive has power to register statutory charges in respect of most forms of grant assistance provided under the Housing (Northern Ireland) Order 1992 and the Housing (Northern Ireland) Order 2003, there is no power to register statutory charges in respect of loans made under Article 9 of the Housing (Northern Ireland) Order 1981.

15. The “do nothing” option would mean that loans made to homeowners by the Housing Executive for housing repairs and improvements would be unsecured. Alternatively, the Housing Executive could secure the lending by means of a legal mortgage/charge. However, the costs associated with such mortgage/charges are significant. It is therefore proposed to enable the Housing Executive to register a statutory charge in respect of grants by way of loan, which is the most economic way to secure such loans.

OVERVIEW

16. The Bill has five clauses. A commentary on the provisions follows:

COMMENTARY ON CLAUSES

Clause 1: sharing of information relating to empty properties

Clause 1 provides for circumstances in which the Department of Finance & Personnel must disclose to the Department for Social Development or the Housing Executive certain information about empty properties.

Clause 1 also provides for circumstances in which Department for Social Development and the Housing Executive must disclose certain rating-related information to the Department of Finance & Personnel.

Clause 2: disclosure of information relating to anti-social behaviour

Clause 2 provides that a person may disclose certain information about anti-social behaviour to the Housing Executive or a registered housing association where such information is required for certain housing management purposes. Those purposes include applying for injunctions on grounds of anti-social behaviour, applying for possession orders on such grounds, withholding consent to the mutual exchange of secure tenancies and determining that a person is not eligible for accommodation on the basis of their unacceptable behaviour.

Clause 3: registration as statutory charge of certain loans

Clause 3 provides that so long as any part of the principal of, or any interest on, a loan made by the Housing Executive under Article 9 of the Housing (Northern Ireland) Order 1981 (for certain purposes including making repairs or improvements to a house) remains outstanding, the loan is to be a charge on the house or building(s) in question, and that such charges shall be registered in the Statutory Charges Register.

Clause 4: commencement

Clause 4 provides that the Act will come into operation at the end of the period of 2 months beginning with the date on which it receives Royal Assent.

Clause 5: short title

Clause 5 provides that when the Bill receives Royal Assent it shall be known as the Housing (Amendment) Act (Northern Ireland) 2015.

FINANCIAL EFFECTS OF THE BILL

17. There are no costs associated with the proposals for information sharing in respect of anti-social behaviour and empty homes.

18. There are no significant costs associated with the proposal to enable the Housing Executive to register a statutory charge in respect of grants by way of loan. This is the most economic way to protect public finances where such loans have been made.

HUMAN RIGHTS ISSUES

19. The provisions of the Bill are compatible with the Convention on Human Rights.

EQUALITY IMPACT ASSESSMENT

20. The proposals were screened in accordance with section 75 of the Northern Ireland Act 1998. No differential impact was found and accordingly a full Equality Impact Assessment was not required.

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

Information sharing: anti-social behaviour

21. This proposal would have benefits for social landlords (including registered housing associations) and society in general. The proposal would have no impact on private landlords.

Information sharing: empty homes

22. This proposal would have potential benefits for property owners as well as society in general.

Registration of statutory charges

23. This proposal would have potential benefits for property owners as well as society in general.

LEGISLATIVE COMPETENCE

The Minister for Social Development has made the following statement under section 9 of the Northern Ireland Act 1998:

“In my view the Housing (Amendment) Bill would be within the legislative competence of the Northern Ireland Assembly.”