



Northern Ireland  
Assembly

---

**COMMITTEE FOR  
SOCIAL DEVELOPMENT**

---

**OFFICIAL REPORT  
(Hansard)**

---

**Housing (Amendment) (No. 2) Bill:  
Departmental Briefing**

11 November 2010

# NORTHERN IRELAND ASSEMBLY

---

## COMMITTEE FOR SOCIAL DEVELOPMENT

---

### Housing (Amendment) (No. 2) Bill: Departmental Briefing

---

11 November 2010

**Members present for all or part of the proceedings:**

Mr Simon Hamilton (Chairperson)  
Ms Carál Ní Chuilín (Deputy Chairperson)  
Mr Sydney Anderson  
Mrs Mary Bradley  
Mr Mickey Brady  
Mr Alex Easton  
Mr Tommy Gallagher  
Ms Anna Lo  
Mr John McCallister  
Mr Fra McCann

**Witnesses:**

Mr Stephen Baird	)	
Mr Alastair Campbell	)	Department for Social Development
Mr Michael Sands	)	

**The Chairperson (Mr Hamilton):**

Joining us this morning from the Department for Social Development (DSD) are Michael Sands, Alastair Campbell and Stephen Baird. You are all very welcome again to the Committee. I remind everyone that all mobile phones should be switched off, because, as you know, evidence sessions on Bills are always recorded for Hansard.

I invite you to brief members on the Housing (Amendment) (No. 2) Bill and on some of the issues that lie behind it. I will move to questions after that.

**Mr Michael Sands (Department for Social Development):**

Good morning. I welcome this opportunity to discuss the Housing (Amendment) (No. 2) Bill once more with the Committee. As you are aware, the main focus of the Bill is on improving the regulation of the private-rented sector; providing new powers for improving energy efficiency and tackling fuel poverty; and improving the operation of some aspects of existing housing law.

If you are content, Chairperson, I will give a brief summary of each clause, followed by a description of the Government amendments that the Department proposes to table. There is quite a number of Government amendments, many of which the Committee has raised already. Several are quite substantial — I will deal with those in some detail — while others are purely technical. I have provided members with a briefing that sets out in more detail the purpose and rationale behind each proposed amendment. We will, of course, be happy to answer any questions at any point during the briefing.

Chairman, can you give me a steer as to how you want me to proceed? Will I run through the whole thing, or do you want me to stop after each clause?

**The Chairperson:**

We will go through each clause and stop to see what we think. The problem with doing that is that we can sometimes get bogged down in a discussion of other matters. However, we will give it a go. If everybody is well behaved, that should work.

**Mr F McCann:**

Are you talking about the officials or us?

**Ms Ní Chuilín:**

I think he is talking about you, Fra.

**The Chairperson:**

I thank the Deputy Chairperson for that — it saves me having to be diplomatic. I am talking about myself.

We will try to go through each clause and then see whether any issues arise. If that does not work, we will try something else.

**Mr Sands:**

I will summarise the details and stop after each clause.

Clause 1 would repeal article 4 of the Private Tenancies (Northern Ireland) Order 2006. It would effectively remove some existing duplication and would ensure the amalgamation of all the relevant information into a single place for the benefit of the private landlord and the tenant. The same amount of information will continue to be provided, but in a much more straightforward way. The Department will subsequently make new rent book regulations that will set out exactly what information must be provided, together with the detail that is required.

**The Chairperson:**

If members have no issues that they wish to raise, we will move on.

**Mr Sands:**

Clause 2 would enable the Department to make regulations to provide for one or more tenancy deposit schemes to safeguard deposits that tenants pay in the private-rented sector. The clause would also place on landlords a number of obligations that relate to such schemes; for example, the timescale within which the deposit that is received from a tenant must be placed with the scheme and the information that they need to give to the tenant.

**The Chairperson:**

Would the Housing Executive hold deposits?

**Mr Sands:**

No. The proposal is that a different body or person would do that. Provisions currently exist in

England, where the tenancy deposit scheme is available. We might back on to something similar. No decisions have been taken on that yet, because we always want to take on board the Committee's considerations. However, the Housing Executive would not hold deposits.

**The Chairperson:**

It sounds like a good scheme. It might be useful to explain why the Department considers it necessary. I understand why, but it might be useful to refresh our memories.

**Mr Alastair Campbell (Department for Social Development):**

The scheme is intended to deal with cases of disputes on deposits; for example, in disputes about how much has been paid or whether any of it is to be returned. In some cases, an independent arbitrator will hold the deposit. In other cases, a bond will be offered. If there are any disputes, those independent arbitrators will look at them and try to resolve them. In England, two schemes have fairly good rates of doing that. One of those schemes usually resolves most disputes within 46 days, and the other resolves disputes within 20 days. Therefore, it is about having an independent arbitrator to make those decisions.

**Ms Ní Chuilín:**

The body that is responsible for the deposit scheme cannot be independent if it accepts deposits. Is that what happens in England?

**Mr A Campbell:**

They are non-profit and are not part of government. They take deposits and hold them. However, they do not work for either the tenant or the landlord.

**Mr Sands:**

In fact, they do not work for any of the housing bodies. That is what we think of as being independent.

**Ms Ní Chuilín:**

Therefore, does that mean that they do not work for anyone and that they are non-profit?

**Mr A Campbell:**

They will be regulated by the Department.

**Mr F McCann:**

In the South, a tenancy body was established to oversee the holding of deposits and the settling of disputes. That is a good idea. There is widespread abuse in the private-rented sector. We have to ensure that any such body that is brought in is, obviously, independent and has the experience to deal with that type of issue. Plenty of organisations exist that could do that. It is a matter of getting the mix right, which means being able to represent tenants while also giving the landlord a fair deal.

**Mr Sands:**

We agree totally with those comments.

I will deal with clauses 3 and 4 together, Chairman, if I may. Clause 3 would confer powers of entry on persons who are authorised by district councils to carry out fitness inspections under article 36 of the Private Tenancies Order. Where necessary, clause 4 would enable the Department to make regulations to modify certain provisions of the Order that relate to the determination of private sector rents. Under the existing system, that requires a change to primary legislation that would take at least 12 months to process. Rents that are determined by the rent officer remain protected, as do statutory rents and rents of unfit properties.

**Mr F McCann:**

Some councils that work under the Private Tenancies Order still say that they have difficulties with it and that elements of it have no teeth to allow them to pursue landlords who rent unfit properties. They may face small fines, which they just take on the chin and walk away from.

**Mr Sands:**

The devil will be in the detail, Mr McCann. We will have to make regulations to specify the Bill's provisions. That will be the opportunity to —

**Mr F McCann:**

Will they be laid out clearly?

**Mr Sands:**

Yes. Those provisions and penalties would be laid out.

Clause 5 would enable the Department to make regulations providing for the mandatory registration of private landlords. The clause would also introduce a number of offences on the provision of false information, letting of dwellings by unregistered persons and failure to provide evidence of registration.

The aim of the legislation is to achieve a regional landlord register, which, for the first time, would give local councils the means to communicate with private landlords, allowing the councils to work with those landlords to ensure compliance, raise standards and, where necessary, take enforcement action. The scheme will be light touch to avoid a disproportionately regulatory burden on the sector.

This is an appropriate point to mention that we plan to table a minor textual amendment to clause 5. There are two references in the clause to application for registration: one to “applications for registration”; and one to “applying for registration”. However, as this is a mandatory scheme, there will be no need for landlords to apply for registration. Therefore, we propose that those references be removed.

**Ms Ní Chuilín:**

We will wait to see the detail.

**Mr F McCann:**

As Michael said, the devil is in the detail.

**The Chairperson:**

The members are right. This is enabling legislation. We are not talking about the details of the scheme at this stage. Is the Department advanced in its planning for a scheme, or has it not

started work on that yet?

**Mr Sands:**

We have looked at the provisions that are required and at what we want to put into the regulations. Mr McCann is concerned at our reference to a light-touch approach. We want to make sure that it is fair and appropriate as far as the landlords are concerned and that it is not over-bureaucratic. You have to take cognisance of the fact that there are quite a few single household private landlords, so it is about making sure that we try to catch all of them.

**Mr F McCann:**

Michael is right. Quite a number of people own one, two or three houses. They go to great lengths to ensure that they provide good properties, because it is in their interests to do so. Whenever we talk about landlords, we are, by and large, talking about those who own hundreds of houses, some of which are in very poor condition.

I want to talk about a couple of elements. The fact that the Bill is an enabling piece of legislation puts on the long finger the possibility of the provisions' coming in within the lifetime of this mandate. It will be left to the whim of the next Assembly. I have some concerns about that. We are not dealing with a small sector. For the first time ever, this sector is bigger than the social housing sector. There are 140,000 houses in the private-rented sector. Not all those houses are in a bad condition, but those that are give the whole sector a bad reputation. As you say, Michael, the devil is in the detail, and we need to see what we are going to do with it.

One issue that needs to be included is the management companies that have sprung up over the past number of years. Private landlords and others are regularly using those companies to run their businesses, and some of them do so fairly badly. Not long ago, the Assembly discussed a motion on management companies and the abuse that is connected with them. That needs to be included in any Bill.

I thought that we could have plagiarised the Housing (Scotland) Act 2006, because I think that it is continually being added to. There may have been problems with it at the start, but I think that those have been rounded off, and it seems to be working fairly effectively. Some stuff has



come from the Scottish Parliament about how it initiated the Act. It seems satisfied that councils in Scotland are starting to find the right way to deal with the matter. We could have lifted from that Act, because it deals with compliance. They say that their scheme is “light weight”, but it deals with compliance, and there is a lot more in the compliance end to allow them to deal with non-compliant landlords.

**Mr A Campbell:**

There are three parts to that. I will begin with your comments on the enabling aspect of the Bill. While we have been taking the Bill through, we have been able to work on the details. The policy team expects to be able to take the regulations to the departmental solicitor as soon as the Bill receives Royal Assent. That should save us time. It is unlikely that we could have included the detail in primary legislation and then taken that through in this mandate. This way, we can get the enabling powers in this mandate and continue with the detail as soon as that happens. I hope that that answers the first part of your question.

**Mr F McCann:**

On the enabling end of it, the March before last, the Minister for Social Development said in the Assembly that regulations would be introduced in this mandate to help people to be able to deal with landlords. It has been a growing concern for us, because many of us live in areas where the private-rented sector has started to overtake the residential nature of the area.

**Mr A Campbell:**

I take your point, but it will be quite tight to even get the Bill through in this mandate. Therefore, we will work to get the regulations through as soon as possible afterwards.

With regard to your second question about management companies, the plan is to include letting agents in the register. Therefore, if a landlord employs an agent, their details will also be included in the register.

I think that your third point was about Scotland, and we agree that they have taken a good approach. Initially, they sensibly introduced the register for landlords, and it was only after it had been in operation for a while that they started to look at tougher compliance rules. Therefore, the

first step for us is to get the register up and running.

**Mr F McCann:**

I have to labour this point. There is a big difference between getting the registration scheme up and running and introducing compliance regulations. There could be years between those things happening. It has taken years to get the thing right in Scotland. If some of the regulations were lifted out of the Scottish model and introduced here, it would allow you to move at the same time. Also, from what I have read, there does not seem to be any time frame to say that, six or 12 months from the enactment of the legislation, all landlords will have to be registered. That needs to be included, because if it is open-ended, most of them will never register.

**The Chairperson:**

I understand your point, which is that you would like all landlords to register. The percentage of take-up for houses in multiple occupation (HMO) registration is very low, is it not?

**Mr F McCann:**

It will go on for ever.

**Mr Sands:**

Just yesterday, I queried with the Housing Executive the activity rate at which it is trying to achieve the targets that were set in the Programme for Government, in the HMO strategy and in the Housing Executive plan. It is not meeting any of those targets in any of the three documents. Therefore, we have already gone to it about that.

**Mr F McCann:**

That is down to the HMO landlords, but some people in the Housing Executive are trying to pursue the issue.

**Mr Sands:**

We are so concerned about it that I now get a report in my monthly meeting with the Housing Executive on exactly what it is achieving. I assure you that I will check with it on that issue.

**The Chairperson:**

That highlights the problem that Fra hinted at. You already have a form of registration for private sector landlords, but that is neither hitting its targets nor succeeding. There are also issues about landlords who have registered and say that they know that others have not. They also say that they feel that they are not getting a lot of out being registered. That is something that should be dealt with when we get into the detail. Undoubtedly, however, everyone who will register for the scheme will have to pay a fee, and they should feel that they are getting something for it. In fact, some people will have to pay quite large fees.

**Mr Sands:**

The Department shares your concern about that. I assure you that we have pulled the Housing Executive on that to try to get it to catch up, but it has come up with all sorts of excuses.

**Mr A Campbell:**

There is an amendment that we will come to later about information sharing that should give more information and address some concerns about rates and housing benefit.

**Mr F McCann:**

The mandatory registration is worth nothing if it does not include compliance rules. If you bring that in nicely without having whatever restrictions you need to introduce to ensure compliance, it will go nowhere.

**Mr Sands:**

We have to be careful. We will probably include in the regulations the requirement to register by a certain time. Compliance, difficulties and penalties will all be set out, and the Committee will have the opportunity to comment on all that.

**Ms Lo:**

Will landlords' details be open for public access on the register of landlords?

**Mr A Campbell:**

We do not plan for landlords' personal details to be made public, because there could be risks

with that. Those details will be held for the registrar and for prescribed people to be able to access it, but the details of the actual properties that they own will be on a public register.

**Ms Lo:**

If there were a lot of antisocial behaviour in a house and a neighbour wanted to get in touch with a landlord, how would they go about it?

**Mr A Campbell:**

I suppose that is more for the detail of the Bill, but I suspect that if they approached the registrar, he may be able to help them. However, it is tricky to say, given all the data protection issues that exist. It might be an issue that can be discussed later in the process, following the introduction of the regulations.

**Ms Lo:**

A lot of residents in South Belfast have problems in trying to find out who their landlord is to make complaints to them.

**The Chairperson:**

I do not want to get bogged down in the detail, but that is an interesting point. The point has been made that we are making the legislation and regulations will follow. Therefore, it is worth getting our thoughts going on the matter, and this is a chance to have some input into that process. If we want registration, there would be a requirement to have and maintain standards. We were talking about fuel poverty earlier, and the strategy in that area is talking about having certain standards in accommodation. Would you see mandatory registration as a means of ensuring that standards of accommodation are maintained? I appreciate that that would probably cause some concern among landlords, but others made the point that it must have some teeth, and, even if it is light touch, it has to be worth having.

**Mr F McCann:**

It has to be effective.

**Mr A Campbell:**

When I was looking at the legislation, I made a list of all the compliance laws that are already available to councils. There are quite a few, but the main issue that councils are having is the lack of information that they can use to apply those laws. That came out in the consultation on the private-rented strategy. I drew up a flow chart, which I am happy to share with you.

**The Chairperson:**

That would be very good. It would be useful for the Committee to have that. We know what we are doing here, and we are as frustrated as Fra. We are not adding meat to the bones at this stage, but it is useful for the Committee to start getting its head around what can be put into the scheme. We can then start to develop our thoughts on that.

**Mr Brady:**

I want to make the point that we are talking about a sector that gets in the region of £80 million a year in housing benefit, yet it is totally unregulated. That would not happen in any other sector where that amount of money is being paid by the Government. That is something that needs to be addressed.

**Mr Sands:**

This is the opportunity to start regulating this sector and to see how we move forward. Alastair talked about the provisions that currently exist, and we need to be careful about that, because we would not put into regulations a requirement that is already there. That would create a double standard. Therefore, if the Committee could look at the provisions that are currently in place, it would help us to see what else needs to be added to our regulations.

**The Chairperson:**

If nobody else wishes to comment, we will move on.

**Mr Sands:**

Clause 6 would allow landlords who have committed certain offences relating to landlord registration or tenancy deposit schemes the opportunity to discharge their liability through a fixed penalty. Although prosecution will remain an option, the provision would allow councils to

effectively penalise private landlords who cannot comply with the law without resorting to costly court proceedings in all cases. Councils can use the income from fixed penalties to offset the general cost of enforcement in the private-rented sector.

**Mr Easton:**

Would a fixed penalty be issued only for a first offence? What would happen if landlords kept doing it? Would you take them to court, or would you just keep issuing fixed fines?

**Mr Sands:**

The fixed penalty is the option that is available for a first offence. If landlords were to continue offending, we would not keep issuing fixed penalties. The cost of the fixed penalty would be no encouragement for them to do anything because of the rent that they would be collecting. Therefore, we would then go for prosecution.

**Mr Easton:**

How much would the fixed penalty fine be?

**Mr A Campbell:**

It would be one fifth of the maximum fine. It would depend on the offence, but it is helpful to have a fixed penalty. It is a good way of putting sanctions in place without having to resort to expensive court proceedings. It also means that, in essence, there is a minimum fine, which is one fifth of the maximum penalty. If the issue went to court proceedings, it is unlikely that the court would instruct that a fine be less than that.

**Mr F McCann:**

I was reading about a level 4 fine. Am I right in saying that that is £2,500?

**Mr A Campbell:**

That is right.

**Mr F McCann:**

We are talking about one fifth of that, so the fixed penalty would be around £500. People who

deal with HMOs have told me that landlords from that sector were getting a £1,000 fine, taking it on the chin and just going back to their bad habits. Therefore, a level has to be brought in to ensure compliance, because at the end of the day, in many ways, we are dealing with people's lives.

**Mr A Campbell:**

An amendment will be proposed to the Bill to increase the maximum fines for failing to register an HMO to £20,000.

**Mr F McCann:**

That is in the HMO sector. We are also talking here about the general private rented sector.

**Mr A Campbell:**

There is a difference between them.

**The Chairperson:**

We raised that issue about HMOs before.

**Mr Sands:**

Clause 7 would ensure that regulations relating to tenancy deposit schemes, landlord registration and determination of rents are subject to the draft affirmative resolution procedure. That will give the Committee the chance to have an input.

**The Chairperson:**

Therefore, that means that the Assembly will also have an input into that.

**Mr Sands:**

Clause 8 would provide that where the Housing Executive believes that a house is occupied by two or more qualifying persons who are not members of the same family, it may require evidence of a family relationship. Where such evidence is not forthcoming, the house would be treated as a house of multiple occupation and would be subject to the regulatory regime that applies to such accommodation.

**The Chairperson:**

What sort of evidence are you talking about, and what would constitute evidence?

**Mr Sands:**

Proof will be required that the inhabitants have a family connection, such as being brother and sister, for instance. That could be proven by birth certificate, driving licence, passport or whatever is available.

**The Chairperson:**

One way to prove it is by blood test. *[Laughter.]*

**Ms Ní Chuilín:**

Why do we not go for DNA?

**The Chairperson:**

I am not advocating those methods, by the way.

**Mr Stephen Baird (Department for Social Development):**

We are talking about documentary evidence.

**The Chairperson:**

That is fine. I did not want to think of teams of people in the Department running around after others.

**Ms Ní Chuilín:**

What about cohabitation? Is that regarded as a family relationship?

**Mr Baird:**

There are different legal definitions of family relationships for different purposes. Broadly speaking, a cohabiting couple would be treated as a married couple. On that basis, I think that it is likely that theirs would be treated as a family relationship.



**Ms Lo:**

I think that it extends to uncles and aunts; it applies not only to immediate family.

**Mr Baird:**

It would extend to what would be called an extended family, because we recognise that some households comprise an extended family. Essentially, any household that is occupied by a number of different adults is a house of multiple occupation. However, in instances in which those adults are related, whether that is through immediate family or extended family, the family should be capable of looking after its own affairs without government interference. That is why we would back away from cases in which the house is occupied by members of a family unit; we would not subject it to regulation. There is potential for disorganisation, hazards and non-compliance with the rules in those cases where a house is shared by adults who may never have met each other before, who may have no connection with one another and who may be leading independent lives. That is where regulation is required.

**Ms Lo:**

It can still lead to overcrowding.

**Mr Baird:**

Overcrowding is a separate issue, but my understanding is that there are mechanisms for dealing with overcrowding in houses in multiple occupation.

**Ms Lo:**

Some families have a number of aunts and uncles in the same place. There could be 40 or 50 people in one place. Look at Roma families, for example. They are closely related and closely knit. If all that is allowed, you could be talking about 40 or 50 people in a house, without any regulations.

**Mr Baird:**

That is true, but overcrowding will have to be looked at outside the scope of houses in multiple occupation.

**Mr F McCann:**

Why would that be? Anna's point is fairly valid. Why not capture it all together?

**Mr Baird:**

There are situations where there is an extended family that could be classed as a family home or as a house of multiple occupation. On the other hand, you could have a nuclear family, where there are two parents who have a very large number of children. There could be more children than is suitable for the house. That is in no sense a house in multiple occupation. Arguably, it is overcrowded, and it is also arguable that there is a case for regulation in that situation. However, HMO regulation would not catch it in any circumstances.

**Mr Sands:**

Clause 9 would insert a new ground for social landlords to withhold consent to an exchange of tenancies where certain orders or injunctions relating to antisocial behaviour are in force or are pending before any court. Housing Rights Services pointed out that, for the purpose of new ground 2A, the relevant orders listed in the clause should relate to antisocial behaviour. Therefore, we propose to amend the reference to injunctions against breach of a tenancy agreement to make it refer specifically to breaches that involve such behaviour. Again, the Committee raised that matter previously.

**The Chairperson:**

Members have no comment to make on that, so please continue.

**Mr Sands:**

The aim of clause 10 is to prevent the spread of antisocial behaviour. It allows a person to disclose information about the orders or injunctions mentioned in clause 9 to either the Housing Executive or to a registered housing association where such information is required to enable the landlord to make a decision about an exchange of tenancies or the right to buy. The clause also allows a person to disclose information about the above mentioned orders or injunctions to the social landlord where it is required to enable the landlord to make a decision about either the allocation of social housing accommodation, including transfers, or the provision of homelessness

assistance.

**The Chairperson:**

The Committee has spoken about antisocial behaviour a lot in the past, especially when it was discussing the Housing (Amendment) Act (Northern Ireland) 2010. I think that all members experienced or witnessed particular problems with antisocial behaviour both in their own constituencies and through the work that they do. One such problem was the sharing of information. Will information sharing between social landlords be permitted under the Bill? The old feeling was always that someone may have got rid of a problem but passed it on, and the first that the new social landlord knew that there had been a problem was when another developed.

**Mr Sands:**

When the 2010 Act was proceeding, I think that we agreed that it was not the right place for such provisions. We have now included them and are changing the housing association guide and the Housing Executive management statement on financial information systems so that there will be information sharing. I have started discussions with the PSNI about developing an information-sharing protocol with housing associations. One such protocol exists at the moment with the Housing Executive, and we are now introducing another one to allow housing associations to share information. That will mean that there will be total information sharing between the social housing sector and the PSNI, especially on antisocial behaviour.

**Mr F McCann:**

It is good to see that that will be included. Having talked to representatives of a number of housing associations, I know that they still have not taken that issue on board. There is still a duty of care to the applicant, more so than to the people who live in the surrounding area. The sooner that that is dealt with, the better. As I have said before, it is hard to believe that one bad tenant can destroy an area. Therefore, the question is how to legislate against that.

Unfortunately, I think that we will be coming back to subjects like this time and again. Therefore, all of us need to put our heads together to ensure that legislation is in place sooner rather than later to deal with anything that is to do with antisocial activity in a wider context.

**Mr Sands:**

We would have no difficulty at all with that.

**The Chairperson:**

I do not think that members have anything to add to that.

**Mr Sands:**

Clause 11 would end a legislative anomaly by providing that the Housing Executive's duty to homeless persons shall come to an end if the applicant ceases to be eligible for assistance. The purpose of that change is simply to make it clear that the Housing Executive has no statutory duty under homelessness legislation to persons to whom it cannot legally allocate accommodation due to immigration-related legislation. Again, that is another issue that the Committee raised previously.

**The Chairperson:**

It is. However, as matters presently stand, the Executive faces the choice as to which law it wants to break. Therefore, this will take away one of those choices.

**Mr Sands:**

It will force it down a particular route.

**The Chairperson:**

Yes, it will. There are understandable issues and concerns with the matter. However, it has to be done.

**Mr Sands:**

It is Home Office legislation. Therefore, we cannot actually change the provision. I think that the Minister is well aware of that issue.

**The Chairperson:**

I do not think that any member has any further comment to make on that.

**Mr Sands:**

We touched on the subject of clause 12, which enables the Housing Executive to submit for departmental approval a scheme for brokering arrangements with energy providers for the supply of energy to the Executive's tenants. The intention is to give the Housing Executive the powers to try to drive down the cost of energy for tenants. We propose to table another minor amendment to clause 12. The Housing Executive has indicated that it could be useful for it to have a broader definition of energy. We, therefore, propose to amend the clause to enable the energy-brokering arrangements to include other means of producing heat or any other form of energy that is capable of producing heat, such as sustainable energy provisions, etc.

**The Chairperson:**

I think that this is very good stuff. It is something that starts to empower consumers much more. Initially, I thought that it was a bit fanciful. In truth, however, anything that empowers people to drive down energy prices is exactly what the system in which we operate is about. It is about trying to give consumers a helping hand. The issue that I have with the clause is that it does not give all consumers in social housing the power. The Housing Executive is OK; it has 90,000 properties. Housing associations are a significant section and are increasingly so. Are they not included in this?

**Mr Sands:**

They already have that power. Under article 15(3) of the Housing (Northern Ireland) Order 1992 registered housing associations have powers to undertake energy brokering. As you know, we pushed them down the procurement route and asked them to brigade together in three groups. We have got them moving as far as the newbuild provision is concerned, and our intention is to move that down to maintenance and energy brokering and so forth. That will ensure that they are using "Tesco power", as we refer to it, with them.

**The Chairperson:**

I have seen no evidence of it, but that does not mean that it has not happened. Is there no evidence of them using that power?

**Mr Sands:**

Not at this point.

**The Chairperson:**

How long have they had the power?

**Mr Sands:**

It is in the 1992 Order.

**The Chairperson:**

We have been badgering on about fuel poverty and measures to address it. We have 30,000 homes in a sector, and the power exists already. We have been talking about bulk buying from one supplier, but the report in which the Housing Executive and the Department were involved and which was published recently, talked about preferential schemes through which a 10% discount could be given by a named gas supplier or a named electricity supplier. It is something as simple as that. It does not need to be bulk buying; it can be a discount according to usage, for instance.

**Mr Sands:**

The difficulty is that, since 1992, there was no competition for energy suppliers, because there was one electricity supplier and one gas supplier. We are getting two gas suppliers in the Province next year.

**The Chairperson:**

There are a lot of oil suppliers.

**Mr Sands:**

There are two electricity suppliers now. Therefore, the scope exists for them to do it now. It is our intention, along with the Housing Executive, to play one off against the other. We will ask the supplier what discount it will give if we move 10,000 clients to its company. That is the bargaining power that was not available previously.

**Mr F McCann:**

Was there already a discount for electricity supply between the Housing Executive and NIE?

**Mr Sands:**

I am not sure.

**Mr F McCann:**

I thought that there was a 10% discount.

**Mr Sands:**

I am not sure, but I will check that for you.

**The Chairperson:**

Recently, I saw that the Ulster Farmers' Union had done a deal for preferential rates with one of the gas companies. Therefore, farmers' organisations are doing that, and I thought that it would be more obvious for housing associations to be doing it.

**Mr Sands:**

We now have that scope. Previously, they were acting independently. They are now brigaded into three procurement groups. Now that we have got the newbuild up and running, one of the elements that the Minister is keen to push the idea of pooling them together for anything at all that housing associations have to procure in their own right, such as maintenance and legal services, so that they can do so collectively.

**Mrs M Bradley:**

You mentioned that some of the housing bodies were under that 1992 Order and that none of them had acted on it.

**Mr Sands:**

There has not been the scope. We introduced the provisions, but there was only one electricity supplier and one gas supplier, so they did not have to give any discount. Now that there is competition in the market, we can play one off against the other.

**Mrs M Bradley:**

They will have to do it.

**Mr S Anderson:**

Is it intended to move into the private sector eventually? Many people who live in fuel poverty rent in the private sector. Would that be a way to encourage registration in that sector? If such a scheme were set up, would private landlords want to come on board and register? We discussed that earlier. There could be some sort of system that would feed into that sector as well.

**Mr Sands:**

We cannot legislate for the private sector in that regard. However, where we have already provided or negotiated successfully a deal with a certain company, there may perhaps be an opportunity for private landlords to do so voluntarily —

**Mr S Anderson:**

That could be encouraged.

**Mr Sands:**

Yes. To encourage further use —

**Mr F McCann:**

Perhaps that should be in the Bill.

**Mr S Anderson:**

Perhaps it should. We discussed getting landlord registration. Perhaps there is no better way to do that than through a provision in the Bill for the Housing Executive and housing associations. Perhaps that would encourage private landlords to come on board.

**Mr Sands:**

It is the old story with that — the more the merrier. The more who are involved, the bigger the attraction to negotiate —



**Mr S Anderson:**

A better deal.

**The Chairperson:**

I am sorry; it is impossible to compel landlords.

**Mr Sands:**

Exactly. You cannot compel them.

**Mr F McCann:**

Sydney raised a good point. Can you imagine the negotiating power of a body that represented the private-rented sector, where there are 140,000 houses? That would have great benefits for tenants.

**The Chairperson:**

It could include some of the bigger landlords.

**Mr Sands:**

Yes. Perhaps we could look at the Landlords Association to see whether there is sufficient interest. You cannot force landlords, however. If costings were attractive enough —

**Mr F McCann:**

Did I hear you say, “not yet”?

**Mr Sands:**

No. I do not think so. *[Laughter.]*

**Mr S Anderson:**

Good try.

**The Chairperson:**

We are close to the time when we will have to take a break for the remembrance service. Perhaps we can get through the rest of the clauses. We will park it and then come back to the other amendments.

**Mr Sands:**

There is only really one clause left to discuss; the rest are more technical provisions. Clause 13 would grant district councils the authority to promote energy efficiency in residential accommodation in their own districts. That recognises that a number of councils have undertaken a range of actions on energy efficiency and fuel poverty, and it seeks to formalise that position. As the Housing Executive is Northern Ireland's sole home energy conservation authority, councils will also be required to take account of its work in that area and provide it with information as required. Again, it is pushing the same themes on energy efficiency.

**The Chairperson:**

Is that fair enough, members? Am I right to say that the next few clauses are quite technical?

**Mr Sands:**

Clauses 14 to 17 set out the repeals in the Bill. They would enable the Department to make provision on the commencement of clauses 1 to 14, provide definitions for terms that are used in the Bill and establish the Bill's short title.

**The Chairperson:**

OK. Fair enough. Do you want to talk about the other amendments quickly?

**Mr Sands:**

Yes, certainly. During the Second Stage debate on the Bill, the Minister indicated that we would examine the scope for tabling amendments to cover issues that were included in the consultation paper but were excluded from the Bill due to lack of time. Members have raised that issue.

Of those, there are a variety of technical amendments that it may now be possible to take forward and that we feel will help to improve existing legislation. They include the repeal of the

rent surplus fund, which removes the requirement for housing associations to carry out certain accounting procedures for which there is no longer any need. The amendment that relates to the service of documents simply ensures that there is clear legal cover for the Housing Executive to serve legal documents by post. There are amended procedures for dealing with abandoned tenancies, and those will allow the Housing Executive and other registered social landlords to regain possession of abandoned houses that are let under secure and introductory tenancies without being required to enter the premises, which they are currently required to do. There is the introduction of indemnities for Housing Executive staff, whose duties require them to be involved in the governance of housing-related institutions and bodies that are outside the Housing Executive. There are improved partnership arrangements that would allow the Housing Executive to work in partnership with other persons and bodies if the arrangements are likely to lead to an improvement in the way in which certain functions are exercised.

I mentioned a number of minor technical amendments on energy brokering, community safety and landlord registration provisions that better reflect the policy intention. The Housing Executive will also be granted the power to enhance community safety. As you know, from time to time, the Housing Executive participates in crime prevention initiatives, but it has no legislative power to do so. The amendment would provide the Housing Executive with statutory authority to take action to enhance community safety.

I do not propose to go into those in detail. I will, of course, be happy to answer any specific questions that members may have. The written briefing also contains more details on each of the amendments that are being taken forward. Do you want me to continue?

**The Chairperson:**

I think that members are happy enough with all that. Is there anything else left to do?

**Mr Sands:**

There are other, more significant amendments that I want to focus on. That would give you the opportunity to discuss them.

**The Chairperson:**

In that case, we will have to take a break.

**Mr F McCann:**

I want to make one point. I noticed that the Housing Rights Service paper actually mentions two old friends of ours: “may” and “shall”. We need to come back to that.

**The Chairperson:**

We can come back to that later. We will suspend the meeting now and come back at around 11.15 am. Thank you very much.

*The meeting was suspended at 10.35 am.*

**The Chairperson:**

Michael, when we left it, we had gone through the other amendments, and you said that you had some more substantive points to raise.

**Mr Sands:**

As you said, before the break, I covered a variety of technical amendments. There are some more significant government amendments that focus on the private-rented sector and dealing with antisocial tenants. The provisions that they cover include extending the notice to quit. The lack of security of tenure can be a problem for tenants who are seeking a long-term housing solution in the private-rented sector. The amendment will offer increased protection where a tenancy has lasted for more than five or 10 years. Tenancy of accommodation that has been lived in for over five years will be given eight weeks’ written notice, and those whose tenancies have lasted for more than 10 years will be given 12 weeks’ notice.

The private-rented sector can be relatively short-term transitional tenure for some tenants. Therefore, where a tenancy has lasted for less than five years, the notice period will remain as four weeks. The amendment will provide greater security of tenure for longer-term private sector tenants, along with a more reasonable period in which to find alternative accommodation, should their tenancy be brought to an end.

The maximum fine for non-compliance with HMO registration will be raised to £20,000 to ensure that it will stand as an effective deterrent. The current fine for non-compliance cannot exceed £2,500, and, given that landlords may obtain rental income for each tenant of at least £200, operating illegally is currently worth the risk of a fine. We mentioned that in the Committee this morning. The amendment will make the penalty for non-compliance with the HMO registration process a much more effective deterrent.

The proposals for structured guidelines to apply in repossession cases involving antisocial behaviour are intended to ensure that, where the court is considering making an order for possession on the grounds of antisocial behaviour, judges will consider not only the effect that making the order could have on the tenant but the effect that the tenant's behaviour has on their neighbours. That will help to ensure balanced and consistent decision-making.

Where legal advice is concerned, the Department hopes to table an amendment to provide for the creation of an information gateway. The private-rented sector strategy highlighted a lack of information on the identification and location of private landlords. That currently makes compliance and enforcement activity difficult for local councils. Although landlord registration would help the Department to build up that information, the availability of existing information in government could significantly assist that. The amendment would enable information relating to housing benefit and the payment of rates, held by the Northern Ireland Housing Executive and Land and Property Services, to be shared with the Department and other relevant bodies to assist the enforcement of private sector housing functions under the Private Tenancies (Northern Ireland) Order 2006 and the Rent Order (Northern Ireland) 1978.

The Department seeks to table an amendment to provide for the payment of deposits to tenants. The legislation currently penalises landlords who fail to meet certain requirements relating to a tenant's deposit. The amendment would ensure that, as well as being penalised for committing an offence, the landlord in question would also be compelled to return deposits to the tenant.

The written briefing with which we provided the Committee indicates that we were seeking

legal advice on all those issues. I am happy to say that we have received that advice and are now working through any relevant issues. We are now confident that that will enable the amendments to be included in the Bill.

I hope that I have provided a decent overview of the Bill and the proposed government amendments. We look forward to answering any further questions that you may have, and we hope that the evidence sessions over the coming weeks are productive.

**The Chairperson:**

Thank you, Michael. Do members have any questions?

**Mr Easton:**

I have a question on the eight weeks' notice for tenants of over five years. Would that be given if the Housing Executive was chucking somebody out?

**Mr Sands:**

It would be for private tenants.

**The Chairperson:**

Everybody seems satisfied. There must be something wrong; we will find it yet. *[Laughter.]*

**Mr Sands:**

We do not normally get off so lightly.

**Mr F McCann:**

We have not finished yet. You still have to come back. *[Laughter.]*

**Mr Sands:**

The devil is in the detail, Mr McCann.

**Mr F McCann:**

Whether it is "may" or "shall".

**Mr Sands:**

On that, we are happy to go with whatever the Committee sees fit.

**The Chairperson:**

We can look at the wording when we go through the clauses.

Michael, Stephen and Alastair, thank you very much for your time. We appreciate your help.