



Regulation of private rented housing in the Isle of Man

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RESEARCH PAPER

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SUMMARY

Section 1 provides information on the size and demographics of the private rented sector, levels of housing fitness, and background on policy developments over the last decade. The private rented sector has been estimated to comprise 16-23% of tenures in the Isle of Man and appears to be growing. Levels of private renting are lowest amongst the over-65s. Rates of disrepair have been found to be higher in the private rented sector. A voluntary landlord registration scheme has been in place since 2013, and flats and Houses in Multiple Occupation (HMOs) became subject to registration requirements and specific minimum standards in 2014. The Programme for Government 2016-2021 has included several actions related to the private rented sector, including the development of a rent deposit protection scheme and a tenancy arbitration process.

Section 2 gives an overview of the current legal framework for private rented housing in the Isle of Man. The statutory rights and responsibilities of tenants and landlords are set out in various pieces of primary and secondary legislation. There are provisions governing tenancy contracts, rent, eviction, maintenance and repair obligations (including gas safety), and basic standards. There are specific minimum standards for flats and HMOs, which must also be registered with a local authority.

Section 3 provides an overview of proposals for reform of the regulation of the private rented sector over the last decade. The Landlord Registration Bill 2020 aims to introduce the mandatory registration of landlords and minimum standards for other private rented dwellings in addition to flats and HMOs; at the time of writing the Bill is before the House of Keys. The Landlord and Tenant (Private Housing) Bill 2014 aimed to introduce similar provisions, as well as requiring landlords who do not meet the minimum standards to use a letting agent to manage their properties; the Bill was referred to a Committee and later withdrawn.

1. BACKGROUND AND CONTEXT

SIZE OF THE PRIVATE RENTED SECTOR IN THE ISLE OF MAN

Official statistics on the private rented housing sector are not consistently collected or published.

The [Private Sector Housing Stock Condition Survey 2018/2020](#) estimated, based on its survey sample of 1497 properties, that 22.8% of the Island's private housing stock is rented out, representing 7815 households living in privately rented accommodation. This represents an increase of 27.4% or 1985 households since the last Condition Survey was [carried out in 2008](#).

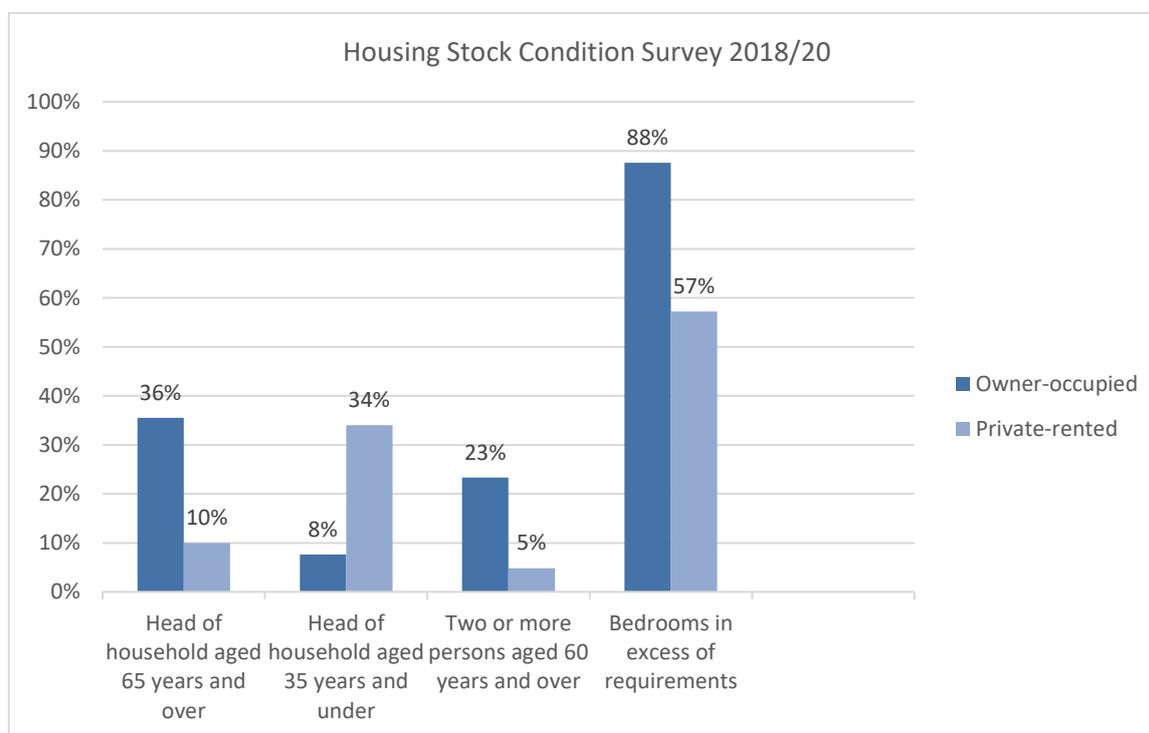
In the [2019 Interim Housing Needs Study](#), the Department of Infrastructure estimated that the private rented sector represented 16.2% of tenures in the Isle of Man. This figure was based on data from the 2011 census, adjusted with data derived from the 2016 census and building control records.

In February 2017, it was [estimated by the Department of Infrastructure](#) that the private rented sector provided accommodation for approximately 17% of the Island's population.

The [2016 census](#) did not include any published data on tenures. The [2011 census](#) showed that 16% of households were renting in the private sector, amounting to 5753 properties. Around half of these rented properties were located in Douglas.

DEMOGRAPHICS

The [Private Sector Housing Stock Condition Survey 2018/2020](#) found 'significant demographic differences' between the privately rented sector and the owner-occupied sector (para 2.8):



HOUSING CONDITIONS

The [Private Sector Housing Stock Condition Survey 2018/2020](#) found that 4.3% of the 1497 houses surveyed were in unfit condition, while 12% were found to be in poor repair. The report notes (paras 3.7, 10.3) that rates of disrepair are higher in the private rented sector, but does not provide any detailed breakdown of this finding.

The Condition Survey 2018/2020 also found a correlation between the actual condition of a tenant's home and their perception of its condition, with 44.5% of those living in unfit dwellings describing the property's condition as 'poor' (paras 9.1-9.2).

The [2008 Condition Survey](#) found that 4.7% of private rented dwellings were in an unfit condition, compared to 3.7% in the owner-occupied sector (Table 6, p. 26).

The 2008 Condition Survey also found that 42.3% of the private rented dwellings surveyed did not meet the English [Decent Homes Standard](#) (Table 14, p.39) and 11.7% of private rented dwellings did not meet the repair requirements of the Decent Homes Standard (Table 8, p. 31). The [2018/2020 survey](#) found that 14.8% of the dwellings surveyed did not meet the repair requirements of the Decent Homes Standard, but did not provide a breakdown by tenure (para 3.6).

POLICY ON THE PRIVATE RENTED SECTOR

FLATS AND HOUSES IN MULTIPLE OCCUPATION (HMOS)

Since January 2014, privately rented flats and HMOs have been subject to enhanced regulation. They must be [registered with a local authority](#) and meet [specific condition standards](#). The new regulations updated existing provisions for flats, which had been in place [since 1982](#), and introduced new provisions for HMOs.

Between January 2014 and [18th November 2020](#), there were 142 requests to register a flat and 13 requests to register an HMO in total.

In [November 2020](#), the Minister for Environment, Food and Agriculture explained that the registration of HMOs had been delayed until January 2017 because of delays in the introduction of [regulations made under the Fire Precautions Act 1975](#).

VOLUNTARY LANDLORD REGISTRATION SCHEME

The [Landlord Registration Scheme](#) was introduced on a voluntary basis in February 2013.

In [February 2017](#), the Minister for Infrastructure reported that 47 landlords, with 379 properties in total, were registered as part of the scheme.

The [Landlord Registration \(Private Housing\) Bill 2020](#) includes provisions to make registration mandatory.

PROGRAMME FOR GOVERNMENT 2016-2021

One of the intended outcomes of the [Programme for Government](#) is that 'we have affordable and accessible housing which meets our social and economic needs'. A number of policy statements and actions underpinning this outcome are relevant to private rented housing, including:

- Ensure we have housing which meets the future needs of our community (Policy statement, [Year 1](#))
- Continue to develop initiatives to safeguard the interests of landlords and tenants in private rented accommodation (Policy statement, [Year 1](#))
- Work with housing providers to identify and develop suitable alternative types of housing to meet the Island's future needs (Action, [added in Year 1](#), [removed in Year 3 as 'business as usual'](#))
- Introduce the Houses in Multiple Occupation standards and monitoring regime (Action, [added in Year 1](#), [completed by Year 2](#))

- Develop a rent deposit protection mechanism and associated tenancy arbitration process, together with other necessary landlord and tenancy arrangements (Action, [added in Year 1, removed in Year 4](#))
- Bring forward a high level, all Island strategy for housing, with a five year action plan ([Added in Year 3, removed in Year 4](#))
- Develop an all Island Housing Strategy, encompassing all elements of housing work underway and planned. Consider the strategic approach required and how this would be delivered ([Added in Year 4](#)).

One of the national indicators underlying the Programme for Government is to 'improve the quality of rental properties in multiple occupation', measurable by 'the number of reports to environmental health of unfit houses in multiple occupation that are found to be material'. Reports on the national indicators have been published for [2017/2018](#) and [2018/2019](#); both reports state that there is no data available for this indicator. In the 2018/2019 report, it is noted that the 'measure will be reworded in the future so that a figure can be provided' (p. 15).

2. THE LEGAL FRAMEWORK

The statutory rights and responsibilities of tenants and landlords are set out in various pieces of primary and secondary legislation. Key provisions are set out below.

TENANCY AGREEMENTS

A tenancy agreement is a contract between a landlord and a tenant. The [Landlord and Tenant Act 1954](#) sets out the general framework for tenancy contracts.

Under the [Landlord and Tenant Act 1954](#), contracts of tenancy for a period longer than one year must be in writing. Contracts for shorter periods may therefore be verbal.

IMPLIED TERMS

Under the [Tenancies \(Implied Terms\) Act 1954](#), certain provisions apply to all tenancy agreements unless the contract of tenancy specifies otherwise.

The landlord is responsible for:

- Maintaining the roof, main walls and structure of the buildings on the property in 'good and tenable repair and condition';
- Reimbursing the tenant for a proportion of the rates paid if the tenancy is ended by the landlord before the end of the rating year.

The tenants' responsibilities are:

- Paying any rates and taxes relating to the property;
- Keeping the property in 'good and tenable repair and condition', including the upkeep of bathroom facilities, pipes, drains, and gutters;
- Not allowing anything that would affect the insurance of the property
- Not subletting without the written consent of the landlord;
- Not altering the property without the written consent of the landlord;
- Allowing the landlord to enter the property at any reasonable time for any reasonable purposes, particularly regarding the condition and maintenance of the property.

OTHER RELEVANT LEGISLATION

- The [Conveyancing \(Leases and Tenancies\) Act 1954](#) provides protection for tenants where there is a reversion interest in a property.
- Under the [Housing Miscellaneous Provisions Act 2011](#), tenants may apply to the Rent and Rating Appeals Commissioners for variation of a lease if the lease does not provide satisfactorily for matters such as the repair and maintenance of the flat and installations in the flat and the payment of a service charge.

RENT

RENT BOOKS

Under the [Landlord and Tenant \(Miscellaneous Provisions\) Act 1976](#) (s.5), the landlord is required to provide a rent book or similar document if rent is paid on a monthly or less than monthly basis.

The rent book must contain the following information (s.6):

- The name and address of the landlord;
- Information about tenants' rights in respect of eviction and rent appeals; and
- Under the [Landlord and Tenant \(Rent Book\) Regulations 1976](#), an up-to-date record of the rent paid.

A landlord who does not comply with these requirements may be fined up to £1,000.

RENT LEVELS

There is no rent control for private sector housing in the Isle of Man.

Tenants have the right under the [Housing \(Rent Control\) Act 1948](#) to appeal to the Rent and Rating Appeals Commissioners if they think that the amount of rent they are paying is unfair. The Commissioners have the power to approve, reduce, or increase a rent.

There are no rules governing the [procedure of the Commissioners](#) with regard to appeals concerning a rent dispute.

DEBT

The [Recovery of Rent Act 1954](#) makes provision for landlords to be able to recover rent from tenants.

EVICITION

Tenants are protected from harassment and unlawful eviction under [the Landlord and Tenant \(Miscellaneous Provisions\) Act 1976](#). Landlords who are found guilty of these offences can be fined up to £5,000.

If a landlord wishes to end a tenancy, he or she may give the tenant a notice to quit ([Landlord and Tenant Act 1954](#)). The notice must contain information about the tenant's rights with regard to eviction, including that a Court Order is required to evict the tenant legally ([Landlord and Tenant \(Miscellaneous Provisions\) Act 1976, s.4](#)).

REPAIRS AND MAINTENANCE

Under the [Tenancies \(Implied Terms\) Act 1954](#), the landlord is responsible for maintaining the roof, main walls and structure of the buildings on the property in 'good and tenable repair and condition'. The tenant is responsible for the maintenance of other aspects of the building (see 'Implied Terms' above).

The [Housing \(Standards\) Regulations 2017](#), which set out standards for flats and HMOs, state that the owner must maintain the building in a 'good' state of repair (s.7(1)). Schedule 2 additionally requires that the premises must be structurally sound and free from dampness. The owner may be fined up to £20,000 for failing to comply with these standards.

FIRE PRECAUTIONS

Under the [Fire Precautions Act 1975 \(s.1\)](#), fire certificates are required for any premises used for the purpose of providing sleeping accommodation.

The [Fire Precautions \(Houses in Multiple Occupation and Flats\) Regulations 2016](#), made under Schedule 8 of the 1975 Act, set out specific requirements for flats (and buildings containing flats) and HMOs. Exemptions can be made where the fire authority believes it is appropriate to do so.

[Guidance](#) is available on the Government website.

GAS SAFETY

Under the UK [Gas Safety \(Installation and Use\) Regulations 1994](#) and the [Gas Safety \(Installation and Use\) \(Amendment\) Regulations 1996](#), as applied in the Isle of Man by the [Gas Safety \(Application\) Order 1996](#), all landlords are responsible for maintaining gas fittings and flues in a safe condition (s.35A(2)(a)-(b)) and ensuring that the appliances are checked for safety by a qualified person once a year (s. 35A(3)(a)-(b)).

OTHER UTILITIES

Under the [Housing Standards Regulations 2017](#), the owner must ensure that electric and oil installations in flats and HMOs are in 'good repair' (s.9).

REGISTRATION OF FLATS AND HOUSES IN MULTIPLE OCCUPATION (HMOS)

Flats (including tourist accommodation) and properties inhabited by tenants who do not form a single household (Houses in Multiple Occupation or HMOs) are subject to enhanced regulation. They must be registered with a local authority and meet specific condition standards.

DEFINITION OF HMO

The definition of 'HMO' is set out in the [Housing \(Definition of Flat or House in Multiple Occupation\) Order 2013](#).

A property is considered to be in multiple occupation if it is occupied by more than one household and at least one of those households occupies accommodation which shares or lacks basic amenities or has the accommodation as its only or main residence (s.6).

A household is defined in the Order as an individual or family (which can include an unmarried couple, as well as a person's parents and grandparents) who occupies a property. Individuals working and

living within the household undertaking domestic duties, such as nannies and carers, who do not pay any rent for their accommodation, are also included in the definition (s4.1(a)-(b)).

The Order also clarifies that a group of six or fewer adults who occupy premises with two or more storeys, and who would not constitute a household if they held individual tenancies, is not to be considered a household (s.4(2)).

Other premises that are not considered to be an HMO are set out in the [Housing \(Registration\) Regulations 2013](#) (s7) as follows:

- Those occupied only by one family;
- Those occupied by six or fewer people where the building includes no more than one kitchen and two bathroom;
- Those registered and used solely for tourist purposes;
- Prisons and other detention and secure accommodation centres;
- Registered adult care and children's homes;
- Homeless centres;
- Premises subject to inspection by the Department of Education, Sport and Culture.

REGISTER

Under the [Housing \(Miscellaneous Provisions\) Act 2011 \(s.12\)](#), flats and houses in multiple occupation (HMOs) must be registered by the local authority of the area in which the properties are located.

Under the [Housing \(Registration\) Regulations 2013](#), any person intending to use or permit to be used a flat or HMO must apply to register the property. The application must contain the following information:

- the name and address of the applicant (and the owner if different);
- the address of the property;
- the number, location and description of the rooms in the property;
- in the case of flats, whether it is for tourist or permanent occupation;
- the maximum number of people permitted to occupy the property;
- the purpose for which each room is to be used;
- information about communal parts of the property.

In order to be registered, the property must meet the requirements of the Housing (Standards) Regulations and the [Fire Precautions \(Houses in Multiple Occupation and Flats\) Regulations 2016](#).

The [Housing \(Registration\) Regulations 2013](#) set out the following requirements relating to the register:

- The register must be open to public inspection at all reasonable times;
- The entry for each flat or HMO must contain:
 - the address of the property;
 - the number, location and description of the rooms in the property;
 - in the case of flats, whether it is for tourist or permanent occupation;
 - the maximum number of people permitted to occupy the property.

STANDARDS

FITNESS FOR HUMAN HABITATION

Under the [Housing Act 1955](#), local authorities are responsible for inspecting houses to ensure that they are fit for human habitation. This applies both to rented and owner-occupied properties. This function is undertaken by Government Environmental Health Officers acting on behalf of the local authorities.

The 1955 Act gives local authorities the power to require the repair of houses that are deemed unfit for human habitation (s.4) or are in disrepair (s.4A). The costs of the repairs must be 'reasonable'.

There is no definition of 'fitness for human habitation' or 'disrepair' in the 1955 Act. There are however specific fitness requirements for basement rooms (s.7(2)):

- The average height of basement rooms must be at least seven feet;
- The room must comply with regulations for ventilation and lighting, and protection against dampness.

SPACE AND OCCUPANCY LEVELS

The [Housing Act 1955](#) (s.28) defines overcrowding as circumstances where:

- Any two people of opposite sexes aged ten years and above, who are not married, must sleep in the same room;
- More than two people are living in a house consisting of one room;
- More than three people are living in a house consisting of two rooms;
- More than five people are living in a house consisting of three rooms;
- More than seven and a half people are living in a house consisting of four rooms;¹
- More than 10 people are living in a house consisting of five rooms (with 2 additional people permitted per additional room).

Depending on the size of the rooms, certain other restrictions may apply as set out in Schedule 4 of the Act.

Overcrowding is classed as a statutory nuisance in the [Public Health Act 1990](#) (s.1(2)).

SPACE AND OCCUPANCY LEVELS IN FLATS AND HMOS

Section 6 of the [Housing \(Standards\) Regulations 2017](#) sets out minimum space standards for flats and HMOs, including that no more than two persons must share a bedroom, unrelated persons must not be required to share a bedroom, and there must be a minimum of one bathroom for every six occupants.

There are also additional specific space and occupancy levels for flats and HMOs.

Schedule 1 of the [Housing \(Standards\) Regulations 2017](#) sets out the following space requirements for HMOs:

- The bedroom must be at least 8.5m² if occupied by one person, 10.5m² if occupied by two people;
- The kitchen must be at least 7m² if used by up to six people, with 0.5m² additional space required for each additional occupant above six;

¹ A child aged between 1 and 10 years is counted as half a unit.

- The communal room (which may include the lounge or dining room) must be at least 11m² if used by up to six people, with 1.5m² additional space for each additional occupant above six;
- If the communal room contains the kitchen, it must be at least 18m².

Schedule 1 of the [Housing \(Standards\) Regulations 2017](#) sets out the following space requirements for flats:

Net floor area – Permanent	Net floor area – Tourist	Maximum occupants
<30m ²	<17m ²	0
31-45m ²	18-25m ²	1
46-57m ²	26-22m ²	2
58-70m ²	34-41m ²	3
71-79m ²	42-49m ²	4
80-87m ²	50-56m ²	5
>87m ²	>56m ²	6

MINIMUM STANDARDS FOR FLATS AND HMOS

The [Housing \(Standards\) Regulations 2017](#) set specific standards for flats (including tourist accommodation) and properties inhabited by tenants who do not form a single household (Houses in Multiple Occupation or HMOs).

The Regulations require the owner to maintain the building in a good state of repair. If the owner fails to maintain these standards, or fails to comply with a repair enforcement notice, he or she may be fined up to £20,000 (s.7).

Schedule 2 of the Regulations sets out the following minimum standards:

- Flats must be self-contained;
- Premises must be in good general condition;
- Every room intended for living accommodation (but not kitchens or bathrooms) must have sufficient natural light, adequate ventilation and thermal insulation;
- Kitchens and bathrooms must have adequate light and ventilation;
- There must be suitably located integral bathing facilities with adequate supplies of hot and cold water;
- There must be a toilet within the curtilage of the property;
- There must be a wash hand basin with adequate supplies of hot and cold water;
- There must be adequate cooking and washing facilities, including plumbing for a washing machine in the case of permanently occupied premises;
- There must be provision made for the storage and disposal of waste;
- There must be adequate and suitably located food storage facilities;
- There must be facilities for the washing and drying of clothes (for the occupants of flats, the facilities must be for their exclusive use);
- There must be adequate soundproofing both between flats and between flats and communal parts of the building;
- There must be reasonable storage facilities for prams and bicycles;
- There must be stop taps to enable gas and water supplies to be turned off in each flat.

OTHER RELEVANT LEGISLATION

Under the [Public Health Act 1990](#), local authorities (in practice Environmental Health officers) can serve an abatement notice on the owner or occupier of 'any premises in such a state as to be prejudicial to health or a nuisance'.

HISTORIC LEGISLATION

- The [Housing \(Standards\) Regulations 2013](#) were revoked by the [Housing \(Standards\) Regulations 2017](#).
- The [Housing \(Flats\) \(Amendment\) Regulations 1984](#) were revoked by the [Housing \(Registration\) Regulations 2013](#);
- [The Housing \(Flats\) Regulations 1982](#) were revoked by the [Housing \(Registration\) Regulations 2013](#);
- [The Housing \(Flats\) Regulations 1979](#) were revoked by the [Housing \(Flats\) Regulations 1982](#).
- [Tenants' Protection Rules 1964](#), made under the Tenants' Protection Act 1963, which [lapsed in November 1983](#).

3. PROPOSALS FOR REFORM

LANDLORD REGISTRATION (PRIVATE HOUSING) BILL 2020

The [Landlord Registration \(Private Housing\) Bill 2020](#) ([Explanatory Notes](#)) proposes to introduce the following measures:

- A mandatory register of landlords for certain types of private dwellings (exceptions include accommodation provided by employers, tourist lets, and agricultural tenancies);
- The power to make regulations for minimum standards for rented dwellings and to enforce those standards;
- A deposit protection scheme;
- Powers to monitor and collect information on the private rented sector.

The Bill went out to [public consultation in June 2020](#).

PROGRESSION

At the time of writing, the Bill is at the Clauses stage in the House of Keys. The Bill's progress can be followed [via the Tynwald website](#).

House of Keys - First Reading	1st December 2020
House of Keys - Second Reading	8th December 2020
House of Keys - Clauses Stage	23rd March 2020 (up to and including Clause 24)

Representatives of the [Isle of Man Landlords Association](#) gave evidence on Clause 24 to a Committee of the whole House on 23rd March 2020.

LANDLORD AND TENANT (PRIVATE HOUSING) BILL 2014

The [Landlord and Tenant \(Private Housing\) Bill 2014](#) ([Explanatory Notes](#)) entered the House of Keys on 25th March 2014.

The Bill aimed to introduce a number of measures, including:

- Registration of landlords of rented dwellings;
- Minimum standards for landlords and rented dwellings;
- Requiring landlords who do not meet the minimum standards to use a letting agent to manage their properties;
- Powers for the DHSC to enforce the minimum standards.

BILL COMMITTEE

The Bill was referred to a Committee during the [Second Reading on 15th April 2014](#).

[The Committee](#) reported with recommendations ([Volume 1](#), [Volume 2](#)), which were debated on [10th February 2015](#).

The Keys agreed the following principles about private rented housing:

- Landlords should have the right to decline to let to tenants who are risks in terms of paying rent or looking after the property;
- There should be minimum standards for tenants, and failure to observe these standards should entitle the landlord to obtain summary judgment for possession;
- Legislation on property agents should be developed in parallel to any new landlord and tenant legislation;
- All tenants, including public sector and agricultural tenants, should have a right to expect a basic guarantee of standards.

In terms of procedure, the Keys agreed that any minimum standards should be defined in a Schedule to the Bill, and any changes to the standards should be subject to the approval of Tynwald.

The Committee also noted a number of drafting errors in the Bill and recommended that the Bill should be corrected and rewritten before proceeding to the next stage.

The Bill was subsequently withdrawn.

FURTHER READING

1. [Tenancy deposit schemes](#), House of Commons Library (3 Sep 2020)
2. [Housing conditions in the private rented sector \(England\)](#), House of Commons Library (04 Feb 2020).
3. [Houses in multiple occupation \(HMOs\) England and Wales](#), House of Commons Library (30 Sep 2019)
4. [Overview of private rented housing reforms in Scotland](#), Scottish Parliament Information Centre (14 May 2019).
5. [Comparing private rented sector policies in England, Scotland, Wales and Northern Ireland](#), House of Commons Library (2 May 2019).
6. [Private rented housing: the rent control debate](#), House of Commons Library (15 Feb 2019).
7. [A decent home: definition and guidance](#), UK Ministry of Housing, Communities & Local Government (7 Jun 2006).

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