

Future of the Private Rented Sector Final Report



Prepared for

The Housing Agency
on behalf of the
Private Residential
Tenancies Board

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Any errors or omissions in the report are solely the responsibility of the authors.

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GLOSSARY OF TERMS

ANIL	Agence National pour l'information sur le logement (France)
BER	Building Energy Rating
Build to Rent Fund	Launched in the UK in 2012 with the aim of attracting large institutions to invest in the private rental sector by providing equity finance to investors for purpose-built private rented housing
CBO	Congressional Budget Office (USA)
DCLG	Department for Communities and Local Government (UK)
DECLG	Department of the Environment, Community and Local Government (Ireland)
Duflot tax	Incentive which was introduced in 2013 is designed to increase the supply of accommodation in the private rented sector in France
Housing Debt Guarantee Scheme	Offers developers a government guarantee on debt raised to fund the development of new private rented properties in the UK
HRI Scheme	Home Renovation Incentive Scheme - provides for tax relief for homeowners, by way of an income tax credit at 13.5% of qualifying expenditure on repair, renovation or improvement works carried out on a main home by qualifying contractors
IRL	Indice de reference des loyers (France) - a benchmark index for rent
IRS	Internal Revenue Service (USA)
ITSP	Interim Tenancy Sustainment Protocol
Laender	The sixteen constituent states which make up the Federal Republic of Germany
LIHTC	Low Income Housing Tax Credit - provides a tax incentive to the private market in order to stimulate investment in affordable rental housing (USA)
LPT	Local Property Tax
Mietspiegel	Tables Reflecting Local Rents (Germany)
NESC	National Economic and Social Council
NPPR	Non-Principal Private Residence
NRAS	National Rental Affordability Scheme (Australia)
PLA-I	Pret Locatif aide d'intégration (France) - loans that can be used for the construction, acquisition or renovation of social rental dwellings
PLI	Pret Locatif Intermédiaire (France) - a subsidised loan that social rental and market rental landlords can use to finance the building or acquisition of rental dwellings in the upmarket part of the intermediate sector
PLS	Pret Locatif Social (France) - a subsidised loan that social rental and market rental landlords can use to finance the building or acquisition of rental dwellings in the intermediate rental sector
PLUS	Pret Locatif a Usage Social (France) - loans that can be used for the construction, acquisition or renovation of social rental dwellings
PPRR	Principal Private Residence Relief
PRTB	Private Residential Tenancies Board
RAS	Rental Accommodation Scheme
REITs	Real Estate Investment Trusts
TENLAW	Tenancy Law and Housing Policy in Multi-level Europe (EU Funded Project)
WoFG	Regulator of supports for the provision of social housing (Germany)
Wohngeld	Housing Allowances (Germany)

EXECUTIVE SUMMARY

This assessment of the future of the private rented sector comprises the second of two reports¹ which set out to explore the policy options required to ensure a sustainable private rented sector into the future and one which can play a vital role in accommodating a wide range of households in affordable and good quality accommodation

- There is no doubt that a fully functioning and efficient private rented sector is an essential component of the housing mix in any economy. Following the costly lessons of a housing policy which promoted home ownership for over a decade until 2007, the Government's Housing Policy Statement of June 2011² firmly recognises this requirement and talks about a new vision for the future of the housing sector in Ireland. The vision set out is to be one 'based on choice, fairness and equity across tenures and on delivering quality outcomes for the resources invested'.
- While home ownership will continue to be the tenure of choice for the majority of households, the policy statement recognises that 'a balanced housing sector needs a strong, vibrant and well-regulated private rented sector'. The policy statement provides a commitment to making the rented sector a stable and attractive housing option for all who wish to rent in the short and long terms. This outcome would see the private rented sector firmly embedded alongside the other channels of housing provision, notably local authorities, the not for profit voluntary sector and the private owner occupied sector.
- Movement in this direction was commenced back in 2004 with the establishment of the Private Residential Tenancies Board (PRTB) under the Residential Tenancies Act of 2004. The Residential Tenancies (Amendment) (No.2) Bill 2012³ will build on current legislation, which will be extended to include tenancies in the voluntary and cooperative sectors, the inclusion of a deposit protection scheme and other issues around governance and regulation. This Bill when enacted is expected to go a considerable way towards setting down a common set of rules and equalising the treatment of all tenancies (excluding local authority tenancies), a key objective of government policy.

The demands on the private rented sector have increased substantially in recent years, with almost one in five households now in the private rented sector compared with one in ten in 2006

- The private rented sector provides housing for a wide range of households, many of whom previously would have had their accommodation needs met by the owner occupied or social housing sectors. Since the collapse in property prices during the recession, the sector has accommodated those households who have postponed house purchase due to a variety of reasons. More recently as a result of legacy issues in the home ownership sector, the private rented sector is accommodating those households who have lost their homes. Others relying on the private rented sector include students as well as individuals and households who choose to rent by choice.
- The bulk of persons in the private rented sector were aged between 25 and 34 years. Of those individuals living in private rented accommodation, 61% were single, while 30% were married.
- The tenure choice decision is strongly influenced by the relative cost of tenure for younger age cohorts as well as by a number of individual characteristics including education, marital and family status, labour

¹ The first study *Rent Stability in the Private Rented Sector* specifically focused on options to address the recent escalation in rents and set out a range of rent regulation models and other options to address rent stability in an Irish context, should a political decision be made in favour of rent regulation. These options are included for completeness with the option which arise from the second study. The core underlying assumption in the first report was that housing supply would not increase in the short term and thus what is needed are some quick fix solutions to address the escalation in rents in Dublin, particularly for low income households

² Housing Policy Statement, June 2011, available at <http://www.environ.ie/en/DevelopmentHousing/Housing/HousingPolicy/>

³ <http://www.oireachtas.ie/viewdoc.asp?fn=/documents/bills28/bills/2012/6912/b6912d.pdf>

market status, income, location and the supply of property. Changing expectations are also important for households, while the recent reversal in house prices may weaken the incentive for renting.

- However, the rented sector has to be seen not just a transition to home ownership but more of a long term stable housing option for those who want to rent, whether single persons, families or older people, and those who have no choice for a range of reasons. This will require a positive image for the sector to be promoted, both amongst tenants and landlords.
- A key issue for the sector is the extent to which the recent growth in the sector can be expected to prevail in the future.

The results of the RED C survey showed that awareness of the PRTB is highest amongst landlords but only 64 per cent of tenants had heard of the PRTB while 40 per cent of tenants do not know if the property is registered with the PRTB. Other results are summarised below.

- The majority (65%) of landlords indicate that they are currently working fulltime while on average respondents have been landlords for close to nine years. Based on responses to the survey it is estimated that 36 per cent could be classified as ‘accidental’ landlords.
- The private rented sector is a very fragmented sector, with the majority of landlords, some 65 per cent, owning just one property, 82 per cent having two or less and almost 91 per cent having three or less.
- Over 70 per cent of landlords reported that they have an outstanding debt on the property. Of this group, 71 per cent state that the rental income received does not cover the mortgage or loan repayment.
- Close to a third (29%) of landlords intend to sell their properties as soon as they can. This is particularly the case with more recent landlords, 36 per cent of whom intend to sell as soon as they can.
- Striking results from the tenant survey show that only 17 per cent of respondents are happy renting and could see themselves renting long term, with 73 per cent intending on leaving the sector over the next 2 years. Also a third of tenants agreed with the statement that they are not fully aware of their rights as a renter.
- The inability to afford the purchase of a house is the main reason for renting (68%). These results suggest that a substantial proportion of tenants rent while waiting to buy their own home.
- It is also worth noting that close to 30 per cent responded that they would be happy to rent if there was the possibility of a long lease (3-4 yrs), while 45 per cent agreed they would be more likely to rent long term if there was rent stability (rent agreed for 3-4 years).
- Estate agents surveyed by RED C indicated that 7-12 month rental agreements are the most common in Ireland, but that agreements for longer durations are in demand.
- Close to 70 per cent of estate agents hold the view that tenants are not aware of their responsibilities, and close to 35 per cent responded that tenants are not aware of their rights. 46 per cent of estate agents found that tenants’ wanting a longer lease is one of the most common issues they have to deal with. Two-thirds of estate agents believe that landlords will be looking to sell their rental properties when prices rise, while 42 per cent stated that more regulation would deter landlords from entering the rented sector.
- The RED C survey of estate agents finds that many of the dealings that estate agents have with landlords or tenants are about inspections and conditions of the rental property.

Net residential property yields have ranged between around 3 per cent and 9 per cent over the past almost twenty five years and are currently over 4 per cent

- Investors in the residential property market expect to get in return a combination of capital appreciation and a rental yield, which is sufficient to cover the cost of their investments. However, for property investments leveraged through a mortgage, repayments can add significantly to total operating costs, particularly and more recently for investors switching to principal and interest repayments after ten years.
- The escalation in the number of buy to let arrears cases to around 40,000 is having a negative impact on tenants and is an issue which requires an immediate solution if the existing stock of properties is to be retained within the sector.

32 per cent of PRTB tenancies are on State Support schemes

- It is estimated that around 99,000 households receive State support for housing in the private rented sector, or 96,207 (32%) of all PRTB registered tenancies, when leased properties are excluded⁴. These figures exclude the 103,016 dwellings let by local authorities⁵ as well as the over 27,000 properties mentioned previously, which are managed by AHBs.
- The key issue is that a small proportion of the above households comprise some of the most vulnerable social housing applicants whose needs are not best catered for in the private rented sector. The increasing reliance on some of these schemes for this group of vulnerable households is an unsustainable model. There is the related issue of the lack of support services for them in the private rented sector. The long term vision for a more balanced housing system must include a social housing sector where these households can be better served and supported in terms of their complex needs through the provision of safe and secure housing from local authorities and/or approved housing bodies in the voluntary sector.

The arrival of REITs on the Irish residential investment landscape is a significant move towards professionalising the private rented sector

- REITs have many benefits for tenants as they generally have higher standards of estate management, maintenance and regulatory compliance than private landlords. They provide related services to the tenant and are likely to avoid disputes at all costs as their commercial remit requires them to maximise their rental income without any interruption. As they tend to be long term players in the markets where they operate, there may be potential for offering longer leases to tenants who wish to be long term renters.
- REITs and other institutional investors will be limited in terms of their penetration of the market, both geographically and in terms of the shortage of large scale residential blocks available in suitable locations. They will primarily be constrained by the net income yields in the market, which are likely to reduce over time, given recent property price inflation. As large scale residential investors, they do have a role to play in looking after the mid to upper end of the market in key locations as well as bringing much needed finance into the market at a time when public sector funds are constrained. As such, consultations suggest that REITs could potentially be expected to provide around 3,000 units per annum to the private rented market over the next five years.
- While the Department of the Environment, Community and Local Government (DECLG) and the Housing Agency have been charged in *Construction 2020* with developing a national policy towards professionalising the private rented sector, this needs to recognise that a sustainable private rented sector needs a mix of providers who can cater for the different segments of the market across different locations.

⁴ This 32% is derived using the latest figure for PRTB tenancies of 300,543 (2014), as a proxy for households and excluding the 2,557 units under the leasing scheme, which do not have to be registered with the PRTB.

⁵ The DECLG 2012 figure for the stock of local authority dwellings is 132,485 and compares with the Census 2011 figure of 129,033 (Table 3.1). The figure of 103,016 for local authority dwellings excludes the 29,469 properties leased under RAS, which are also counted in the DECLG figure.

- Separately there is also likely to be a role for Approved Housing Bodies (AHBs), who have a long track record in property and estate management, in the management of investor properties for institutional and professional investors. Indeed some AHBs are doing this already, a development which would support the further development of mixed tenure communities.
- It is noteworthy that in Germany, where REITs were launched following legislation in 2007, they have been excluded from having housing in their property portfolios and any residential element in mixed use schemes has to be less than 50 per cent. The concern was that REITs would operate less in the interest of the tenant than existing institutional arrangements.

Approved Housing Bodies have an important role to play in providing a supply of affordable housing for vulnerable groups, thus taking pressure off the mainstream private rented sector

- The development of an incentivised multi-annual (3 to 5 years) housing development programme for approved housing bodies, which would provide certainty as to their funding allocations under the Capital Assistance Scheme (CAS) and the Capital Advance Leasing Facility (CALF) and set specific housing targets, would significantly increase the sector's capacity to attract private finance and meet the increasing demand for social housing.
- The development of a cost rental model which could operate in the social housing and private rented sectors could potentially reduce the State's exposure to market rents. The idea with cost rental is that the rents charged are sufficient to cover the current and capital costs associated with providing rental units and as these costs will fall over time, cost-based rents should also fall as the stock of dwellings matures. In other countries such a system of rent is often supported by public guarantees of borrowing, interest subsidies and low interest loans to cover some of the costs and grants, but the predominant source of finance is private borrowing. The development of cost rental is more likely to be a longer term solution for the lower end of the market and could potentially facilitate a wider role for AHBs. However such a system should be fully examined and the potential role for and impact of cost rental in developing mixed tenure communities should be evaluated in an Irish context.

Future projections on the size of the private rented sector will depend on a range of factors including the relative cost of renting versus buying as well as macroeconomic conditions

- The effects of the building boom of the late 1990s and 2000s are clearly reflected in the age of the housing stock across the occupancy modes. The accommodation in the private rented sector is relatively modern, with 62 per cent of the rented stock being approximately 20 years or younger.
- A number of alternative scenarios are presented for the future size of the private rented sector assuming continued population and household growth. Should the sector continue to increase at the same rate of growth as in the previous two Census years, it would account for 473,360 households or over 25 per cent of households by 2020. Lesser growth forecast assumptions range from the sector maintaining its current share of 18.5 per cent, reaching 343,418 households by 2020, down to a moderation in its share back to its long run average of 16.5 per cent or 304,435 households.
- Although the RED C survey of tenants reported that 15 per cent of tenants intend to leave the sector, information on the number likely to form rented households over the coming years is not available and is likely to be influenced by a range of factors outside the remit of this study. The relative cost of renting or buying will be a key determinant as will economic, employment and income trends and the availability of property.

Regulation is typically concerned with three issues: rent control, security of tenure and the quality of accommodation

- Regulations in the private rented sector are generally introduced in an attempt to address some kind of market failure by changing the behaviour of landlords and/or tenants.
- The rights and responsibilities of landlords and tenants in Ireland are provided for in the Residential Tenancies Acts 2004⁶ and 2009⁷.
 - Tenants must pay their rent on time, keep the accommodation in good condition, inform the landlord of any repairs that are required, allow access for the repairs to be carried out and must not engage in any anti-social behaviour.
 - Landlords must carry out repairs when necessary, provide a point of contact for the tenant, insure the structure of the dwelling, refund deposits unless there is damage or rent owing and not penalise tenants for making complaints, etc.
- Rents may not be greater than the open market rate⁸ and may be reviewed upwards or downwards once a year only, unless there has been a substantial improvement or deterioration in the nature of the accommodation (neither is defined) that warrants a review.
- Under the Statute, security of tenure is based on 4-year cycles, with notice periods ranging from 28 days, during the first six months, to 112 days by the landlord and 56 days by the tenants, for tenancies longer than 4 years or Part 4 tenancies.
- It is the responsibility of Local Authorities to inspect rented properties and enforce standards regulations to ensure they are in compliance with the Housing (Standards for Rented Houses) Regulations 2008 and the Housing (Standards for Rented Houses) (Amendment) Regulations 2009. Two issues are relevant here: the quality and pace of inspections.

Average number of inspections was approximately 20,000 properties per annum in the last five years

- Despite slight decreases in 2011 and 2012, the number of inspections taking place has been on an increasing trend since 2005 and totalled 21,223 in 2013. The percentage of dwellings found to be in breach of regulatory requirements after inspections has also been on a steep upward trend since 2010 and reached 47 per cent in 2013. However, this may be due to the targeting of specific concentrations of rented properties which were deemed to be at risk. Moreover, legal action is initiated very rarely against landlords in breach of regulations.
- The four local authority areas in Dublin accounted for 28 per cent of inspections in 2013. The percentage of inspections finding breaches of regulations has been increasing across all of the Dublin areas. In 2013, 84 per cent of inspections found breaches in Fingal, while the figures for Dun Laoghaire-Rathdown, South Dublin and Dublin City were 52 per cent, 49 per cent and 42 per cent respectively. However, 100 per cent of the 17 inspections carried out in Louth, for example, were in breach of the standards in 2013. Leitrim and Offaly had the next lowest number of inspections in 2012, of which 54 per cent and 62.5 per cent were in breach of standards.

⁶<http://www.irishstatutebook.ie/pdf/2004/en.act.2004.0027.pdf>

⁷<http://www.irishstatutebook.ie/pdf/2009/en.act.2009.0002.pdf>

⁸ Section 19 of the Private Residential Tenancies Act 2004 defines the open market rate as “the rent which a willing tenant not already in occupation would give and a willing landlord would take for the dwelling”.

Rent arrears (35%) and deposit retention (32%) were the two most common issues raised in dispute applications in 2013

- The PRTB offers dispute resolutions services to landlords and tenants through mediation, if both parties agree, or an adjudication hearing. Parties to a dispute can reject the outcome of the mediation or the decision of the adjudicator and appeal to a Tenancy Tribunal. Failure to comply with the Tenancy Tribunal order can result in the Board seeking enforcement through the courts.
- In 2013, there were 2,861 applications for dispute resolution received by the PRTB. Of the applications received, the main issues related to rent arrears (999 or 35%) followed by deposit retention (903 or 32%).
- The average length of time it takes to process a dispute and issue a determination order has decreased from 18 months in 2008 to 5 months in 2014, which was still considered a long time in the consultations. In cases involving the tenant not paying rent, the non payment of rent over this period can have serious consequences for landlords as can the over holding of deposits by landlords.

New legislation committed to establishing a Deposit Protection Scheme

- The Residential Tenancies (Amendment) (No. 2) Bill⁹ amends the Residential Tenancies Acts of 2004 and 2009 and brings tenancies from the Voluntary Housing sector under the remit of the Residential Tenancies Board (which will be renamed from the Private Residential Tenancies Board) for the first time. Its enactment will require all tenancies in the Voluntary Housing sector to be registered with the Residential Tenancies Board. This will result in housing associations being granted access to the dispute resolutions services, currently only available to private sector tenancies. As is currently the case in the private sector, voluntary sector landlords will be responsible for registering tenancies with the Board and both landlords and tenants will have to supply their PPS number as part of this process.
- Deposit retention was one of the largest dispute categories (after rent arrears) before the tribunal in 2011, 2012 and 2013. A major development and probably the most significant since the establishment of the PRTB, is the introduction of provisions for a Deposit Protection Scheme as an amendment to the Residential Tenancies Bill, which will be operated by the PRTB. The scheme will operate along the lines of a custodial model in which the PRTB will hold deposits for the duration of the tenancy. Where there is agreement between the parties, the PRTB will repay the deposit at the end of the tenancy. Where there is no agreement between the landlord and tenant on how the deposit is to be repaid, the parties may apply to the PRTB for dispute resolution. This measure is expected to reduce disputes relating to deposit retention.

Consultations suggest existing legislation is complex and difficult to understand

- Observations were made during the consultation process that the Residential Tenancies Act 2004 is complex and difficult to understand. This raises issues for compliance, particularly given that around 84 per cent of landlords have one or two properties. In particular, it was noted that the following areas in the legislation were a cause for concern: the lawful termination of tenancies, tenants' entitlement to security of tenure for up to four years, and the circumstances in which rent may be increased.

The fiscal changes in the period between 2007 and 2014 have increased substantially the tax burden on the part of landlords

- The fiscal changes in the period between 2007 and 2014 have increased substantially the tax burden on residential landlords, particularly for those landlords with borrowings taken out in relation to the purchase of investment properties. The restriction on deductions and increased tax [including USC and local property taxes] charges may justify increases in gross rents of approximately 20 per cent to 24 per cent, depending on the personal circumstances of a landlord.

⁹<http://www.oireachtas.ie/documents/bills28/bills/2012/6912/b69b12d.pdf>

The tax regime for landlords investing in the residential investment sector is in the main less favourable than for investors in commercial investment property.

- The main disadvantages arising are in relation to investors of residential investment property who are seeking to utilise borrowings to assist with the purchase of such properties. An interest deduction of 75 per cent as against 100 per cent for the commercial rental sector is the main disadvantage, although the lack of deduction for local property taxes also represents a less favourable position for landlords.
- Without levelling the investment outcomes for individuals leveraging such purchases with investment in the commercial property sector, there is a potential barrier to entry for investment into the private rental sector.

Ireland has only half the proportion of the population in the private rented sector compared to Germany but has the same proportion as in the UK.

- The PRS varies in both scale and importance across countries worldwide. The structure of housing systems across the jurisdictions covered tends to be influenced by a number of factors, including demographics, financing conditions and funding, the availability of alternative tenures and housing supply, as well as by policy changes outside the housing sector.
- In many of the European countries selected for consideration in this study, the population residing in the private rented sector is larger than the EU27 average of 12 per cent. The exception is the Netherlands where only 8 per cent of the population reside in the private rented sector.

Housing Tenure (%) for Selected Countries

	Owner Occupier	Private Rented	Social Rented	Rent Free/Other
Belgium	63	23	9	5
France	58	22	15	5
Germany	40	36	22	2
Ireland	72	18	7	3
<i>Ireland (Households) *</i>	70	19	9	3
Netherlands	58	8	31	3
Sweden	58	23	14	5
UK	58	18	20	4
EU27	66	12	12	4

Source: European Quality of Life Survey (2012)

* 2011 Census of Population (based on households).

- The profile of tenants internationally is often broadly similar across countries, comprising low income earners, single persons without children, single parents, immigrants and either the young or old.
- Landlords internationally tend to be individuals or corporations/ institutional investors. Individual landlords dominate in countries such as France (96%), the UK (88%), Germany (62%) and the United States (66%), while a more even split between the groupings exists in the Netherlands.
- Key emerging themes from the international literature review on the private rented sector include the supply and quality of rental accommodation, security of tenure, improved regulation and encouraging higher institutional investment and professionalising the sector. Changing demographics, such as the ageing of the population and the growth in migrants in the United States was also found to be important, while the financial crisis, the contraction of the social housing sector, effective redress measures, housing shortages and affordability issues also figures prominently.

International comparisons are always fraught with difficulty and the area of incentives focused on the supply of rental properties is no exception

- Supply side incentives to promote the supply of private rental accommodation vary widely across international jurisdictions from soft loans and tax incentives to grants and building funds. Some incentives are focused on increasing affordable rented accommodation while others are more general supply side subsidies.
- However, supply incentives are subject to criticism particularly in relation to the potential occurrence of deadweight or crowding out effects as they can distort the housing market.
- Of the jurisdictions reviewed, incentives varied from focusing on the development of new rental units to the acquisition or improvement of rented units; and in many cases such incentives were subject to conditions limiting rents for low income households.
- A number of the countries reviewed have a long history of State support in the private rented sector, many of which have been credited with increasing the supply of affordable accommodation. However, other jurisdictions have seen supply incentives misused or fail to be consistent with the business model of developers.

The overall performance of the private rented sector is a function of a range of factors including subsidies, taxation and regulation as well as fundamental issues such as the relative importance of urban areas and the history of tenure over time

- Aside from specific supply side incentives, it is apparent that the general tax treatment of the private rented sector is a significant factor in supporting investment, particularly where rental income can be used as a tax shelter and where there are generous depreciation allowances.
- The investment motives of landlords also have an important role in influencing the supply of housing in the private rented sector, particularly in relation to whether investment is viewed as a long term option.
- The Irish private rented sector differs significantly from many of its counterparts elsewhere, with the exception of the UK, in that the tax treatment of the sector does not encourage investment or long term holdings of stock, there is a high reliance on capital growth by landlords and the fragmented structure of the stock is not attractive to institutional investors.

Government intervention in the housing market in the form of regulation normally arises out of market failures

- The international review of regulation in the private rented sector in five European countries - France, the Netherlands, Sweden, England and Germany raised a number of common themes which are similar to those under consideration in an Irish context: lease length and security of tenure, rent review process, standards, and registration, dispute resolution and termination processes.
- Standard lease lengths vary across the countries studied. In some cases, open-ended contracts are the norm, while standard contracts may be for one year or less in other cases. In all cases, the landlord may not take the accommodation back from the tenant during the period of the lease unless certain criteria are met or the tenant breaks the terms of the contract. In the Netherlands, Germany and Sweden open ended contracts are the norm.
- All countries regulate for security of tenure and tenants are protected from unfair eviction. Should tenants breach the terms of their contract or the landlord require the dwelling for his own use, the use of a family member or refurbishment, there are legitimate processes in place to regain the dwelling. Some countries, such as the Netherlands and Sweden, provide greater protection for tenants in such situations.

- Security of tenure can benefit both landlords and tenants. Long term tenancies offer the prospect of a stable revenue stream which can be very attractive for landlords, provided it does not impact on the ability to adjust rent levels, while tenants enjoy the certainty of long term residence provided they can afford the rent increases. Security of tenure is particularly strong in Germany where the average length of tenancies is nine years.
- Rent regulations in a number of European and North American jurisdictions were studied in detail in the Rent Stability report and assessed the practices relating to initial rent setting and rent increases. Across all five countries reviewed here, rent reviews may only occur once every 12 months and tenants must be granted a notice period. Out of the five countries studied here, England is the only country which does not regulate rent increases, while Germany recently amended their rent regulations whereby initial rents cannot be more than 10 per cent above the local market rent for new tenants.
- Under a new regulation in Germany, which is to remain in place until 2020, landlords will not be allowed to raise rents by more than 10 per cent above the local market rent for new tenants. Newly constructed or extensively renovated dwellings will be exempt from the new regulation.

It is a standard requirement across all of the countries studied that rental accommodation must be fit for purpose and all facilities must be in working order

- In terms of responsibility for maintaining standards throughout the term of a tenancy, landlords are generally responsible and are required to repair damages resulting from normal wear and tear. Regulations on standards can act as an incentive for landlords to invest in their property, particularly where it is associated with rent levels.
- There is an increasing emphasis on energy standards of dwellings with the majority of jurisdictions required to assess the energy performance of a building prior to renting. England is also proposing to implement stricter regulations in this area whereby it would be unlawful for landlords to rent out properties that do not reach a standard energy efficiency rating.

Each country studied has a disputes resolution process in place for disputes between tenants and landlords

- Disputes range from disputes relating to rent increases, rent arrears, unfair eviction or the perceived breaking of the terms of the tenancy contract by either party. Some countries offer mediation services away from the courts with an appeal mechanism to the courts. In the Netherlands, where mediation services are available, they are not commonly used. Conversely some areas in Germany have set up mediation centres in an effort to avoid involving the courts.
- From what could be ascertained for the countries reviewed, the average length of time to a determination of disputes can vary considerably, from 2 months in France to 3 months in Sweden, 4-6 months in the Netherlands and 4-8 months in Germany. The length of time it takes for a dispute in England to be resolved varies by the type of dispute in question.
- Where no agreement is reached between the parties, the Courts are the next port of call, although in France the parties can opt to go straight to court. Cases can be further appealed to a higher court, depending on the sums of money involved. Other countries such as Germany and the Netherlands rely more heavily on the court system to settle disputes. The average length of Civil Case Procedures is 7 months in Sweden.
- One of the key concerns of landlords is the ability to deal with problematic tenants in a speedy manner, particularly in relation to issues such as overholding and rent arrears.
- Generally, it has also be noted that in many countries eviction processes are seen to be more efficient than enforcement action against landlords who violate the rules, reflecting the more general issue of relative power between landlord and tenant. This would suggest that there is a need for balance within the regulatory environment.

The short, medium and long term policy options from both studies are set out below and will serve as a roadmap towards the delivery of the vision for a sustainable strong and well regulated private rented sector in the future

- This review of the future of the private rented sector comprises the second of two reports¹⁰ which set out to explore how the vision for a sustainable and well regulated private rented sector articulated in the 2011 Housing Policy Statement can be achieved. Both studies are intended to set out short and medium to long term policy options which can serve as a roadmap towards delivering this vision. While the focus is on the next five years during which considerable progress should be made towards realising the vision, it is recognised that some options may not be possible in this time period given the current economic climate.
- The key emerging policy challenge is to create a sufficient supply of high quality rented accommodation for long term renters at an affordable price, with the appropriate level of regulation for the main providers and increased security of tenure for current and prospective tenants.

Options cover five key areas

- For the purposes of this report, the policy options to ensure a sustainable private rented sector over the long term are set out under the following five headings:
 - Rent Stability and Affordability
 - Regulation
 - Improving Quality of the Rented Stock
 - Protecting the Existing Stock
 - Promoting Investment and Supply
- Considerable analysis has been done in the first report on rent stability and affordability. This included a review of rent regulations in other jurisdictions, how they are administered and their impacts. A range of options was set out to achieve greater rent stability and certainty in an Irish context. These also included measures to improve the quality of and protect the existing stock as well as longer term housing supply options. For completeness, these options are reiterated here (and in Part A of Section 11) as they are equally important to the delivery of a sustainable private rented sector in the future.
- In this second report, there is a range of issues which have emerged from the review of Irish and international experience that need to be addressed. While some have been examined since the 2011 housing policy statement, notably the feasibility of a tenancy Deposit Protection Scheme (and is to be addressed in the forthcoming legislation), a number of issues remain to be addressed such as security of tenure and dispute resolution, the significant volume of rental properties in mortgage distress, improving accommodation standards in the sector, and whether some form of tax incentives are required to encourage more and larger scale investment in the sector. The options arising from this report are grouped under four of the five headings (excluding Rent Stability and Affordability) and are set out below (also in Part B of Section 11).

Summary

The 2011 Housing Policy Statement provides a commitment to making the private rented sector a stable and attractive housing option for all who wish to rent in the short and long terms. This report, together with the Rent Stability report, sets out options to promote a positive image for the sector in the next five years and beyond. This must involve changing the perception that renting is only seen as a transition to home ownership. The options cover a range of regulatory and taxation issues which the authors feel strongly should be taken on board to address the sustainability of the private rented sector in the long term. In time, an appropriately regulated private rented sector providing good quality affordable accommodation should become firmly embedded alongside the other channels of housing provision, notably local authorities, the not for profit voluntary sector and the private owner occupied sector.

¹⁰ The first report covers Rent Stability in the Private Rented Sector (September, 2014).

OPTIONS	SUMMARY OF OPTIONS	TIMELINE
RENT AFFORDABILITY		
<p>REVIEW OF RENTS</p> <p>a) Extend notice period for rent increase to 3 months</p> <p>b) Landlord should provide details of three comparable properties to justify rent increase where possible</p> <p>c) Due weight to PRTB data in disputes</p>	<ul style="list-style-type: none"> ▪ Allows the tenant more time to assess the market. ▪ Allows the tenant more time to collate information and data if they wish to seek a review. ▪ Potential destabilising effect on security of tenure of facing notice of a rent review after 9 months rather than 11 months. ▪ Seeks to ensure that landlords do not attempt to increase rent based purely on trends in the market. ▪ Allows consideration of the quality of accommodation on offer. ▪ Useful in rural areas, where there is likely to be a lack of suitable information available from the PRTB. ▪ May dampen rent increases as other sources, notably, asking rents are higher than the average market rent. ▪ May not be possible in certain locations. ▪ No impact on the level of rent sought. 	Short Term
<p>PROVISION OF MARKET INFORMATION</p> <p>a) Increase data gathered from PRTB registration process</p> <p>b) Quarterly rental publication plus online mapping tool.</p> <p>c) Increase awareness of PRTB, rents, rights and obligations.</p>	<ul style="list-style-type: none"> ▪ Greater awareness of rents and quality of accommodation (BER ratings, age of building) may allow tenants to successfully challenge rent increases. ▪ Greater awareness of rents may allow tenants to successfully challenge rent increases if they are excessive. ▪ Greater awareness of rights may allow tenants to successfully challenge rent increases. ▪ A more educated tenant which may result in more disputes ruling in favour of the tenant. ▪ Increased awareness may lead to more rent review disputes by tenants. 	Short Term
<p>INTRODUCE RENT CERTAINTY LEASE</p>	<ul style="list-style-type: none"> ▪ Rent certainty. ▪ Voluntary arrangement between tenant and landlord. ▪ Less voids for landlord. ▪ Security of tenure - assists long term renters. ▪ Information needs to be publicised. ▪ May reduce mobility in the sector. ▪ Two potential incentive options: <ul style="list-style-type: none"> ○ Provide 100 per cent interest relief on borrowings for landlords; ○ Disregard 20 per cent of rental income for tax purposes. 	Short/Medium Term
<p>RENT SUPPLEMENT</p> <p>a) Review Rent Supplement limits in line with market rents based on market share.</p> <p>b) Review Rent Supplement rent limits every 12 months</p>	<ul style="list-style-type: none"> ▪ Aims to provide a market share of properties. ▪ Reduces risk of homelessness. ▪ RS generally seen as a pricing floor by landlords. ▪ Will increase the overall average market rent. ▪ Aims to ensure rents move in line with the market. ▪ Consistent with the Residential Tenancies Act 2004. 	Short Term

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c) Extend the Interim Tenancy Sustainment Protocol (ITSP)	<ul style="list-style-type: none"> ▪ Increases security of tenure for tenants. ▪ Will reduce homelessness. ▪ Aligned with Section 38 of the DSP Social Welfare Regulations 2007. 	
INTEREST RELIEF FOR RENT SUPPLEMENT/HAP TENANCIES	<ul style="list-style-type: none"> ▪ 100% Interest Relief on borrowings for landlords letting for minimum of 5 years to Rent Supplement/HAP tenants. ▪ Unavailable to landlords who have no borrowings. ▪ May distort market in favour of HAP tenants. 	Short Term
CGT TAX RELIEF FOR RENT SUPPLEMENT/HAP TENANCIES	<ul style="list-style-type: none"> ▪ CGT relief for landlords where letting for minimum of 5 years to Rent Supplement/HAP tenants – Relief will be for time of letting to tenant – not absolute exemption. ▪ Provides incentive to let to HAP tenants. ▪ May not have perceived benefit for landlords who bought since 2004 due to property price deflation. 	Short Term
TENANT'S TAX RELIEF FOR LOW INCOME TENANTS	<ul style="list-style-type: none"> ▪ Freeze removal of tenant's tax relief for low income tenants at 2013 levels to 2017. ▪ Provides small measure of relief to low income tenants who are suffering rent increases. ▪ May have little real impact on affordability as worth €200 to €400 per annum – higher for individuals over 55. 	Short Term
REGULATION IN THE PRIVATE RENTED SECTOR		
INCREASE KNOWLEDGE OF RESIDENTIAL TENANCY ACT- ONLINE CERTIFICATION FOR PROFESSIONALS	<ul style="list-style-type: none"> ▪ Professionals involved in the management and letting of residential property should be required to pass an online certificate examination in the rented sector. ▪ Increases understanding and thus compliance with the RTA. ▪ Will professionalise the sector. ▪ Could potentially reduce disputes. ▪ Requirement would introduce a need to have objective and reviewable procedures. ▪ There is likely to be a cost associated with implementing such a measure. ▪ Failure, if linked to licensing of the agent, may impact on his or her livelihood. 	Short Term
INCREASE COMPLIANCE WITH THE PRTB REGISTRATION PROCESS	<ul style="list-style-type: none"> ▪ Increased communication between PRTB, Revenue and DSP to assist compliance. 	Short Term
EXTEND SECURITY OF TENURE FOR FURTHER PART 4 TENANCIES	<ul style="list-style-type: none"> ▪ Extend security of tenure to the first six months of the further Part 4 Tenancy. ▪ Moves from arbitrary 4 year tenancy to an indefinite tenancy arrangement. ▪ Increases security of tenure for long term renters. ▪ Stable revenue stream for landlords. 	
INCREASE TERMINATION NOTICE PERIODS FOR FURTHER PART 4 TENANCIES ON A PRO RATA BASIS	<ul style="list-style-type: none"> ▪ Extend notice period on a pro-rata basis in line with the length of the tenancy. ▪ Subject to caps of 224 days for landlords and 112 days for tenants. ▪ Shorter notice period may apply in certain circumstances for tenants. 	Short Term

INCREASE RESOURCES OF THE PRTB	<ul style="list-style-type: none"> ▪ To generate a more efficient dispute resolution process. ▪ Telephone mediation should be promoted with consideration of an online dispute negotiation /resolution process. ▪ Consideration should be given to the introduction of prescribed processing times although enabling legislation in the RTA may be required for prescribed processing times. ▪ Further information should also be sought in regard to the nationality of tenants bringing disputes to the PRTB. ▪ Assists other organisations in addressing issues of discrimination within the PRS and wider society. 	Short Term
ENFORCEMENT OF PRTB DETERMINATION ORDERS BY COURTS	<ul style="list-style-type: none"> ▪ In assisting with a more efficient debt collection process by the courts, consideration should be given to the use of compulsory deductions from wages or social welfare benefits, or to engaging the services of the Public Sector Debt Collection Working Group. 	Medium Term
IMPROVING QUALITY OF THE EXISTING STOCK		
ENFORCE THE RESPONSIBILITY OF LOCAL AUTHORITIES TO CARRY OUT HIGH QUALITY INSPECTIONS OF RENTED PROPERTIES	<ul style="list-style-type: none"> i. Speed up the pace and quality of inspections by local authorities, prioritising properties at risk. ii. Enforce the legal obligation on landlords in regard to minimum standards and issue a certificate of compliance with minimum standards every 3 years. ▪ Ensures compliance with the Housing (Standards for Rented Houses) Regulations 2008. ▪ Ensures a sustained improvement in the quality of the rented stock. 	Medium Term
EXTENDING THE HOME RENOVATION SCHEME TO THE RENTED SECTOR FOR A PERIOD OF TWO YEARS	<ul style="list-style-type: none"> ▪ Extend the scheme to the rented sector for a period of two years. ▪ Assists to improve the quality of the private rented stock. ▪ Improves the number of dwellings meeting the minimum standards for inspections. 	Medium Term
ENFORCE BER REQUIREMENT	<ul style="list-style-type: none"> ▪ Enforce the legal requirement for a property to have a BER rating in order to be advertised for rent. ▪ Improves the quality of the housing stock. ▪ Increases the information for tenants. 	Short Term
HOUSE CONDITION SURVEY	<ul style="list-style-type: none"> ▪ The Housing Agency in conjunction with the DECLG to undertake a house conditions survey every two years. ▪ Provides a wealth of information on all tenures and types of housing. ▪ Opportunity to ascertain other information from residents about their dwellings. 	Short Term
PROTECTING EXISTING STOCK		
CODE OF CONDUCT ON BUY TO LET MORTGAGE ARREARS:	<ul style="list-style-type: none"> ▪ Set out the rules of engagement between the lender and the landlord and tenant. ▪ Fully adhere to the requirement of the Residential Tenancies Act 2004. ▪ Ensures that the requirements of landlord and tenant law become an explicit consideration in the receivership and repossession processes. ▪ Safeguards the private rented sector from volatility arising from a higher scale of repossessions and receiverships. ▪ Legislative implications of option. 	Short Term

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IMPROVE AWARENESS OF THE RENT A ROOM SCHEME	<ul style="list-style-type: none"> ▪ The scheme should be publicised via an advertising campaign. ▪ Incentivises use of space in existing properties in the short term until the supply side is addressed. 	
PROMOTING INVESTMENT AND SUPPLY		
EXTENSION OF LIVING CITY INITIATIVE TO LANDLORDS	<ul style="list-style-type: none"> ▪ Areas covered by relief are perhaps very suitable for provision of rental residential accommodation. ▪ Extension of relief to investors into sector may allow for access to existing disused stock that is not compliant with housing regulations. ▪ Focus is on cities where there is a shortage of supply. ▪ Allows conversion of non-residential dwellings into residential uses. ▪ EU State aid approval required – this is ongoing for existing scheme. 	Medium Term
REDUCE COMMERCIAL RATES FOR RESIDENTIAL UNITS ABOVE COMMERCIAL PREMISES	<ul style="list-style-type: none"> ▪ Encourages use of overhead premises for residential purposes. ▪ Focus would be on cities where there is a shortage of supply. ▪ State Aid issues. 	Short Term
REDUCE VAT ON NEW HOUSING CONSTRUCTION	<ul style="list-style-type: none"> ▪ Reduce VAT on new housing construction as opposed to sale from 13.5% to 9% for a 2 year period. ▪ Time limitation to provide incentive to increase supply. ▪ This form of incentive has shown to be successful in hospitality sector. ▪ EU rules to be considered – may not be possible. ▪ Supply side measure like this may be undermined by lack of bank funding for investors/ lack of investor appetite. 	Short Term
FUNDING TO INVESTORS TO BUILD RENTED HOUSING FOR LOW INCOME TENANTS	<ul style="list-style-type: none"> ▪ Provide low cost funding to investors to build rented housing for low income tenants. ▪ Should promote new supply for low income households. 	Medium Term
REVIEW THE DEVELOPMENT PLAN STANDARDS FOR THE PROVISION OF STUDENT ACCOMMODATION	<ul style="list-style-type: none"> ▪ Assist with incentivising investment in the sector by specialist providers of student accommodation. ▪ Student Accommodation should be recognised as a specific property type. 	Medium Term
TAX TREATMENT OF LANDLORDS	<ul style="list-style-type: none"> ▪ Ensure a level playing field for landlords with respect to tax treatment; specifically restoration of 100 per cent interest relief on borrowings and deduction of LPT for tax purposes. 	Long Term
PROFESSIONALISE THE SECTOR	<ul style="list-style-type: none"> ▪ Tax exemption for REITs should be extended to income arising from the financing of investment by third parties in the residential sector, to build and construct units that will be held by the REIT or third parties for rental purposes. 	Long Term
MULTI-ANNUAL HOUSING DEVELOPMENT PROGRAMME FOR THE NOT FOR PROFIT SECTOR	<ul style="list-style-type: none"> ▪ Incentivise multi-annual housing development programme for the not for profit sector. ▪ Should promote new supply. 	Long Term
POTENTIAL ROLE FOR COST RENTAL SHOULD BE EVALUATED.	<ul style="list-style-type: none"> ▪ The development of cost rental is more likely to be a longer term solution for the lower end of the market. 	Medium Term

1. INTRODUCTION

1.1 BACKGROUND TO THE REVIEW

There is no doubt that a fully functioning and efficient private rented sector is an essential component of the housing mix in any economy. Following the costly lessons of a housing policy which promoted home ownership for over a decade until 2007, the Government's Housing Policy Statement of June 2011¹¹ firmly recognises this requirement and talks about a new vision for the future of the housing sector in Ireland. The vision set out is one based on choice, fairness and equity across tenures and on delivering quality outcomes for the resources invested. The overall strategic objective is

“to enable all households access good quality housing appropriate to household circumstances and in their particular community of choice.”

While home ownership will continue to be the tenure of choice for the majority of households, the policy statement recognises that a balanced housing sector needs a strong and well-regulated private rented sector. It provides a commitment to making the rented sector a stable and attractive housing option for all who wish to rent in the short and long terms.

Important steps have and are being taken to deliver on this objective. These have included the establishment of the Private Residential Tenancies Board (PRTB) under the Residential Tenancies Act of 2004, the creation of security of tenure and the introduction and enforcement of higher minimum accommodations standards. The Residential Tenancies (Amendment) (No.2) Bill 2012¹² which is currently before the Oireachtas, will cater for the incorporation of tenancies in the voluntary and cooperative sectors within the remit of the PRTB¹³, the inclusion of a Deposit Protection Scheme and other issues around governance and regulation. This Bill when enacted is expected to go a considerable way towards setting down a common set of rules and equalising the treatment of all

tenancies (excluding local authority tenancies), a key objective of government policy.

However, there is a range of issues that need to be addressed if the vision in the policy statement for equity across tenures and a strong and well-regulated private rented sector is to be realised in the next five years. These include, not just the immediate issue of escalating rents, but also, the regulatory and taxation framework required to bring about this vision.

The current most pressing problem is how to increase the supply of private housing for rent, particularly in urban areas and most notably in Dublin, where the issue of affordable rental accommodation has become increasingly prevalent in recent times with rent levels currently increasing year-on-year in Dublin by 10.5 per cent, while other regional cities are experiencing increases in the region of 5 per cent. There are also other issues which require attention, including the growing incidence of disputes, improving accommodation standards and quality, the tax treatment of landlords and professionalisation of the sector, as well as regulatory issues in regard to lease lengths and security of tenure. Whether some form of tax incentives are required to encourage more supply and larger scale investment in the sector is also worthy of consideration.

Establishing the role for the private rented sector in housing policy generally, and the optimum solution for Ireland's private rented sector into the future, must be informed by a review of the experiences in a number of other countries and lessons to be learned from those experiences.

Increasingly the private rented sector is providing housing for a wide range of households, many of whom previously would have had their accommodation needs met by the owner occupied or social housing sectors. Since the collapse in property prices during the recession, the sector has accommodated those households who have postponed house purchase due to a variety of reasons. More recently as a result of legacy issues in the home ownership sector, the private rented sector is accommodating those households who have lost their homes. The sector also provides homes for those whose rents are paid for by the State through the Rent Supplement and Rental Accommodation schemes as well as other vulnerable groups whose needs are not best catered for in the private rented sector. Others

¹¹Housing Policy Statement, June 2011, available at <http://www.environ.ie/en/DevelopmentHousing/Housing/HousingPolicy/>

¹²Residential Tenancies (Amendment) (No. 2) Bill 2012, as initiated and Explanatory Memorandum, available at <http://www.oireachtas.ie/viewdoc.asp?fn=/documents/bills28/bills/2012/6912/b6912d.pdf>

¹³ The PRTB will become the Residential Tenancies Board following enactment of the legislation.

relying on the private rented sector include students as well as individuals and households who choose to rent by choice. As a result the demands on the private rented sector have increased substantially in recent years, with almost one in five households now in the private rented sector compared with one in ten in 2006.

Given the current shortage of housing for sale and increasing purchasing affordability issues, the prospects for the sector are likely to remain strong in the coming years. As a result, there is a need for the sector to be seen not just as a transition to home ownership but more of a long term stable housing option for a range of renters including those who want to rent, whether single persons, families or older people, and those who have no choice for a range of reasons. This will require a positive image for the sector to be promoted, both amongst tenants, landlord and key stakeholders. Thus, a key emerging policy challenge is to create a sufficient supply of high quality rented accommodation for long term renters at an affordable price, with the appropriate level of regulation for the main providers and increased security of tenure for current and prospective tenants.

The long term vision for a more balanced housing system must also include a role for the social housing sector where vulnerable households can be better served and supported in terms of their complex needs through the provision of safe and secure housing from local authorities and/or approved housing bodies (AHBs) in the voluntary sector¹⁴.

This is the context for the current report. To mark the tenth anniversary of the establishment of the Private Residential Tenancies Board (PRTB) and in light of the issues outlined above and the changes that have occurred over that period, the Board commissioned DKM Economic Consultants, ESRI, RED C and Ronan Daly Jermyn Solicitors to prepare a report on the current state of the sector and its likely future. This study is the second of two studies on the private rented sector for the Housing Agency/PRTB.

The first study¹⁵ specifically focused on options to address the escalation in rents in urban areas and set out a range of rent regulation models and other options to address rent stability in an Irish context, should a political decision be made in favour of rent regulation. The core underlying assumption in the first report is that housing supply would not increase in the short term and thus what is needed are some quick fix solutions to address the escalation in rents in Dublin, particularly for low income households.

1.2 PURPOSE OF STUDY AND TERMS OF REFERENCE

The Terms of Reference for the second study requires a range of specific issues to be examined in undertaking this assessment of the future of the private rented sector. It examines regulatory issues and attitudes amongst the main stakeholders - via surveys and consultations - as well as reviewing international experience in regard to regulation and supply measures. The purpose of the review is to present the PRTB with a set of options on how the private rental sector can be sustainable into the future and play a vital role in accommodating a wide range of households in affordable and good quality accommodation.

The Terms of Reference (TOR) requested the following outputs from the study:

- Conduct a survey of attitudes to the private rented sector to assess the current state of the private rented sector, including current landlords, current tenants, agents and the general public. Specific issues were to be addressed in the various surveys to help establish a profile of the sector.
- Examine the economic, policy and taxation treatment of the rented sector, including primary research with key stakeholders.
- Examine regulation of the sector and the impact of changes in regulations regarding accommodation standards.
- Assess the outlook for the future of the sector, to include identification and assessment of relevant issues for the sector, to be informed

¹⁴ The forthcoming Social Housing Strategy from Government is expected to set out actions for a sustainable social housing sector into the future.

¹⁵ Rent Stability in the Private Rented Sector, September 2004, DKM Economic Consultants, ESRI and Ronan Daly Jermyn Solicitors, September 2014. Reference is made to this report throughout this second report and it is recommended that both reports be considered as comprising the overall assessment of the future of the private rented sector. For completeness the options set out in the Rent Stability report are reiterated here in Section 11.

by primary research with key stakeholders and lessons from other countries. In this regard the TOR requested a review of developments in other jurisdictions with respect to three themes:

- ✓ Affordability¹⁶
- ✓ Regulation of the Sector; and
- ✓ Initiative to increase supply and investment in the sector.

- Prepare a preliminary list of recommendations¹⁷ to address issues identified and to encourage more and larger scale investment in the sector to increase the supply of good quality, secure and affordable rented accommodation.
- Present the analysis, key findings and set out options to the PRTB and to a conference.

1.2.1 Research Advisory Group

A Research Advisory Group was established by the Private Residential Tenancies Board to assist the researchers by providing advice on content, information and data to inform the analysis and comment on draft material.

Membership of the Research Advisory Group was as follows:

- Damian Allen, (Alternate Catherine Higgins) Department of the Environment, Community and Local Government
- Anne Marie Caulfield, (Alternate Carmel Diskin) Private Residential Tenancies Board
- Patricia Coleman, (Alternate, Tom Heffernan) Department of Public Expenditure and Reform
- Caren Gallagher; Irish Council for Social Housing
- Aisling Greene, Department of Finance
- Bob Jordan, Threshold
- John Leahy, irishlandlord.com
- Joseph Meehan, Department of Social Protection
- Tim Ryan, Board Member, Chair of Research Committee, Private Residential Tenancies Board

¹⁶ The Affordability Theme has been comprehensively covered in the first report on Rent Stability in the Private Rented Sector (September 2014).

¹⁷ Section 11 presents options as opposed to recommendations for sustaining the private rented sector under five main headings. Following guidance from the Research Advisory Group the approach taken is to present a menu of options, which the authors feel strongly should be taken on board to address the sustainability of the private rented sector in the long term.

- David Silke, (Chair of Advisory Group) Housing Agency.

The report has been produced by DKM Economic Consultants, the ESRI, Ronan Daly Jermyn Solicitors and RED C in response to a request from the PRTB and in line with the TOR. The contents and conclusions in this report are those of DKM Economic Consultants and associates and the authors are solely responsible for the content and the views expressed.

1.3 APPROACH AND METHODOLOGY

This comprehensive study on the Future of the Private Rented Sector involved three approaches in response to the tasks set out in the TOR

- (1) Primary Research: National surveys were conducted among key segments of the market¹⁸ as follows:
 - Current landlords;
 - Current tenants; and
 - Estate Agents.
- (2) Desk based research analysed published data and reviewed the extensive international literature:
 - An extensive economic and policy review as well as a detailed analysis of the tax treatment of the rented sector was undertaken.
 - The analysis of CSO Census 2011 micro-data allowed a detailed examination of the characteristics of the rental market demographics as well as a description of the type of accommodation people lived in.
 - The PRTB dataset was utilised.
- (3) An extensive consultation exercise (including submissions), incorporating interviews with a range of public, private and voluntary organisations was carried out in order to ascertain views on the economic and policy assessment of the private rented sector *and* the likely future of the sector.

Following the data gathering phase, key differences between the policies elsewhere and what pertains in Ireland are set out with respect to the main themes.

¹⁸ Although the TOR included a survey of the General Public, this was not undertaken following a decision reached by the Research Advisory Group. The other three surveys were considered to have provided sufficient and comprehensive information for the purposes of the study.

The analysis regarding the likely future for the sector presented in this report has been informed by the literature review, the lessons learned for the review of the main themes selected in other countries, as well as issues which arose from consultations and submissions. The objective was to select the most progressive aspects in each country with a view to ascertaining if they can be replicated in the Irish private rented sector to ensure the sustainability of the sector.

Finally, these findings informed the range of options set out to ensure the core objective articulated in the 2011 Housing Policy Statement can be achieved in the long term.

1.4 REPORT STRUCTURE

The results of the research outlined above are presented in this report which is structured as follows:

Section 2 reviews housing policy that has prevailed in Ireland over the past number of years and seeks to assess how this has influenced tenure choice. The key drivers for renting are examined and a review of the potential for the rented sector in the future is set out taking account of affordability and the rent versus buy decision.

Section 3 presents a statistical analysis of the rented sector in Ireland with data derived from the most recent Census (2011).

Section 4 examines the composition of the private rented sector as of 2014. The results of the RED C survey of landlords, tenants and estate agents are detailed.

Section 5 considers the main sources of housing provision in the private rented sector in Ireland; the total returns from residential investment and includes a discussion around the issue of funding and the role of private sector investment. Long term projections are also included for the size of the private rented sector.

Section 6 sets out the regulations that are in place in Ireland at present and includes an analysis of the disputes which arise in relation to these regulations and the inspections carried out in enforcing standards.

Section 7 sets out the current tax treatment of the rental sector and examines the impact of tax changes over the past seven years, some of which

are likely to be partly responsible for the overall increases in rents. There is also a comparison with the situation that exists for commercial lettings.

Section 8 contains an international profile of the private rented sector.

Section 9 contains the review of supply incentives and initiatives to increase investment in the private rented sector in other jurisdictions.

Section 10 contains the review of regulation of the private rented sector in other jurisdictions.

Section 11 set out the range of options to address the issues identified in Ireland and across other jurisdictions to ensure the private rented sector can be sustainable into the future and play a vital role in accommodating a wide range of households in affordable and good quality accommodation.

The Appendices contain a range of information, including the survey methodology, the list of consultations, a synopsis of the main points made in submissions and other supporting information referred to throughout the report.

Policy Background and Profile of the Irish Private Rented Sector



2. POLICY BACKGROUND AND TENURE CHOICE

2.1 INTRODUCTION

Traditionally, Ireland has had a high rate of owner-occupation. Although Census 2011 indicates some decline in the rate, it remains one of the highest in Europe. Against the backdrop of one of the strongest housing booms and one of the deepest housing busts since the foundation of the State, the future tenure choice of Irish residents will be an important determinant of the size of the rented sector in Ireland in the long term. Since the crash the level of rents has fallen, although they have recovered modestly since early 2012. Most new entrants to the housing market tend to be renters and so the cost of renting should play a role in determining whether a person chooses to enter the housing market.

This section reviews the housing policy that has prevailed in Ireland over the past number of years and seeks to assess how this has influenced tenure choice. The key drivers for renting are examined and a review of the potential for the rented sector in the future is set out taking account of affordability and the rent versus buy decision.

2.2 HOUSING POLICY IN IRELAND

The overall strategic objective of Irish housing policy is to “enable all households access good quality housing appropriate to household circumstances and in their particular community of choice”¹⁹.

This objective has prevailed over the past two decades in the various housing policy documents including A Plan for Social Housing 1991²⁰, Social Housing – The Way Ahead 1995²¹, Building

Sustainable Communities 2005²² and Delivering Homes Sustaining Communities 2007²³.

The general thrust of housing policy is that those who can afford to house themselves from their own financial resources should provide for their own housing needs, whether through home ownership or private rented accommodation (the private housing market), and that a range of targeted supports should be available to others having regard to the nature of their need (through the public housing system).

In addition to supporting appropriate good quality accommodation in a community of choice, housing policy in Ireland has also sought to ensure that tenure choice is available to households. Many of the housing policies since the early 1990’s have recognised that home ownership is the tenure of choice for many people and so have sought to actively encourage home ownership. A Plan for Social Housing 1991 states that “*Future strategy will include promoting owner occupation as the form of tenure preferred by most people.*”

Later housing policy statements such as Delivering Homes Sustaining Communities 2007 also stated that the Government would actively encourage the fulfilment of new households’ aspirations to home ownership. The importance attached to home ownership was clearly set out as a factor in underpinning social stability and promoting good civic values. In order to facilitate as many people as possible to achieve home ownership a number of measures were set out to actively encourage home ownership including:

- Affordable housing - purchase of a house at discounted price;
- Shared ownership - purchase of a home through purchase of initial stake with the balance rented from the housing authority;
- Incremental purchase of a house owned by a local authority; and
- Tenant purchase of local authority dwellings at discounted prices.

In promoting home ownership, these could be construed as almost enticing people into home ownership in the decade up to 2007, a number of

¹⁹ [Housing Policy Statement, June 2011, available at http://www.environ.ie/en/DevelopmentHousing/Housing/HousingPolicy/](http://www.environ.ie/en/DevelopmentHousing/Housing/HousingPolicy/)

²⁰ A Plan for Social Housing (1991), available from the Department of the Environment, Community and Local Government.

²¹ Social Housing - The Way Ahead (1995) available from the Department of the Environment, Community and Local Government

²² Building Sustainable Communities (2005) available at <http://www.environ.ie/en/Publications/DevelopmentandHousing/Housing/FileDownload,2128,en.pdf>

²³ Delivering Homes Sustaining Communities (2007) available at <http://www.environ.ie/en/Publications/DevelopmentandHousing/Housing/FileDownload,2091,en.pdf>

whom made irrational decisions to enter the owner occupied sector.

However, in more recent times the emphasis on alternatives to home ownership and the potential of the private rented sector has come to the fore. The 2007 policy document, while recognising that home ownership was the tenure of choice for many people, nevertheless recognised that the modernisation of the private rented sector is a key component of developing tenure choice. A key action point arising from this policy document was the development of the private rented sector as an attractive tenure accompanied by appropriate regulation.

The 2007 policy document proposed a number of measures in order to promote the private rented sector including improvements in private rented accommodation standards, a review of the regulations and more effective enforcement. The sector was also seen as playing a role in addressing the needs of households dependent upon Rent Supplement (RS), with the adoption of the Rental Accommodation Scheme (RAS) requiring local authorities to source accommodation from the private rented market.

Moreover, following the economic downturn and the change of Government which ensued, the 2011 Housing Policy Statement re-evaluated the significance of home ownership. The policy set out how the emphasis put on home ownership in Ireland had *“a considerable role in leading the Irish housing sector, Irish economy, and the wider Irish society to where they are today”*. The current policy document sets out a vision for the future of the housing sector in Ireland *“based on choice, fairness, equity across tenures and on delivering quality outcomes for the resources invested”* while the overall strategic objective is *“to enable all households access good quality housing appropriate to household circumstances and in their particular community of choice.”*

While recognising that home ownership will continue to be a key feature of the market, the policy articulated a clear vision for the private rented sector, recognising that a *“balanced housing sector requires a strong, vibrant and well regulated private rented sector”*.

In realising this vision, the policy sets out a commitment to build on past developments in the sector, including the formation of the PRTB as well as addressing security of tenure and

accommodation standards and making the rented sector *“a stable and attractive housing option for all”*. In this regard the policy sets out short term commitments to address issues around the illegal retention of deposits by landlords, over-holding of property by non-rent-paying tenants and also to bring the voluntary and cooperative sectors within the PRTB’s remit. In the longer term, the policy advocates that consideration must be given to enhancing the stability of the sector and to the provision of equitable regulatory treatment for all forms of non-ownership housing.

Some steps have been taken by Government to further these policy objectives, including the drafting of the Residential Tenancies (Amendment) (No. 2) Bill²⁴ which was published in July 2012. This bill seeks to bring tenancies from the Voluntary Housing Sector under the remit of the Private Residential Tenancies Board as well as including provisions for a Deposit Protection Scheme.

Nevertheless, the performance of the private rented sector needs to take account of, and should be understood within, the wider housing market. A clear role needs to be set out for the sector which is defined within a strong regulatory, legislative and taxation framework to enable the long term vision for the sector to be realised. It is well documented that the attractiveness of a sector will depend on a number of issues including, government policy towards different tenures, including subsidies for particular sub-sectors and tax treatment, the ability to access social rented housing, the ability to enter owner occupation as well as the overall economic climate and financial markets. It is therefore important to understand these issues in order to assess the current performance and potential for the sector in the future.

2.3 CHANGED ECONOMIC CONTEXT

The Irish economy and the construction sector in particular have been dramatically transformed since the economic collapse in 2008, brought about by the combined effects of a worldwide economic slowdown and a huge adjustment in the national property and financial markets. After experiencing over ten years of unprecedented growth, our economic fortunes changed dramatically in 2008. In the four years 2008-2011

²⁴ Residential Tenancies (Amendment) (No. 2) Bill 2012, as initiated and Explanatory Memorandum, available at <http://www.oireachtas.ie/documents/bills28/bills/2012/6912/b69b12d.pdf>

inclusive, real GNP fell by over 10 per cent from its peak (2007). While our economic fortunes improved modestly with real GNP up 2 per cent in 2012 and a further 3.3 per cent in 2013, the change in fortunes has had serious negative effects on welfare and public finances.

Unemployment which was consistently low during the years of economic growth increased sharply and reached 15.1 per cent in Q1 2012. While the unemployment rate has reduced somewhat since then it remains high, at 11.5 per cent in Q2 2014²⁵. This placed immense pressure on the public finances with a sudden reduction in taxation revenues and increases in social welfare spending as a result. The significant increase in social welfare recipients as a result of the downturn has also seen an increase in the numbers in receipt of Rent Supplement and those on social housing waiting lists. According to the Housing Needs Assessment for 2013, 89,872 households were assessed as qualified for housing support²⁶, an increase of almost 60 per cent on the corresponding figure in 2008 (56,249²⁷).

The housing market in the period 2007 to 2013 has been characterised by falling house prices across the State, a significant contraction in house building, a sharp slowdown in housing demand and mortgage lending and weak consumer confidence. Average house prices across the country experienced a peak to trough decline of 51 per cent in March 2012²⁸. However, since then prices nationally have increased by 20.1 per cent (to August 2014), due in part to a lack of stock. The low stock levels, while increasing the transaction prices of properties in areas of high demand, have also resulted in an increase in rental yields, due to rising rents. The supply of new housing to the market fell dramatically in the 2008 to 2013 period with building commencements averaging only 4,372 units in the three year period 2011-2013. Moreover, it appears that the lack of supply will not abate in the short term. Consequently, it is likely that there will be further increases in the price of housing and rents until such time as the supply shortage is addressed and equilibrium is restored.

²⁵ Seasonally adjusted data from the CSO.

²⁶ The real need is estimated to be closer to 40,000 when those who are required to be on the list for eligibility purposes for some State support schemes are excluded.

²⁷ A Housing Needs Assessment to the eligibility criteria of the Rent Supplement Scheme was introduced in 2005, whereby anyone with a housing need was entitled to Rent Supplement.

²⁸ Residential Property Price Index, published by the Central statistics Office, Dublin, available at www.cso.ie.

2.4 KEY DRIVERS OF THE DEMAND FOR RENTED HOUSING

The private rented sector has grown rapidly over the past decade. In 2002, 11 per cent of the households were in private rented accommodation and while this declined slightly in the 2002 to 2006 period, to reach 9.9 per cent, the past number of years has seen significant growth in the sector. In 2011, the proportion of households in the private rented sector reached 18.5 per cent or 305,377 households. This corresponds to a 116 per cent increase in the period from 2002 or 160,060 additional households since 2006.

A number of factors may explain this significant growth in the private rented sector over the past number of years. The most likely reasons are the following:

- The increase in demand due to population and household formation growth;
- The lack of suitable alternatives due to the collapse of the house building sector and the reduction in the budget for social housing which led to households, which would have previously been accommodated in the social housing sector, moving into the private rented sector.
- Legacy issues following the affordability problems which transpired during the 2002-2007 period and the subsequent crash in property prices.
- The increasing demand from students entering the further and higher education sectors, as well as from a growing international contingent.
- A lack of confidence in the property market resulting in postponement of house purchase following the crash.
- An increase in the number of properties for rent due to an inability to sell following the property crash in 2008.

While it is not possible to determine which factors had the most bearing on the sector, a key issue for the sector currently is the extent to which this growth can be expected to prevail in the future.

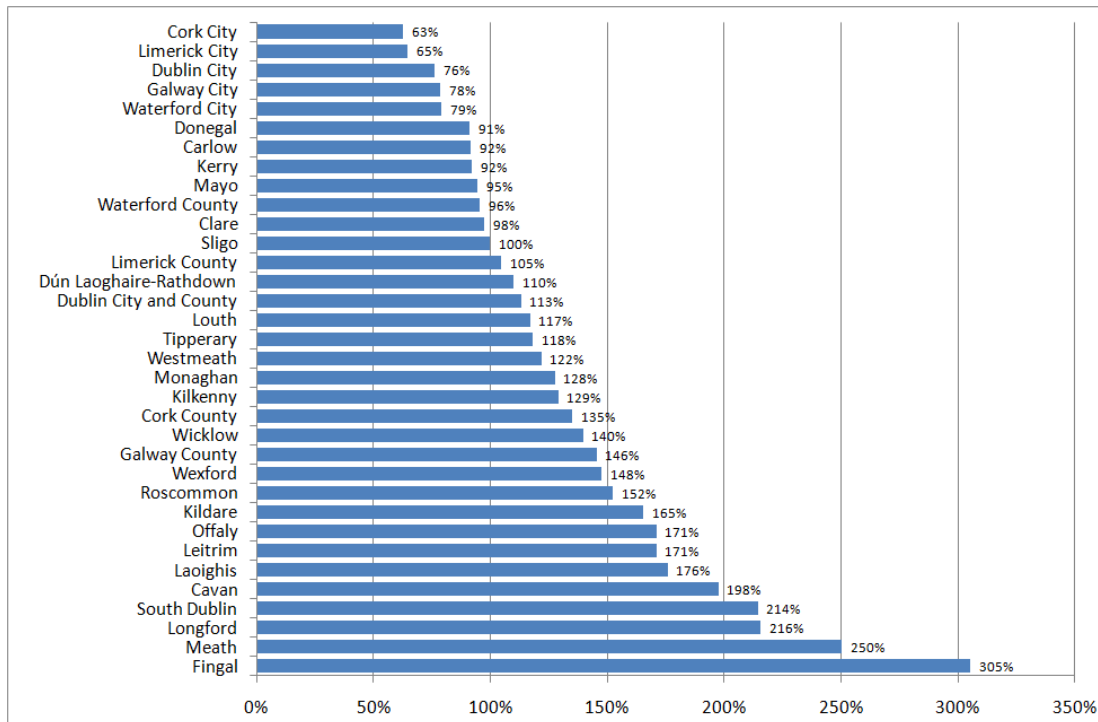
The relative importance of private renting in the local housing market varies across the country. As of 2011, Galway City had by far the highest proportion of private rented sector households at 38 per cent, followed closely by Dublin at 25 per cent, albeit levels varied significantly within the local areas. Other cities also had high levels of

private rented notably Cork City (27%), Limerick City (24%) and Waterford City (20%). Outside of the cities, the relative proportion renting varied from a low of 11 per cent in Waterford County to 18 per cent in Westmeath.

While the relative proportion of households in the private rented sector across the regions are as expected, it is interesting to note that growth in the sector has in many cases been particularly strong in rural counties (Figure 2.1). Furthermore,

it is also important to recognise that the private rented market caters for a variety of households including families, the student population, young professionals, immigrants, and also those with a housing need through the Rent Supplement/Housing Assistance Payment and Rental Accommodation schemes. Thus, the private rented sector has a number of submarkets.

Figure 2.1: Growth in Private Rented Sector 2002-2011



Source: CSO

2.5 AFFORDABILITY: RENTAL VS. MORTGAGE PAYMENTS

Affordability is an essential ingredient in any housing market, allowing households the choice between either renting in the short, medium or long term or becoming home owners. There are a number of factors which determine affordability for renters but ultimately it is likely to be about their capacity to afford the rent for a property type in a location of their choice and which suits their circumstances. The first study on Rent Stability included an analysis of affordability and concluded that affordability differs depending on whether you are renting in Dublin or outside Dublin, and whether you are renting as a single person or as a couple, where both are working. Also affordability is an issue for lower income individuals, irrespective of their sector of work, although the

likelihood is that single income workers, where possible, tend to share with other individuals.

Analysis published by the ESRI in 2004 highlighted the issues of affordability in the private rented sector, using data for 1999-2000 from the Household Budget Surveys²⁹. The analysis showed that rental payments for those in the private rented sector accounted for a larger proportion of household expenditure than mortgage payments by homeowners with a mortgage. By 1999-2000, expenditure on rent accounted for 21 per cent of household expenditure. This represented a worsening of the affordability of private rented accommodation from 1980, but particularly from 1987. Using data from the Household Budget

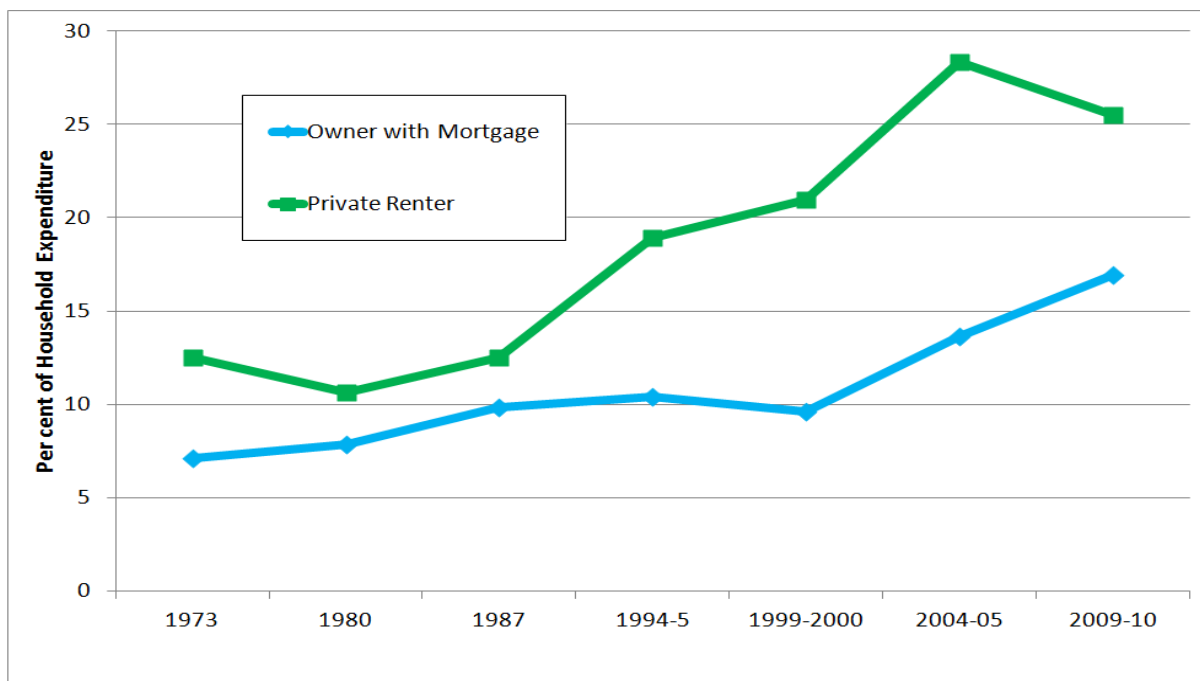
²⁹ Fahey, T., (2004), "Housing Affordability: Is the real problem in the private rented sector? ESRI Quarterly Commentary, Special Article, Summer.

Surveys for 2004-05 and 2009-10 the analysis is updated in Figure 2.2.

The data from 2004/05 and 2009/10 show that affordability for those in the private rented sector continued to worsen until 2004/05 but improved by 2009/10. In contrast affordability worsened for home owners with a mortgage. This may well reflect the fact that few new mortgages were taken out following the crash and many of those would have purchased during the boom. It is also noticeable that affordability for those in the private rented sector remained worse than for those in owner-occupation up to 2009/10, with private rent accounting for over 25 per cent of household expenditure.

Trends since 2010 will have been determined by the impact of declining incomes on household expenditure levels. Rents began to stabilise during 2010 and began to increase during 2013, particularly in the Dublin market. In contrast, house prices continued to decline until 2012 before starting to recover during 2013. With aggregate income data suggesting at best a moderate improvement in incomes, it is likely that both rent and mortgage payments have increased as a proportion of household expenditure in recent years.

Figure 2.2: Rent/Mortgage Payments As A Percentage Of Total Household Expenditure 1973-2010



2.6 HOUSE PRICES VERSUS RENTS

The PRTB Rent Index allows us to compare a mix-adjusted measure of rents with a mix-adjusted measure of house prices using the CSO Residential Property Price Index, thus showing how the housing market behaved over the crisis by tenure. The graph shows that the decline in house prices preceded the decline in rents and the house price decline was more severe and lasted longer than the decline in the rental market. From Q3, 2007 to when they began to stabilise at the beginning of 2012, house prices had fallen by close to 50 per cent. Market rents experienced the bulk of their decline prior to the beginning of 2010. Although

there were some further declines, these were more marginal and rents had begun to stabilise earlier than house prices. The peak to trough experienced in the rental market was lower, with the decline at just over 25 per cent.

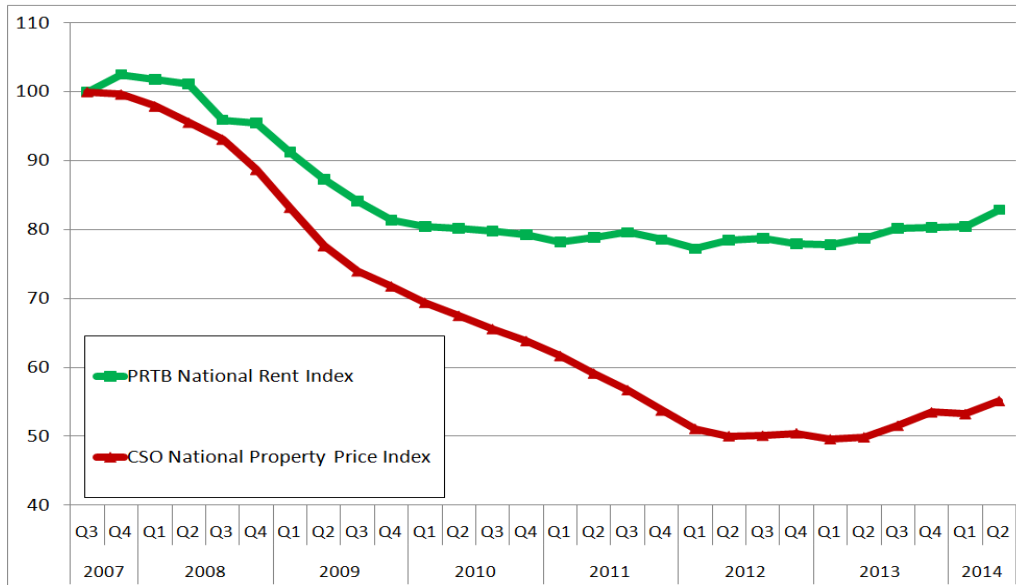
The performance of rents may in part be due to the increase in the number of households opting to rent, as shown in Census 2011. Between 2006 and 2011 the number of households in Ireland increased by 187,000 or almost 13 per cent, to 1,649,000, while the number of households renting increased by 160,060. Thus almost 86 per cent of the households formed between 2006 and 2011 were in the private rented sector. This

compares with 2 per cent of the total households formed in the period 2002 to 2006.

A similar comparison can be undertaken for the Dublin market. As was the case nationally, house prices started to decline before rents. Dublin house prices experienced a deeper and longer lasting decline than in the rental market. The peak

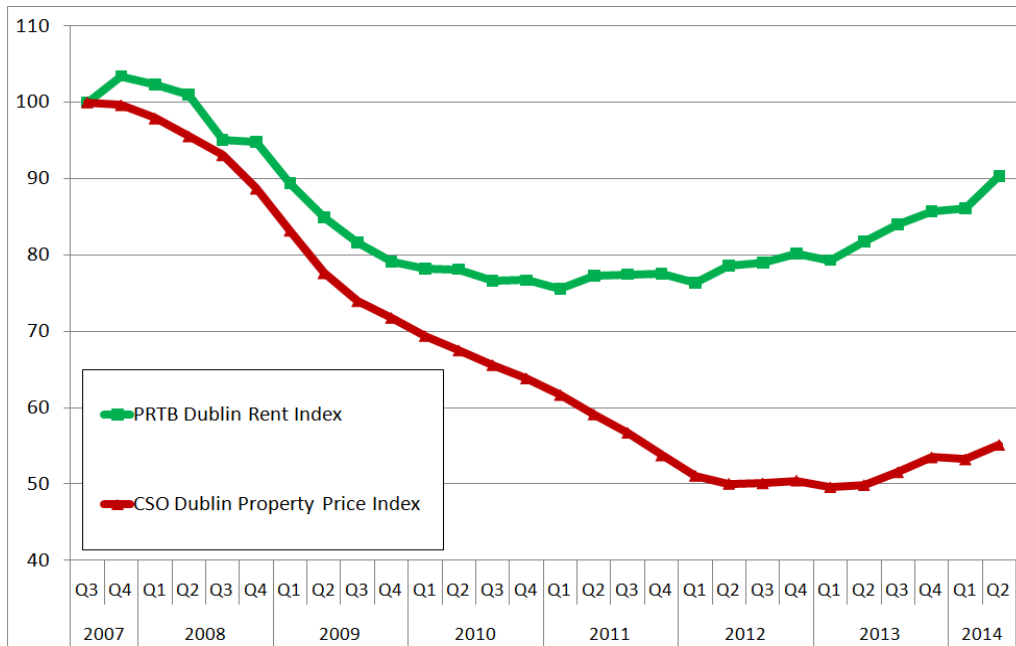
to trough in Dublin property prices was close to 57 per cent, while the peak to trough in the Dublin rental market was just over 25 per cent. The role that the changing cost of accommodation can play in the decision to rent or to buy is discussed in the next section.

Figure 2.3: National House Prices and National Rents, Q3 2007=100



Source: PRTB and CSO data.

Figure 2.4: Dublin Property Prices and Dublin Rents, Q3 2007=100



Source: As above.

2.7 RENTING VERSUS BUYING DECISION³⁰

A key decision is whether households will choose to buy or to rent their dwelling. The proportion of people renting has risen significantly over the last five years. However, it is important to understand what are the factors underlying this change. Recent research (Byrne, Duffy and FitzGerald, 2014) uses data from the CSO's Quarterly National Household Survey on individuals and households for the period 2001-2011 to examine the implications of a model of tenure choice for the number of people seeking to switch from renting to owning, as the cost of each form of tenure changes.

There has been a significant change in the tenure choice behaviour of younger Irish people in recent years, particularly since the housing bubble burst. The proportions of individuals aged 25-29 years in rented and in owner-occupied housing were roughly equal in the early part of the 2000s. However, the proportion choosing to rent began to rise slowly from 2005 onwards, and then more rapidly after 2008. Similarly, for the cohort aged 30 to 34 years, there has been a big change in behaviour since the housing market downturn, with an increasing share of this cohort also choosing to rent.

The change in tenure choice among younger cohorts in Ireland may in part be due to the fact that they were sufficiently young when the crisis hit that they had not committed to home ownership.

The tenure choice decision will also have been influenced by changing expectations. The crash that commenced in 2007 reflected a change from a period where homeowners were expecting to experience capital gains from ownership to one where they expected to experience a loss due to falling prices. At the same time, rents were also falling in the post-2008 environment, further encouraging households to rent.

However, house prices have since begun to rise again and are expected to rise in the next few years. In assessing what is the appropriate tenure choice in the coming years, households are probably building these changed expectations into their decision. Byrne *et al.* (2014), model the

factors underlying the choice of tenure by individuals. These include the relative costs of the tenures, and individual-level characteristics including education, marital and family status, labour market status, migration status and region. In addition, the model controls for household formation while estimating tenure choice, as formation was increasing over the period and new entrants tend to be renters. The results show that the relative cost of tenure is a significant factor in the choice of tenure of those aged 25-34 years. The model shows that the fall-off in homeownership post-2008 is partly attributable to movements in relative costs and to an increasing household formation rate. However, with the reversal in the trend in house prices, the incentive for renting relative to homeownership may weaken.

However, one area of uncertainty is whether the result of the crisis has been a permanent change in preferences away from home ownership to renting. The crisis has illustrated the fact that home ownership carries risks, which may have been ignored by many households prior to the crisis.

The results also show that having greater means, as represented by higher education, has a significant effect on the tenure choice decision. Those with higher education are likely to be renters across all age-groups, while its impact on the probability of home ownership changes at age 30. Before that age there is a significantly negative effect, possibly reflecting the fact that, because of the time spent gaining a third level education in their early twenties, they were not in a position to buy at the height of the housing boom. Meanwhile, in the older age-groups, having higher education is positively associated with owning. This may either reflect a change in preference once individuals reach their thirties, or that these people bought houses before the crisis.

Migrants also tend toward renting rather than owning, while households with children are less likely to be renters. This may reflect the need for larger accommodation or the fact that households with children are less mobile than those without and the uncertainty of tenure associated with renting means that they place a higher value on home ownership.

The above issues raise the question as to whether renting should just be seen as a transition to home ownership or whether it should be viewed as a long term stable housing option for a range of household types. The long term vision for the

³⁰ Byrne, D., Duffy D., and FitzGerald J., (2014) "Household Formation and Tenure Choice: Did the great Irish housing bust alter consumer behaviour?" ESRI Working Paper 487, ESRI, Dublin, July.

private rented sector must see its role clearly defined in a more balanced housing system where ownership and renting are equally valued. This is directly linked to security of tenure and rent stability issues which are covered later in the report³¹.

2.8 CONCLUSIONS

The private rented sector has grown rapidly over the past decade. Key factors in this growth include population growth, a lack of housing affordability, changes in the provision of social housing, access to credit, increases in the number of rental properties available and more recently, a lack of confidence in the property market. Given that Ireland has traditionally high home ownership rates, key issues for the sector currently are the extent to which this growth can be expected to prevail in the future, and what extent the cost of renting will play in determining whether a person chooses to enter the housing market?

Affordability is an essential ingredient in any housing market, allowing households the choice between either renting in the short, medium or long term or becoming home owners. A separate analysis of affordability using expenditure from the 2010 Household Budget Survey indicates that affordability for those in the private rented sector remained worse than for those in owner-occupation up to 2009/10, with private rent accounting for over 25 per cent of household expenditure.

A review of the decision to rent or buy reveals that the relative cost of tenure is a significant factor in the choice of tenure of those aged 25-34 years. The model shows that the fall-off in homeownership post-2008 is partly attributable to movements in relative costs and to an increasing household formation rate. However, with the reversal in the trend in house prices, the incentive for renting relative to homeownership may be weakening. This will depend on whether renting should just be seen as a transition to home ownership or whether it should be viewed as a long term stable housing option for a range of household types. In addressing the options to bring about this vision, the characteristics of the rented sector and attitudes amongst the main stakeholders are reviewed firstly in the next two sections.

³¹ The issue of Rent Stability is covered separately in the Rent Stability report.

3. CENSUS PROFILE OF THE RENTED SECTOR

3.1 INTRODUCTION

This Section presents a statistical analysis of the rented sector in Ireland with data derived from the most recent Census (2011). The size and characteristics of the rented sector are outlined and considered by comparison to other tenure choices. While the Census provided detailed information in relation to the sector, the data relates to 2011 and it is inevitable that some changes will have taken place in the intervening years. Subsequent sections will seek to address the developments in the sector that have materialised in that time period.

3.2 GROWTH IN THE PRIVATE RENTING

The housing market has seen a substantial increase in the number of rented households in recent years. According to Census 2011, the

number of households renting from a private landlord more than doubled in the five years since 2006, reaching 305,377. This corresponded to a 110 per cent increase in the period or approximately 160,060 households.

Unsurprisingly, such high growth in this sector over the period led to a change in the composition of housing provision in Ireland. As shown in Figure 3.1, the share of households privately renting increased by 9 percentage points to 19 per cent between 2006 and 2011. Interestingly, over the same period, all other tenure types recorded a decline, with the share of owner occupied households with a loan or mortgage was down by 6 percentage points. The proportion of households renting from local authorities and voluntary bodies declined from 11 per cent to 9 per cent over the same period. However, owner-occupation continued to represent the largest share of housing provision at 70 per cent in 2011, albeit down from 75 per cent in 2006.

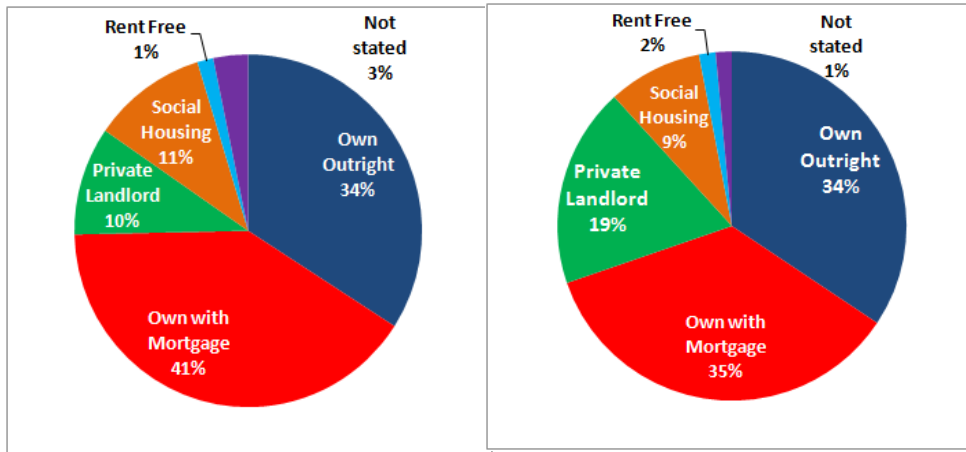
Table 3.1: Total Private Households by Nature of Occupancy, 2006-2011

	2006	2011	% change
Owned outright	498,432	566,776	13.71
Owner-occupied with Loan or Mortgage	593,513	583,148	-1.75
Rented from Private Landlord	145,317	305,377	110.15
Social Housing Rented	155,989	143,975	-7.70
<i>of which</i>			
- Rented from a Local Authority	105,509	129,033	22.30
- Rented from a Voluntary Body	50,480	14,942*	-70.40
Occupied Free of Rent	21,701	25,436	17.21
Not stated	47,344	24,696	-47.84
All Types of Occupancy	1,462,296	1,649,408	12.80

Source: Based on CSO Census 2011

* The Irish Council for Social Housing estimate that there are 27,000 tenancies in the voluntary sector. It is believed that the recent inclusion of 'renting from a voluntary body' in the Census has caused some voluntary sector tenancies to be counted under private landlords in error.

Figure 3.1: Total Private Households by Nature of Occupancy, 2006 and 2011



3.3 PROFILE OF TENANTS IN THE PRIVATE RENTED SECTOR

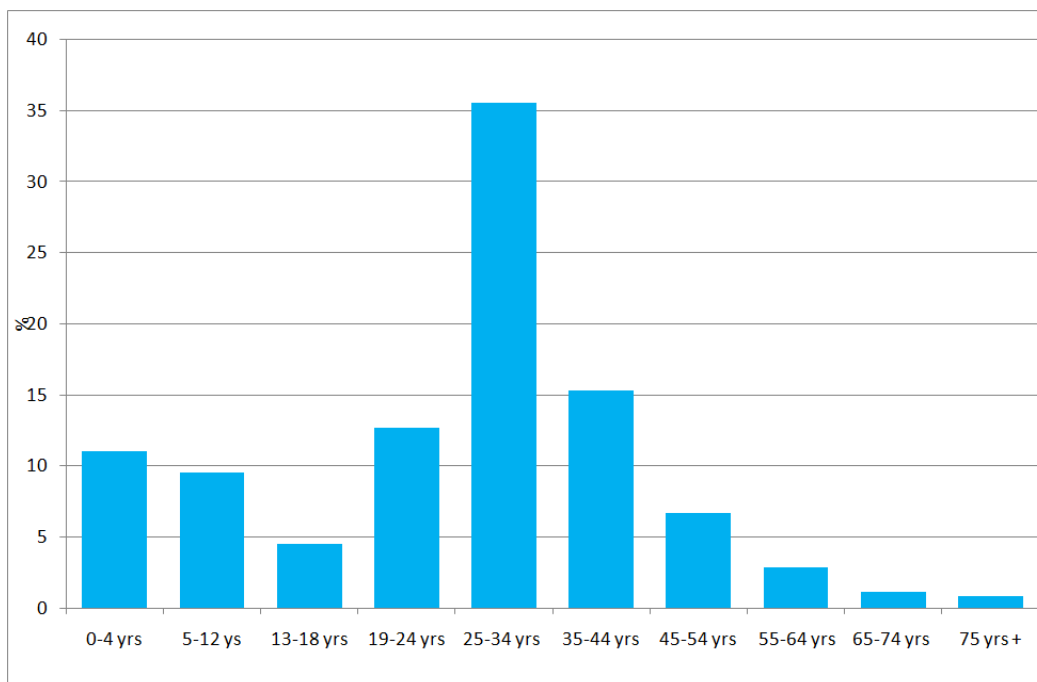
The age profile of the population by tenure choice reveals that 70 per cent of the population aged 15 years or more lived in owner-occupied accommodation, 17 per cent rented from private landlords, 7 per cent rented from local authorities while 1 per cent rented from voluntary bodies.

The bulk of persons in the private rented sector were aged between 25 and 34 years, accounting for 35.5 per cent of those in private rented

accommodation. This was by far the largest group, followed by those aged between 35 and 44 years, which accounted for 15 per cent (Figure 3.2).

Of those individuals living in private rented accommodation, 61 per cent were single, while 30 per cent were married. Although a similar composition was present among those who rented from local authorities, it was significantly lower among owner occupiers; 35 per cent were single and 55 per cent were married.

Figure 3.2: Distribution of persons within the private rental market by Age



Source: Based on CSO Census 2011.

An analysis of the nationality of those renting from a private landlord or voluntary bodies indicated that:

- Irish tenants represented over 57 per cent of those renting in 2011. This reflected a small decline in their share since 2006.
- The share of UK tenants also declined over the period from 6 per cent to 4 per cent.
- Although the total number of Irish and UK nationals increased over the period, the small decline in their share in the population of tenants in the private rented sector was primarily due to the rise in tenants from the EU27 (most prominently from Poland).
- Over the period discussed, the share of EU27 nationals increased from 12 per cent to 25 per cent.
- African and Asian nationals represented 3 per cent and 5 per cent of tenants in 2006 and 2011 respectively.
- The private rented sector was more diverse in terms of nationalities compared with those

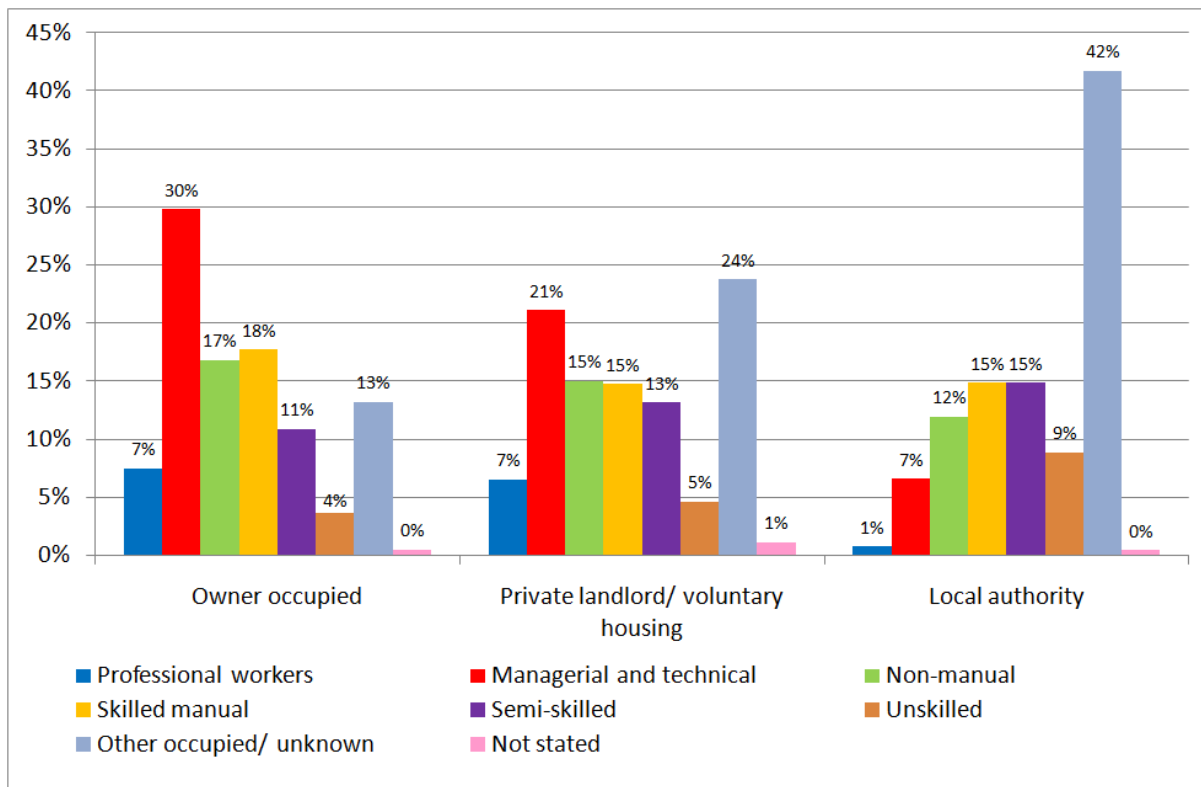
who owned their accommodation or rented from the local authority.

- Irish nationals accounted for 94 per cent of owner-occupied accommodation while 87 per cent of local authority accommodation was rented to Irish nationals in 2011.

3.4 HOUSEHOLD COMPOSITION IN THE PRIVATE RENTED SECTOR

An analysis of the composition of households renting from private landlords or voluntary bodies showed that 28 per cent of the heads of households were classified as being professional, managerial or technical. While this was lower than the equivalent proportion in the owner occupied sector (37%), it was significantly higher than the proportion of households (10%) renting from local authorities.

Figure 3.3: Nature of occupancy by socio economic groups, 2011



Source: Based on CSO Census 2011

It is important to note that in some instances the CSO merged data for two categories: (i) renting from a private landlord and (ii) renting from a voluntary group. Based on calculations using data in Table 3.1 above, renting from voluntary groups

represented less than 5 per cent of accommodation in this merged group. This suggests that results from this merged group were largely reflective of the component which rented from a private landlord.

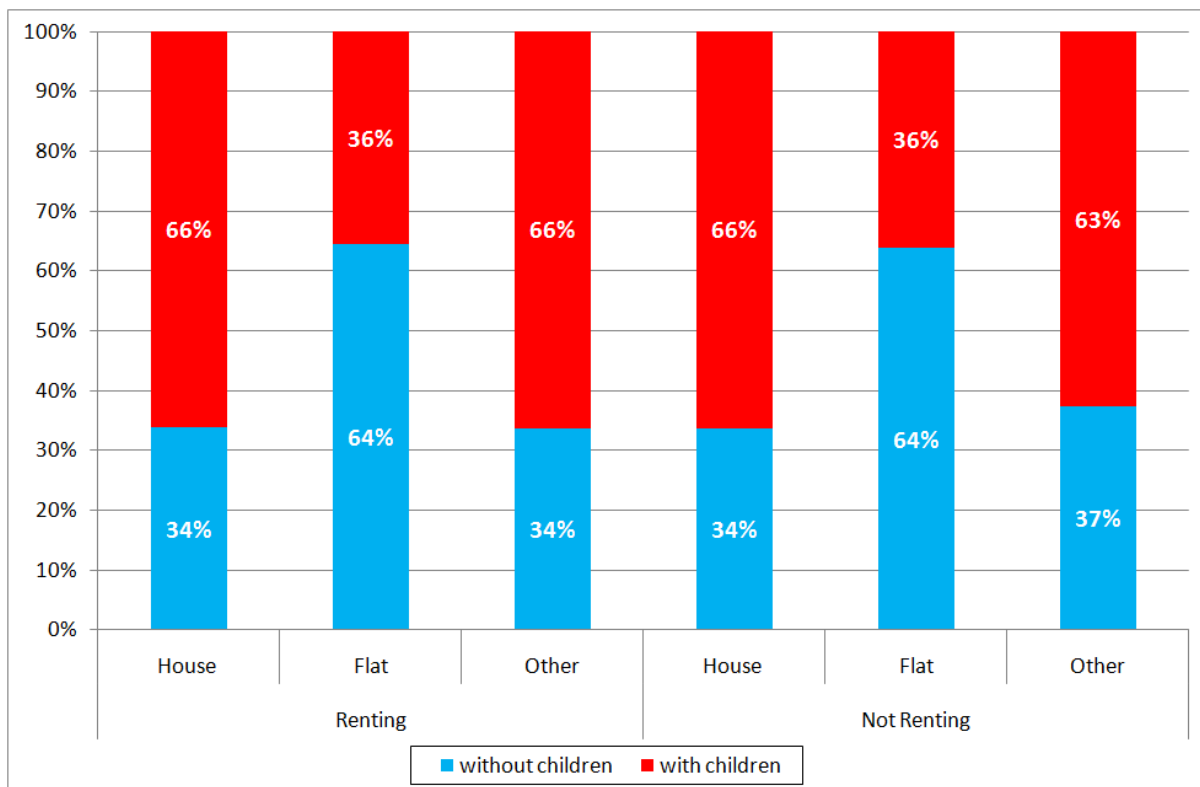
However, it must be borne in mind that the Irish Council for Social Housing estimates that there are more tenancies in the voluntary sector than suggested by the Census. It is believed that the recent inclusion of 'renting from a voluntary body' in the Census has caused some voluntary sector tenancies to be counted under private landlord tenancies in error.

Interestingly, there was only a small difference in the tenure choice of couples with or without

children. Among those who were renting just under 60 per cent had children, compared with 66 per cent of those who did not rent their dwelling.

Moreover, the type of accommodation in the rented and non rented sectors did not vary significantly. Figure 3.4 indicates that approximately 60 per cent of couples with children in both the rented and the non rented sectors lived in houses. In contrast, the majority of couples living in apartments, either owned or rented, were couples without children.

Figure 3.4: Proportion of couples with/without children in private households by house type and nature of occupancy, 2011



Source: Based on CSO Census 2011

3.5 HOUSING STOCK IN THE PRIVATE RENTED SECTOR

The majority of accommodation in the private rented sector in 2011 was taken up by flats/apartments (35%), followed by semi-detached houses (27%). Detached and terraced houses accounted for 17 per cent and 18 per cent

respectively, while bed-sits made up less than 1 per cent of accommodation.

As expected the average household size tended to be higher in detached (2.88) and semi detached houses (2.96) compared with terraced houses (2.56) and flats/apartments (2.09). As of 2011 there were around 4,500 bed-sits across the country as a whole with an average of just 1.4 persons per bed-sit.

Table 3.2: Total Private Rented Households by Type of Accommodation and Population, 2011

	Households	%	Population	%	Average Household Size
Detached house	54,970	18	158,158	21	2.88
Semi- Detached house	83,248	27	246,564	32	2.96
Terraced house	51,352	17	131,265	17	2.56
Flat/ apartment	106,044	35	212,891	28	2.09
Bed-sit	4,475	1	6,259	1	1.40
Not stated	5,288	2	15,238	2	2.88
Total	305,377	100	770,375	100	2.52

Source: Based on CSO Census 2011

Further analysis shows that rented accommodation tended to be smaller in terms of the number of rooms compared with owner-occupied housing. On average, accommodation rented from private landlords had 3.9 rooms compared with owned accommodation which tended to have 5.9 or 6 rooms. Furthermore, rented accommodation appeared to be more densely inhabited with an average of 0.6 persons per room compared with owner-occupied accommodation which had 0.4 or 0.5 persons per room.

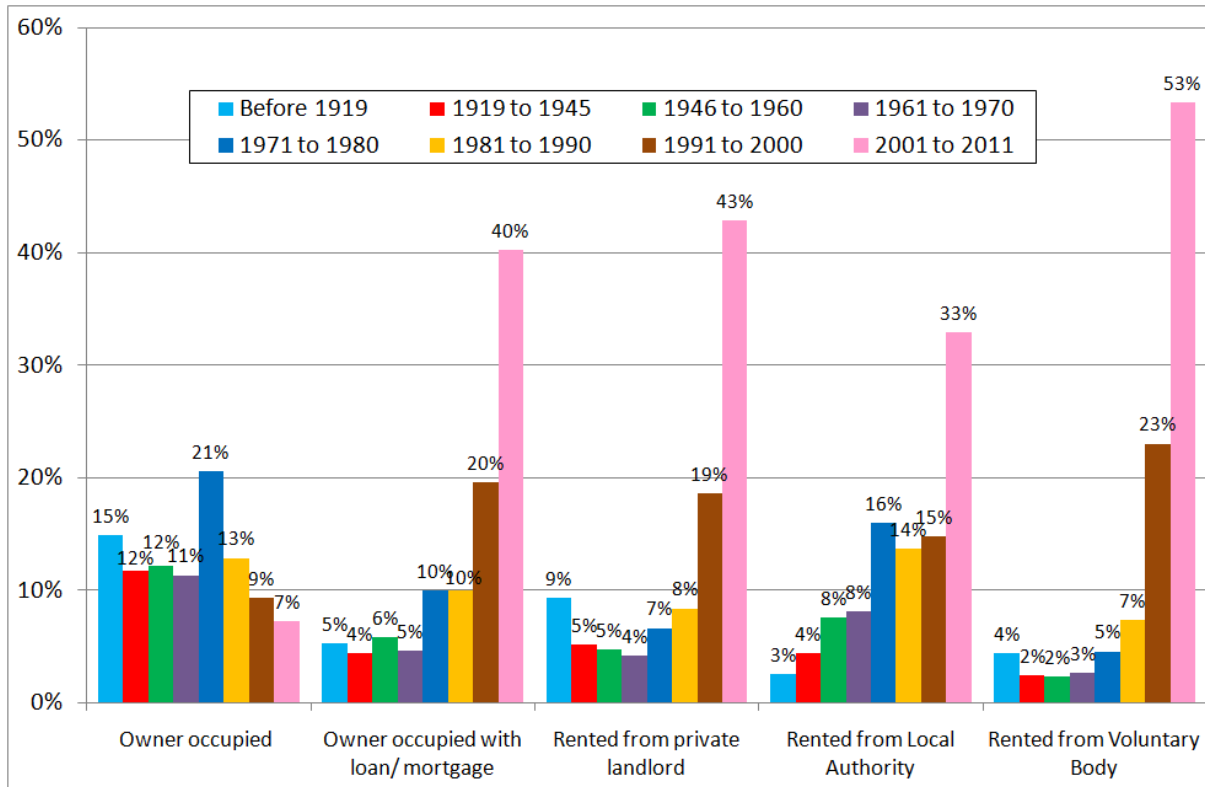
Table 3.3: Average rooms per household and average persons per room, 2011

	Av. Rooms per HH	Av. Persons per Room
Own with Mortgage or Loan	6.00	0.54
Own Outright <i>Renting from:</i>	5.90	0.40
Private Landlord	3.90	0.64
Local Authority	3.90	0.70
Voluntary/Co-operative Housing Body	3.40	0.67

Source: Based on CSO Census 2011

The effects of the building boom of the late 1990s and 2000s were clearly reflected in the age of the housing stock across the occupancy modes. The accommodation in the private rented sector was relatively modern, with 62 per cent of the rented stock being approximately 20 years or younger. This compared with 45 per cent of accommodation rented from local authorities and 70 per cent from the voluntary bodies, and was broadly similar to owner-occupied accommodation funded by a loan or mortgage. Understandably, accommodation owned outright was much older compared to the other tenures, with over 70 per cent of its housing stock built before 1981.

Figure 3.5: Percentage of households by nature of occupancy and period in which built



Source: Based on CSO Census 2011

3.6 CONCLUSIONS

The 2011 Census provided a range of pertinent statistics regarding the Irish private rented market. Most strikingly the sector had doubled in size to 305,377 households in the five years since 2006, thus considerably altering the composition of housing provision in Ireland.

The Census also showed that private renters were predominantly young (particularly in the 25-34 age category), single and Irish, though rental tenants originating from elsewhere in the EU27 had grown to account for 25 per cent of all renters in 2011.

Accommodation inhabited via private renting also tended to be smaller and more densely populated compared to dwellings under alternative tenures in 2011, while such accommodation was also generally younger with 62 per cent built in the previous 20 years.

4. ATTITUDES IN THE PRIVATE RENTED SECTOR

This Section initially sets out how the composition of the private rented sector has changed since 2011 and provides up to date information on the size of the sector as of 2014. This follows with a summary of the results of the RED C surveys of landlords, tenants and estate agents which were undertaken as part of this study³². The purpose of the RED C surveys was to develop an understanding of the landlords, tenants and estate agents who participate in the private rented sector at present.

4.1 SIZE OF THE SECTOR

Information on the size of the private rented sector, in terms of numbers of rented properties, landlords and tenants is relatively sparse.

Census 2011 reported that there were 305,377 households in the private rented sector. In contrast, the 2011 PRTB Annual Report³³ showed that there were 260,144 tenancies registered with the PRTB. This would suggest that there is 85 per cent compliance with the requirement to register a private rented tenancy with the PRTB with some 41,000 tenancies still unregistered. It is likely that compliance has increased since then due to the launch of a new detection policy and as of 2014, there was 300,543 tenancies registered with the PRTB.

As previously noted, there were 770,375 persons living in private rented accommodation in 2011. In contrast the PRTB had 554,567 tenants or 72 per cent registered. The lower number of tenants registered with the PRTB may be due to a number of factors including:

- Children within families units not being counted by the PRTB;
- Subletting by tenants;
- Under-declaration of tenants by landlords;
- Rent a Room Scheme; and
- Accommodation occupied free of rent.³⁴

³² Details of the methodology employed in administering the survey are set out in Appendix 1.

³³ <http://www.prtb.ie/media-research/publications/annual-reports>

³⁴ According to the 2011 Census there were around 25,500 households who were classified as living in rented accommodation without paying rent. Some of these may be in

The 2011 Census did not give an indication of the number of landlords in the State; however the PRTB had 182,800 registered in 2011.

The latest PRTB data indicates that there were 156,643 landlords, 635,122 tenants and 300,543 registered tenancies in 2014. While the number of tenancies registered with the PRTB has increased in the past two years, the number of landlords and tenants has declined. These trends may reflect a change in methodology in data analysis by the PRTB.

Table 4.1: Size of Private Rented Sector

	Census 2011	PRTB 2011	PRTB 2012	PRTB 2013	PRTB 2014
Landlords		182,800	212,306	179,026	156,643
Tenants	770,375	554,567	593,382	457,208	635,122
Tenancies	305,377	260,144	264,434	282,918	300,543

Source: Based on CSO Census 2011, PRTB Annual Reports.

4.2 LANDLORDS

The RED C Survey of landlords indicates that that:

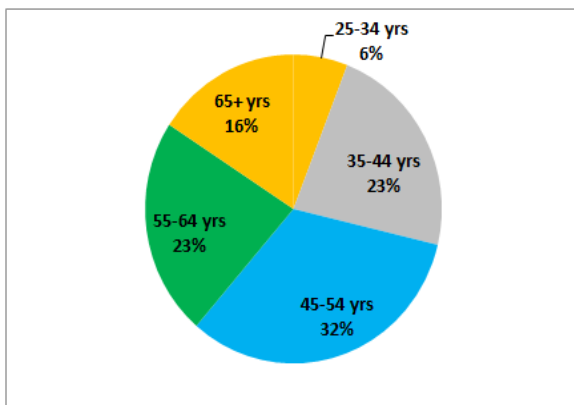
- The majority (61%) of landlords are male, with only 39 per cent female.
- Most landlords (83%) are married, in a civil partnership or long-term relationship with only 10 per cent of landlords being single.
- The average age of a landlord is 51 years, however more recent landlords tend to be younger with an average age of 46 years while those who have been landlords for over 10 years have an average age of 60 years
- With regard to socio-economic group, the largest single category is C1³⁵, accounting for 27 per cent of responses.
- Those in social class B account for 24 per cent of landlords.
- Those in social class E, whose main income source is state benefit, only account for 14 per cent of landlords.
- The majority of landlords (65%) indicate that they are currently working fulltime, followed

the private rented sector and may not be registered with the PRTB.

³⁵ The definitions of social class are set out in Appendix 1.

- by part-time workers (16%), home workers/homemakers (10%) and the unemployed (9%).
- 95 per cent of landlords in the market are Irish with the majority of the remainder being from the UK.
- On average respondents have been landlords for close to 9 years.
- Two thirds of landlords are “longer-term” landlords (5 years plus), with just over a third of landlords being so for less than 5 years.

Figure 4.1: Age Profile of Landlords



Source: Based on RED C survey data

4.2.2 Motivation for Becoming a Landlord

Reasons for becoming a landlord largely fell into the following categories:

- Considered property as a good investment generally (39%),
- Additional income/source of income (22%),
- Had to move as their first house is in negative equity and they could not sell it (19%),
- Moved in with their partner and the first property was rented out (8%), and
- Inherited the property (7%).

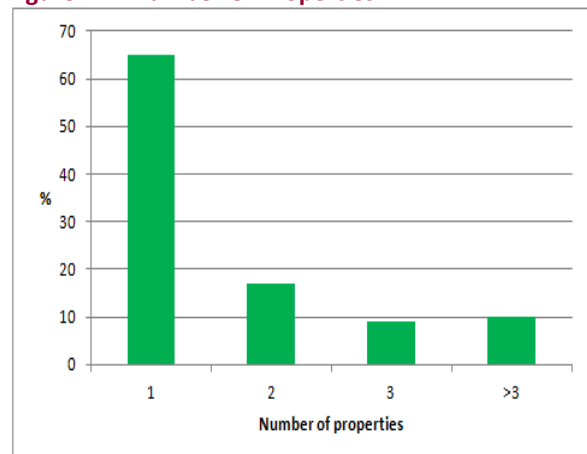
Based on the responses as to the decision to become a landlord the following are categorised as being accidental landlords: those who responded i) they had to move as their first house is in negative equity and they could not sell it; ii) moved in with their partner and the first property was rented out; iii) inherited the property; and iv) by accident. Accidental landlords are much more likely to have become landlords in recent times, with close to 55 per cent of accidental landlords having a property to rent for less than 5 years.

4.2.3 Portfolio of Properties

The majority (65%) of landlords own just one property. A further 17 per cent have two properties and 9 per cent own three properties. 10 per cent of landlords have more than three properties.

- Of those who are new landlords (less than 5 years), 92 per cent have one property.
- Of those who have been landlords for 6 to 10 years, 59 per cent have one property, a further 25 per cent have 2 properties and 9 per cent have three properties.
- A third of those who have been landlords for over ten years have just one property, while another third have over three properties.
- Unsurprisingly, the majority of accidental landlords (82%) have only one property available to rent.

Figure 4.2: Number Of Properties



Source: Based on RED C survey data

4.2.4 Key Issues of Concern for Landlords

As part of the survey, landlords were asked to give their view on a series of statements about the rental sector.

Landlords are of the view that it is a lack of supply driving the increase in rents (49% in agreement) and that the supply of rental properties should be incentivised (45%).

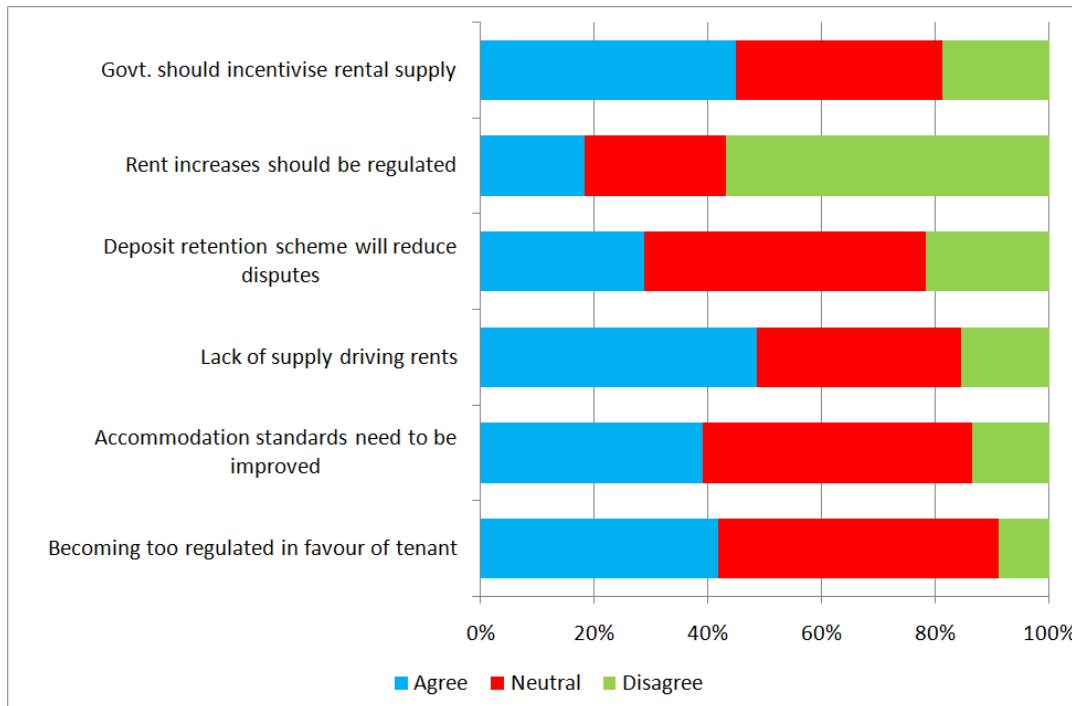
Unsurprisingly, the majority of landlords (57%) are not of the view that rent increases should be regulated by government.

In addition, 42 per cent of landlords agreed with the statement that the sector was becoming too regulated in favour of the tenant.

Close to 40 per cent agreed that the standard of accommodation in the rental sector should be improved.

In regard to the Deposit Protection Scheme due to come into force, 29 per cent of landlords are of the view that this will reduce disputes, while 22 per cent disagreed.

Figure 4.3: Registered Landlords, Agreement With Statements About The Private Rented Sector



Source: Based on RED C survey data
Note: Responses exclude "Don't Know".

4.2.5 Rent Income and Loan Repayments

According to the survey, 84 per cent of landlords have not increased the rents on the properties that they own over the past 12 months, while just 16 per cent say that they have.

21 per cent of those who are landlords for between 6 and 10 years increased rents in the last year, while just 10 per cent of those who have been landlords for 5 years or less have increased their rents.

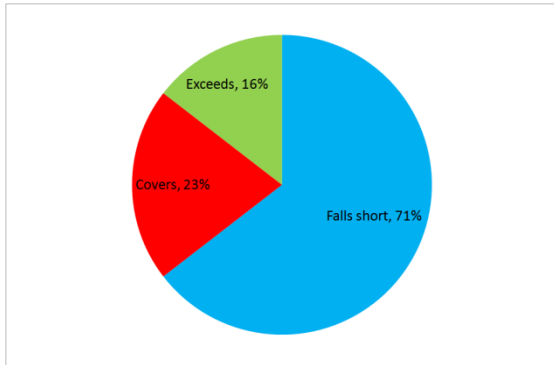
70 per cent of landlords indicate that they have an outstanding debt on the rental property. This is highest amongst those who are landlords for 6 to 10 years, at 81 per cent. Just 56 per cent of those who are landlords for over 10 years have an outstanding debt on the property.

Of those landlords with an outstanding debt, for nearly three quarters (71%), the rental income they receive does not cover the mortgage or loan

repayments. A further 23 per cent say that their mortgage and loan repayments are covered, while the remainder indicated that rental income exceeded debt repayments.

The proportion is lower for those who have been landlords for over 10 years, with 53 per cent responding that they are left with a shortfall and 38 per cent meeting mortgage or loan repayments. Of the 70 per cent of landlords who indicated that they have an outstanding debt on the rental property, only 8 per cent responded that they are in arrears of over 90 days on their property.

Figure 4.4: Rental Income And Mortgage Or Loan Repayments



Source: Based on RED C survey data

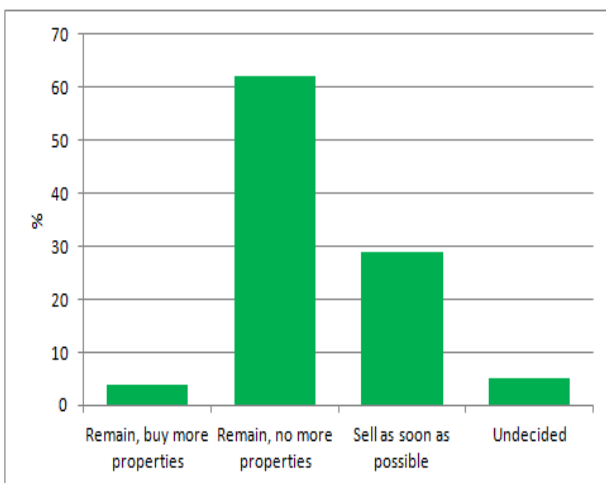
4.2.6 Future Plans

With regard to their future plans as landlords, 62 per cent plan to remain as landlords but not to buy any more properties.

Close to a third (29%) intend to sell their properties as soon as they can. This is particularly the case with more recent landlords, 36 per cent of whom intend to sell as soon as they can. Just 4 per cent of all landlords plan to remain as a landlord and increase their number of properties. A further 5 per cent are undecided.

Accidental landlords are marginally more likely to leave the sector, with 31 per cent responding that they intend to sell their properties as soon as they can, compared to 27 per cent for other landlords.

Figure 4.5: Future Plans As A Landlord



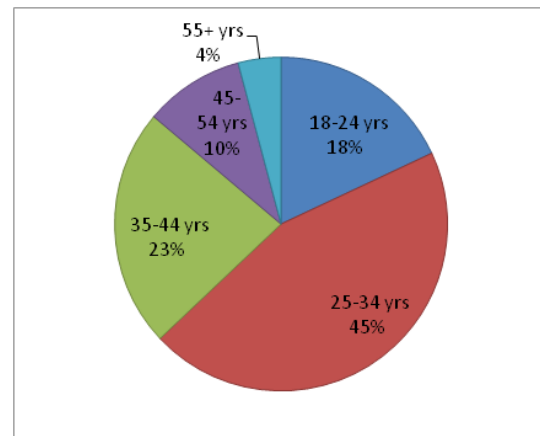
Source: Based on RED C survey data

4.3 TENANTS

The RED C survey of tenants indicates that a wide variety of people participate in the private rental market sector.

- Young adults aged between 18-34 years make up the highest proportion (63%) of tenants in the private rented sector while only 14 per cent of tenants are 45 years or older.
- Single adults (36%) represent the largest share of tenants, followed by married couples (32%), civil partnership/long-term relationships (26%) and widowed, divorced or separated tenants (6%).
- Approximately half of tenants are in full-time employment, followed by part-time workers (15%), the unemployed (15%), students (11%), housewives (8%) and those in retirement (1%).³⁶
- The largest proportion of tenants (37%) resides in Dublin while the remaining regions each contain approximately 20 to 22 per cent of respondents.

Figure 4.6: Tenants' Age Profile



Source: Based on RED C survey data

A breakdown of tenants by nationality reveals that:

- Irish nationals represent the largest share of tenants with 71 per cent of private renters.
- UK nationals make up 7 per cent of tenants surveyed.
- 15 per cent of tenants are from other European countries.
- Tenants from more distant regions make up a small proportion of those surveyed.

³⁶ Due to the small number of observations for retirees, this group is excluded from subsequent analysis.

- 4 per cent of tenants identify Asia/Africa as their country of origin ,and
- 1 per cent of tenants indicate they are from USA/Canada.³⁷

4.3.2 Living Arrangements

81 per cent of tenants share the property they rent. Of those who share, a third share with just one other person, while 25 per cent share with two other people and 24 per cent share with three other people. 11 per cent of those who share do so with four other people, while 5.6 per cent share with five or more people.

Of those who share, 38 per cent do so with their partner and children, 20 per cent with their partner alone and 15 per cent share with other adults.

In addition, 14 per cent share with their friends, and 7 per cent responded that they are living with their children. Others, including living with the owner, account for 7 per cent of responses.

4.3.3 Key Views of Tenants

Figure 4.7 provides information on tenants' assessment of various statements about their rented property. Tenants were asked to rank each of the statements on a scale of 1 to 10 where 1 is not at all satisfied and 10 is extremely satisfied. The tenant's score was categorised into one of three groups, Satisfied (tenant gave a score between 8-10), Indifferent (4-7) and Dissatisfied (1-3).

- The majority of tenants (68%) were satisfied with the location of the property.
- Only 37 per cent were satisfied with the amount of rent they were paying relative to the property.
- The majority of tenants (56%) were happy with their landlord
- Over half (54%) of tenants were satisfied with how safe the property is.
- Only 45 per cent were satisfied with the security of their rental situation.
- Finally, 48 per cent of tenants were satisfied with the condition of the property.

Figure 4.8 provides information on tenants' assessment of various statements about renting. Tenants were asked to rank each of the statements on a scale of 1 to 10 where 1 is strongly disagree and 10 is strongly agree.

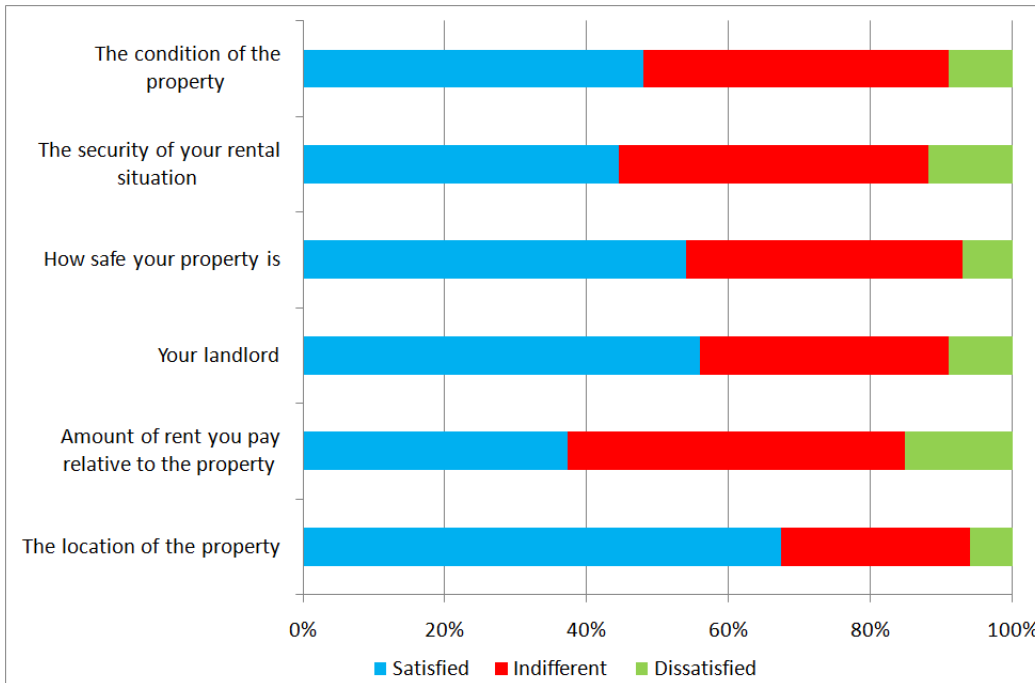
- Only 17 per cent of tenants agreed with the statement that they are happy renting and could see themselves renting long-term, while 33 per cent of tenants disagreed with the statement.
- 68 per cent of tenants responded that they have to rent because they cannot afford to buy a property.
- Similarly, 72 per cent of tenants would prefer to own their own home rather than rent.
- Only 21 per cent of tenants agreed with the statement that renting is great because you don't have the responsibility of owning your own property and a further 31 per cent disagreed with the statement.
- A third of tenants agreed with the statement that they are not fully aware of their rights as a renter.

There is some indication that rent stability would induce tenants to look more favourably on renting longer term:

- 45 per cent of tenants agreed that they would be more likely to rent long term if there was a possibility of rent stability (agreed rent for 3-4 years guaranteed).
- Separately, 29 per cent of tenants agreed with the statement that they would be more likely to rent long term if there was a possibility of a long term lease (lease for 3-4 years guaranteed).

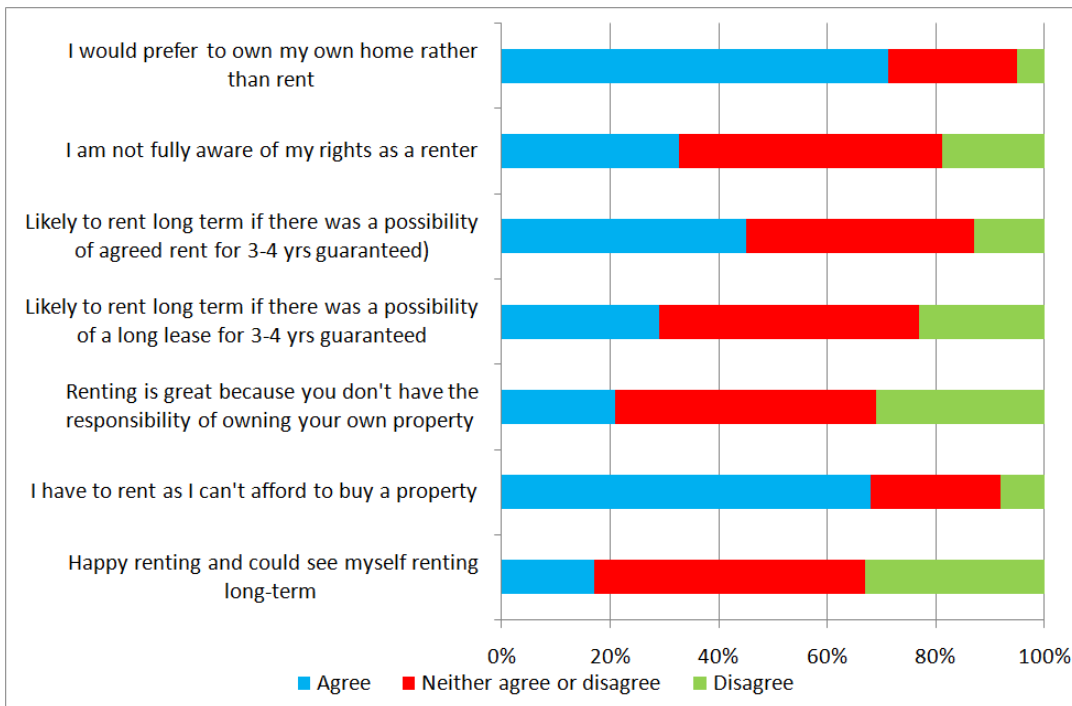
³⁷ Due to small number of tenants in the sample from USA/Canada and the Other category they are merged together in the subsequent analysis.

Figure 4.7: Tenants' Assessment Of Various Statements About Their Rented Property



Source: Based on RED C survey data

Figure 4.8: Tenants' Assessment Of Various Statements About Renting

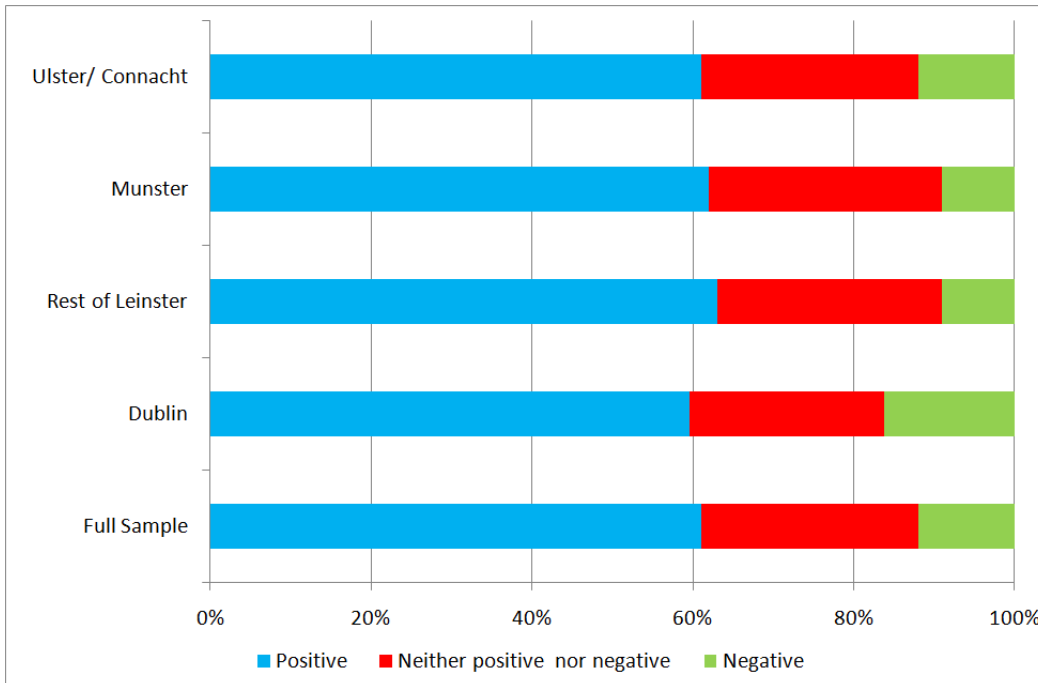


Source: Based on RED C survey data

Figure 4.9 provides information on tenants' assessment of their renting experience to date for the full sample of tenants and by region. Overall, 61 per cent of tenants report their present experience of renting as being positive. Tenants

appear marginally more likely to report a positive view of their renting experience in regions outside of Dublin.

Figure 4.9: Tenants' Assessment Of Their Experience Of Renting At Present



Source: Based on RED C survey data

Figure 4.10 shows that 74 per cent of tenants in the 18-24 age cohort consider their renting experience to be positive. This figure declines to 61 per cent for those in the 25-34 age cohort and to 47 per cent for those aged between 35-44 years. Interestingly, the percentage of tenants who view their renting experience positively rises again for tenants aged 45 or older.

Tenants who have experienced a rent increase in the last 12 months are likely to be less satisfied with renting. Of the tenants who had to pay higher

rent in the last 12 months, 45 per cent considered renting experience to be positive while 21 per cent reported their renting experience to be negative.

In contrast, for tenants whose rent did not increase in the last 12 months, 66 per cent considered their renting experience to be positive while 10 per cent reported their renting experience to be negative. Tenants who make higher monthly rent payments are likely to view their renting experience less positively and are more likely to consider it to be negative.

Figure 4.10: Tenants' Assessment Of Their Experience Of Renting At Present



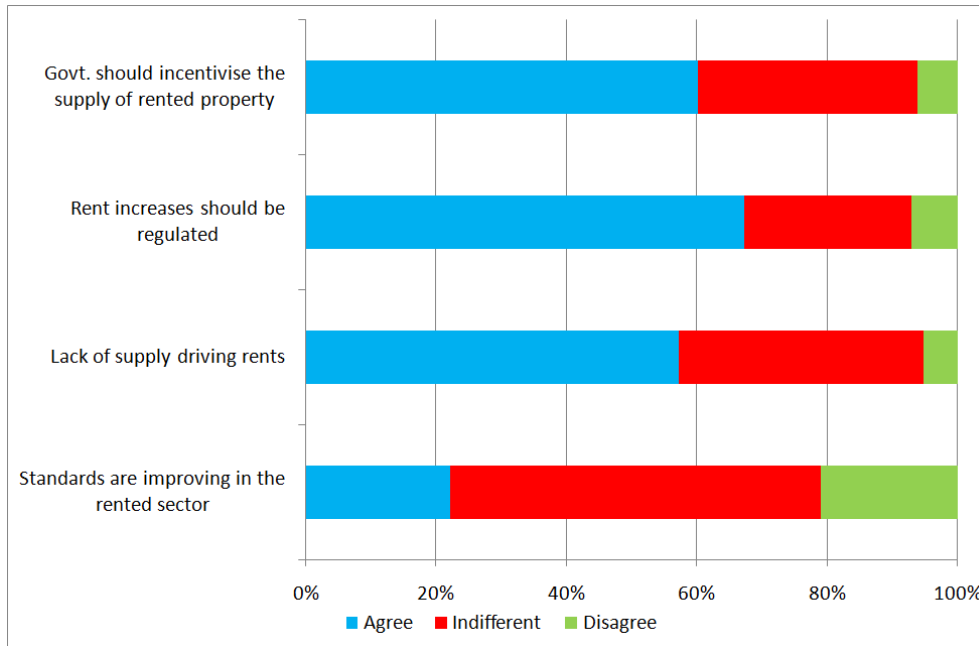
Source: Based on RED C survey data

Figure 4.11 presents a summary of tenants' responses to a number of statements related to the private rental sector.

Only 21 per cent of tenants agree with the statement that standards are improving in the rented sector. Tenants appear to be in strong

agreement (i.e. over 50% in each case) that the lack of supply is a key issue driving rents, that the size of the rent increase that can be charged by landlords should be regulated by the Government and that the Government should incentivise the supply of rented property.

Figure 4.11: Tenants’ responses to statements related to the private rental sector, percentage



Source: Based on RED C survey data

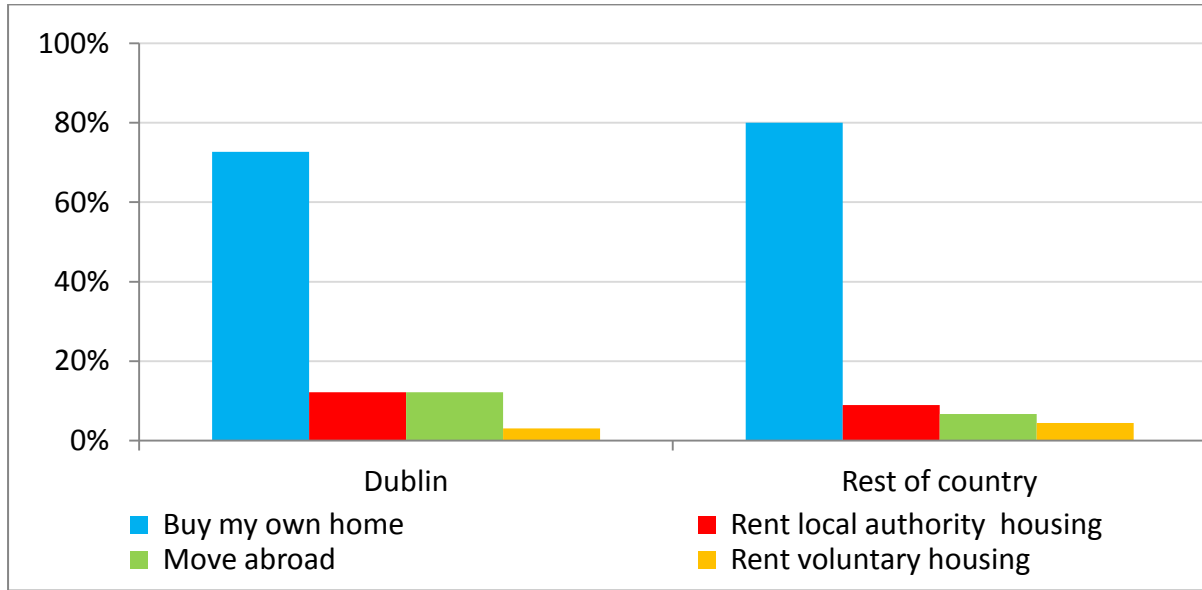
4.3.4 Tenants’ Future Intentions on Renting

For the full sample, **52 per cent of tenants intend to stay in the private rented sector, 15 per cent stated they will not remain in the sector.** Interestingly, there are a large percentage of tenants who are unsure of their plans for the next couple of years, 32 per cent.

For the full sample, over 22 per cent of those planning to exit the sector aim to do so within the next 6 months, 51 per cent intend to exit within 7-24 months, and 19 per cent within 2-4 years.

In regard to what tenants plan to do after leaving the private rental sector, **77 per cent of tenants exiting the sector intend to buy a home, 10 per cent envisage renting local authority housing, 9 per cent anticipate moving abroad while 4 per cent plan to rent voluntary housing,** for the survey sample. Figure 4.12 provides information on what tenants plan to do after leaving the private rental sector by region. **Buying a home is the primary reason given for leaving the private rental sector in both regions,** as just over 70 per cent of tenants in Dublin plan to buy a home compared with almost 80 per cent in the rest of the country.

Figure 4.12: Intentions Of Tenants Who Plan To Leave Private Rental Sector By Region



Source: Based on RED C survey data

4.4 ESTATE AGENTS

Table 4.2 provides a breakdown of the estate agents by regions. Over 40 per cent of the estate agents surveyed are based in Dublin, 24 per cent are located in the rest of Leinster, 26 per cent are in Munster and 9 per cent are in Ulster/Connacht.

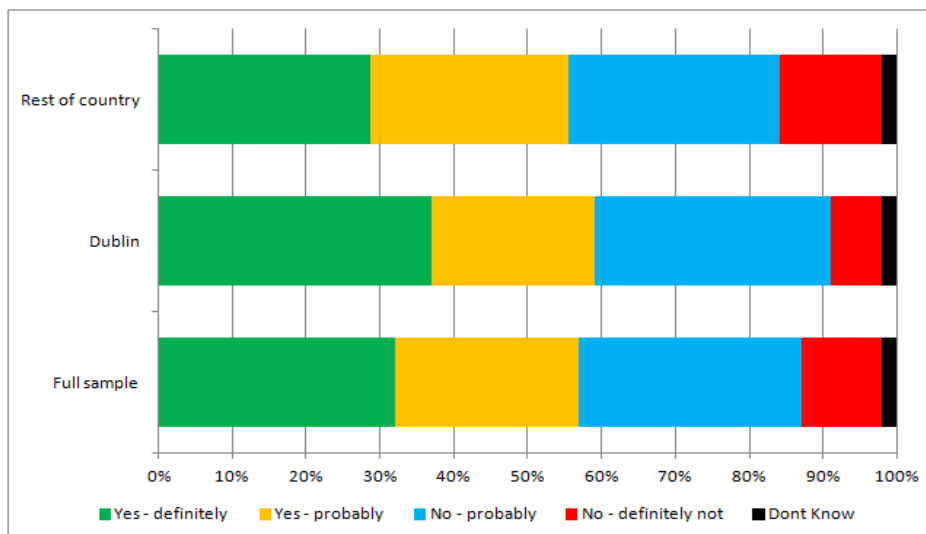
Table 4.2: Location Of Estate Agents

	%
Dublin	41
Rest of Leinster	24
Munster	26
Ulster/Connacht	9

4.4.2 Key Views of Estate Agents

In terms of the average length of contract, **67 per cent of estate agents indicate that contracts of 7-12 months are the most prevalent.** Only 12 per cent of estate agents responded that average length of a letting contract was 2-3 years. Looking at demand for contracts of longer than a year, 57 per cent of estate agents believe that there is a demand for such contracts.

Figure 4.13: Demand for contracts of longer than a year



Source: Based on RED C survey data

Estate agents' assessment of demand by property type in their area reveals that 3 bed houses are by far the most demanded property as indicated by

63 per cent of estate agents. 2 bed Apartments or Penthouses are the next most demanded property type, although this is lower at 20 per cent.

Table 4.3: Property type estate agents consider to be most in demand in their area

	Full sample	Dublin	Rest of Country
	%	%	%
1 bed Apartments or Penthouses	5	7	3
2 bed Apartments or Penthouses	20	24	17
3 or more bed apartment or Penthouses	1	0	2
1 or 2 bed houses	3	5	2
3 bed houses	63	54	69
4 bed houses	8	10	7

Source: Based on RED C survey data

Looking at the supply of property types, estate agents were asked to give their opinion on whether or not different types of property are in short supply. The survey indicates that the majority of estate agents believe each type of property is in short supply. **The largest consensus among estate agents is in regard to the shortage of 3 and 4 bedrooms properties, with 86 per cent and 83 per cent of estate agents agreeing respectively that they are in short supply.** In addition, there is a greater consensus among estate agents in Dublin on the shortage of each property type compared with estate agents in rest of the country.

4.4.3 Assessment of the Future

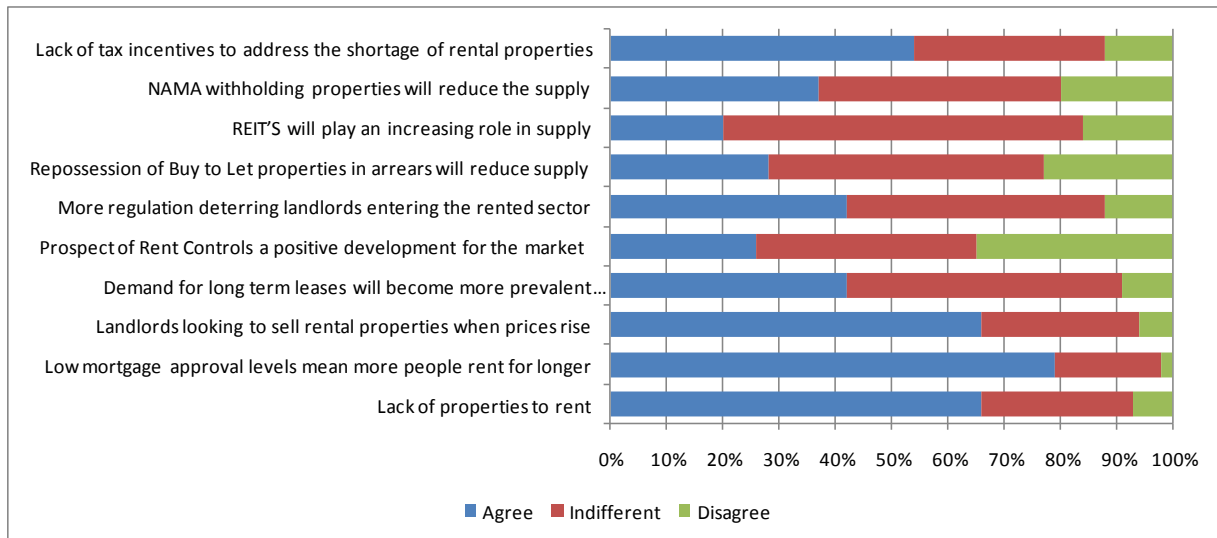
Figure 4.14 presents a summary of estate agents' responses to statements about the rental market in the next 12 months. Estate agents were asked to rank each of the statements on a scale of 1 to 10 where 1 is strongly disagree and 10 is strongly agree. The chart shows the percentage of estate agents who disagree, are indifferent or agree with each statement.

- When asked if there will be a lack of properties to rent in the next 12 months, 66 per cent of estate agents agree that there would be, while only 7 per cent disagreed.
- With regard to the implications of low levels of mortgage approval for rental duration, 79 per

cent agree that this would mean that more people would have to rent for longer.

- 66 per cent of estate agents believe that landlords will be looking to sell their rental properties when prices rise.
- On the matter of whether demand for long term leases will become more prevalent amongst tenants, 42 per cent of estate agents agree they would.
- Estate agents appear undecided on whether rent controls would be a positive development for the market with 26 per cent indicating that they would be while 35 per cent believe they would not.
- 42 per cent of estate agents believe that more regulation would deter landlords from entering the rented sector.
- Interestingly, only 28 per cent of estate agents contend that the repossession of buy to let properties in arrears would reduce supply, while 23 per cent disagreed with this view.
- Most respondents (64%) were unsure about whether real estate investment trusts would play an increasing role in the supply of rented accommodation.
- 37 per cent of estate agents expect that NAMA withholding properties from the market will reduce supply.
- Finally, 54 per cent of estate agents agreed that there is a lack of tax incentives to address the shortage of rental properties.

Figure 4.14: Estate agents' responses to statement on the rental market in the next 12 months



Source: Based on RED C survey data

4.5 CONCLUSIONS

The results of the RED C landlord survey indicate that private rental accommodation is largely owned by males who are from older age cohorts (average age of 52). Investment decisions are the main reasons cited for entering the sector. Landlords' strongest opinions regarded rent caps where 57 per cent were opposed, while 49 per cent reasoned that supply shortages are driving rent increases at present. In keeping with the PRTB data, the majority of landlords responding to the survey have just one property. Over 70 per cent of landlords reported that the mortgage on their rental property was not covered by the rent they were currently receiving. Of landlords with an outstanding debt, 71 per cent of these responded that the rental income they receive does not cover the mortgage or loan repayment.

The profile of tenants surveyed understandably differs considerably from that of landlords, as renters are younger (63% in 18-34 age group) and more evenly split by gender (53% male, 47% female). Tenants also tend to be Irish, in employment and either married or in civil partnerships. Striking results from the survey show that only 17 per cent of respondents are happy renting, with 73 per cent intending on leaving the sector over the next 2 years. The inability to afford the purchase of a house is the main reason for renting. In addition, close to 13 per cent currently rent as they cannot find a

suitable property to buy or consider themselves too young to buy. These results suggest that a substantial proportion of tenants rent while waiting to buy their own home. This is consistent with the findings of another survey question when close to 70 per cent of tenant respondents agreed that they are renting because they cannot afford to buy a property. However, it is also worth noting that close to 30 per cent responded that they would be happy to rent if there was the possibility of a long lease (3-4 yrs). Only 21 per cent of renters feel that standards in the sector are improving.

Estate agents surveyed by RED C have shown that 7-12 month rental agreements are the most common in Ireland, but that agreements for longer durations are in demand. 3 bed houses are the most sought after by renters and are in the shortest supply nationally along with 4 bed houses. Estate agents expressed strong agreement with the statement that low mortgage approval levels will prolong the duration of renting for more people, while two thirds expect that increasing house prices will prompt landlords to sell their rental properties. Seventy six per cent of estate agents surveys feel that tenants are staying longer in the sector as they cannot get mortgage approval. The primary reasons estate agents deal with landlords is because landlords want to increase their rental income, want their house inspected or want some maintenance done on their property. With regards to responsibilities and separately with regard to their rights, over 50 per

cent of estate agents responded that this is one of the most common issues on which they have dealings with a landlord. Tenants generally look for improvements to the property they are renting. Close to 70 per cent of estate agents held the view that tenants are not aware of their responsibilities, and close to 35 per cent responded that tenants are not aware of their rights. 46 per cent of estate agents found that tenants' wanting a longer lease was one of the most common issues they have to deal with

Across each of the three groups surveyed, the supply of rental property was identified as being an issue for the sector at present.

Only 64 per cent of tenants had heard of the PRTB. 40 per cent of tenants do not know if the property is registered with the PRTB. Of those whose properties are registered with the PRTB only 14 per cent have had contact with the PRTB. Landlords have a high awareness of the PRTB. However, for the majority their only dealing with the PRTB has been to register their property, 90 per cent.

Supply, Regulation and Taxation in the Irish Private Rented Sector



5. HOUSING SUPPLY IN THE PRIVATE RENTED SECTOR IN IRELAND

5.1 INTRODUCTION

The previous analysis of housing tenure in Ireland identified a growing private rented sector which currently accommodates an estimated one in five households. Other tenures are outside the scope of this study, notably the balance, which is made up by owner occupied households (70% of households) and those accommodated in the social housing rented sector (9%). This section considers the main sources of housing provision in the private rented sector in Ireland. The extent of the use of private landlords for social housing provision is examined. There is also a discussion around the issue of funding and investment in the private rented sector. Finally projections are included for the size of sector in the future.

5.2 WHY HOUSING AS AN INVESTMENT?

Before reviewing the main providers of rented accommodation, the factors that encourage buy to let investors into the residential market are examined. The main objective of a landlord/investor is to maximise his return for a given level of risk, i.e. investing in the property in anticipation of a capital gain, while securing a tenant who will pay a sufficient rent to cover the outgoings, notably maintenance and renovation costs, as well as any mortgage on the property. The Rent Stability report³⁸ examined the typical operating costs faced by a landlord and showed that the cost of servicing a mortgage can account for a significant proportion of overall operating costs, depending on when the investment was made, the type of mortgage rate and the loan-to-value ratio. The main source of returns historically has been related to capital growth with many small scale landlords often prepared to forego an adequate return on rental income in the hope of capital appreciation in the medium-term. This is recognised by many as being a feature of the Irish rental market in the Celtic Tiger era as landlords made their investments on the basis of future price growth. The unprecedented decline in house prices during the 2007-2013 period combined with the imposition of austerity measures, cuts in disposable incomes and additional charges has impacted negatively on the business of residential

letting. However, the current and anticipated low rate of interest from banks for cash deposits, together with the recent recovery in property prices, is once again increasing the attractiveness of residential investment.

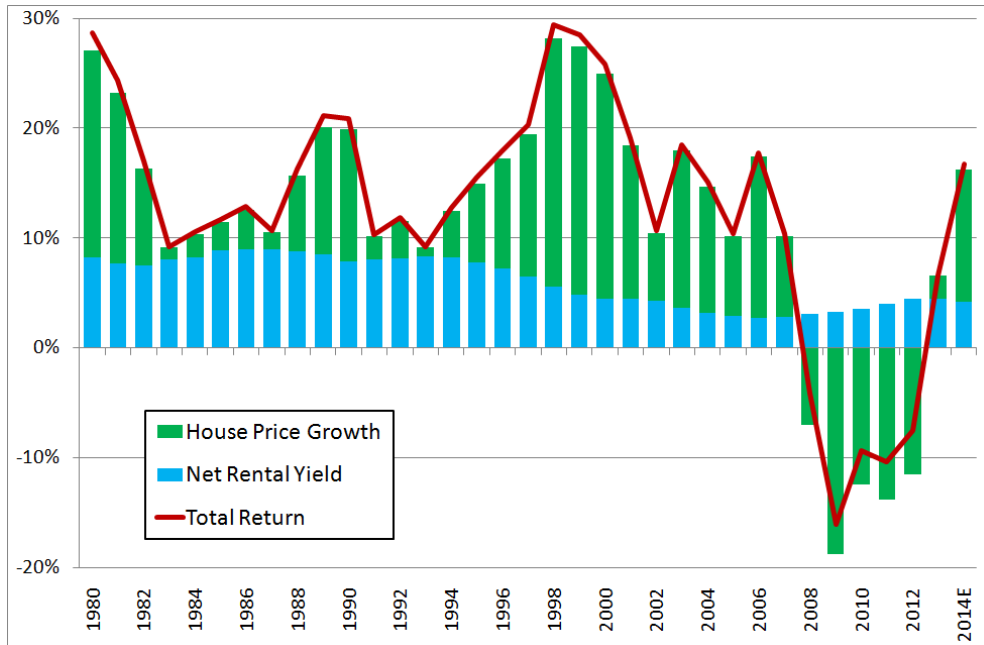
A review of trends in the total returns for buy to let investors shows the composition as between annual changes in house prices and the net rental yield on a property. The net rental yield is derived using average private sector rents, and assuming no voids and landlord costs equivalent to 20 per cent of annual rental income. The total returns in nominal terms are shown over the period 1980 to 2014E and with the exception of the most recent financial crisis period, the total returns were positive each year.

A key determinant of the move into residential investment property will be the rental yield from the income stream generated by the property. The following chart shows the net rental yield for Irish residential investment property back to 1990. The chart uses quarterly data for the average national property price³⁹, the average annual rent, according to the PRTB index and the CSO private rents index before 2007. With landlord costs equivalent to 20 per cent of annual rental income, it is evident that net rental yields have fluctuated between 2.7 per cent and 8.6 per cent over the period. The higher figures, with net yields closer to 9 per cent, arise in the early to mid 1990s, before the escalation in property prices, following which net yields fell to less than 3 per cent. These figures exclude the cost of servicing a mortgage which, depending on the year the property investment was made, could have seriously impacted on the overall return from the investment.

³⁸ Rent Stability report (Section 6).

³⁹ Using data on the average property price from the EBS DKM Housing Affordability Index.

Figure 5.1: Total Returns for Residential Investment

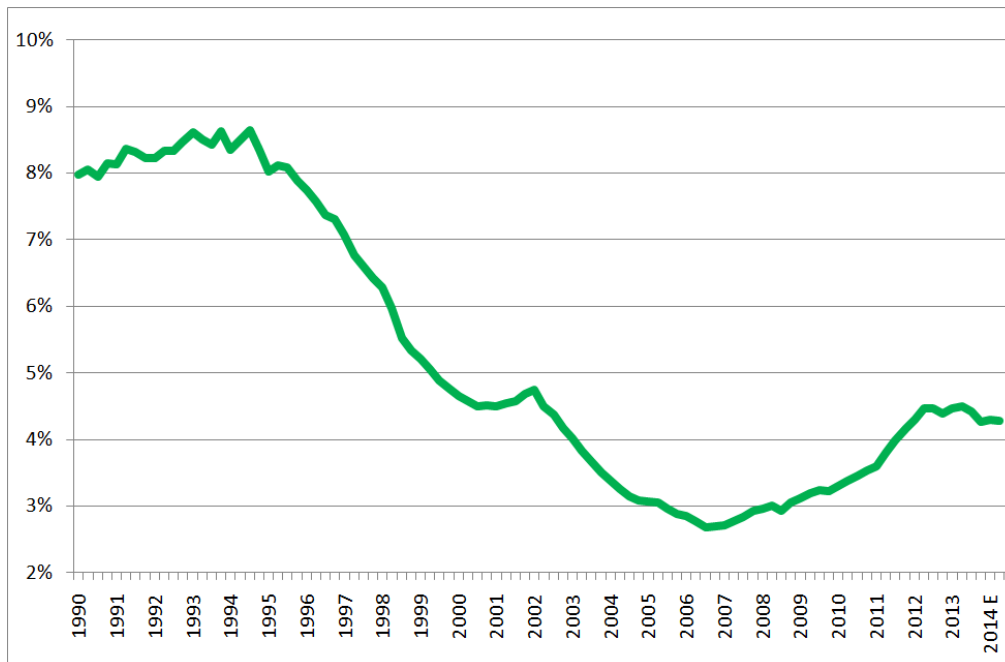


Source: CSO, PRTB

Property yields are a function of the purchase price and the rental income. The above analysis uses average national figures for both. An investor in the Dublin market, for example, paying €400,000 today could achieve an annual gross

rental income of €22,000, which after landlord costs, would return a net yield of 4.3 per cent, which is in line with the estimate for the average residential property yield across the residential investment sector in Figure 5.2.

Figure 5.2: Residential Property net yields 1990-2014E



Source: CSO, PRTB.

5.2.2 Buy to Let Mortgage Arrears⁴⁰

As most property investment tends to be leveraged through a mortgage, the cost of interest payments over time can be a very significant component of the overall cost of entering the residential investment/buy to let sector. This is evident from the mortgage arrears situation in the buy to let sector which is one of the biggest remaining challenges from the financial crisis. While much work has been done to develop a policy response for homeowners in arrears, there are no corresponding resolution strategies in place for buy to-let (BTL) mortgages, although there have been a number of recommendations by the Joint Committee on Finance, Public Expenditure and Reform⁴¹.

The scale of the BTL crisis is quantified by the Central Bank on a quarterly basis. The most recent information shows that there were 39,669 BTL loan accounts in arrears at the end of June 2014 out of a total of around 144,000 BTL mortgage accounts (Table 5.1). This figure represents 27.5 per cent of the total BTL mortgage loan accounts⁴², up from 26.9 per cent one year previously and 23.1 per cent in June 2012, the first time the data was published. This indicates that the BTL arrears problem is escalating with an additional almost 5,000 BTL loan accounts in arrears in less than two years. While the outstanding value of BTL mortgage loans has reduced over that time from €31.25 billion to €29.16 billion, the value of arrears cases has increased from €9.82 billion to €10.70 billion.

The escalation of the number of arrears cases to around 40,000 would appear to indicate that little progress is being made by financial institutions. Industry sources suggest that there are currently 4,000 receiverships in place on buy to let properties. However, with around 14,500 BTL mortgage accounts in arrears for almost two years (over 720 days) there have been very few cases of repossessions, with an average of 549 per quarter in the year to June 2014.

While the improved macroeconomic situation and recovery in house prices and employment should benefit buy to let investors who are in arrears, there is the risk that their prospects could substantially change should mortgage interest rates begin to rise anytime soon. Also, for many buy to let investors on interest only mortgages for ten years, the rental income may not be sufficient to cover the mortgage after the switch to principal and interest repayments. It is telling that close to one third of respondents in the RED C survey said that they intend to sell as soon as they can. In terms of the 156,643 landlords registered with the PRTB, this would correspond to 45,500 landlords or properties, assuming each sold one property. This level of properties would only come to the market when lenders consider it a good time to sell. The timing of disposal could adversely impact on house prices.

The BTL arrears issue is having a negative impact on tenants. Many tenants are, through no fault of their own, caught up in disputes between receivers and landlords. Such disputes can often result in the tenant being asked to vacate the property without giving the appropriate notice. There is also the likelihood that landlords in arrears will not have the financial resources to undertake urgent repairs or maintain their property.

⁴⁰ The Rent Stability report (Section 6) contains a comprehensive analysis on the business of a landlord and buy to let mortgage arrears.

⁴¹ <http://www.oireachtas.ie/parliament/media/committees/finance/Finance-Committee-Report-on-Mortgage-rrears-Resolution-Process.pdf> (July 2014).

⁴² The corresponding figure for principal dwelling mortgages was 126,055 mortgage arrears cases, 16.5% of the total number of principal dwelling mortgage loan accounts outstanding.

Figure 5.3: Buy to Let Mortgages in Arrears

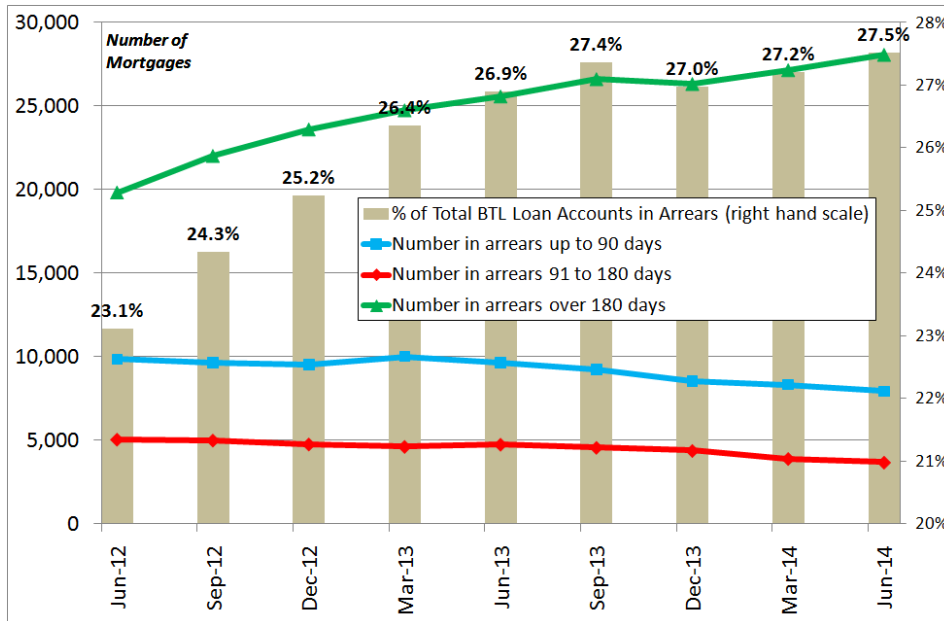


Table 5.1: Buy to Let Arrears

	Jun-12	Sep-12	Dec-12	Mar-13	Jun-13	Sep-13	Dec-13	Mar-14	Jun-14
Total BTL Mortgage Accounts	150,187	150,544	150,124	149,395	148,529	147,610	145,528	144,686	144,187
Balance outstanding (€bn.)	31.25	31.05	31.16	30.92	30.63	30.34	29.67	29.37	29.16
Total Mortgage Arrears cases	34,719	36,635	37,878	39,371	39,948	40,396	39,250	39,361	39,669
<i>of which</i>									
- In arrears up to 90 days	9,840	9,617	9,512	10,002	9,622	9,218	8,544	8,313	7,920
- In arrears 91 to 180 days	5,039	4,986	4,752	4,609	4,739	4,552	4,366	3,887	3,666
- In arrears over 180 days	19,840	22,032	23,614	24,760	25,587	26,626	26,340	27,161	28,083
Total over 90 days	24,879	27,018	28,366	29,369	30,326	31,178	30,706	31,048	31,749
% of Total BTL Mortgage Loan Accounts									
- Up to 90 days in arrears	6.6%	6.4%	6.3%	6.7%	6.5%	6.2%	5.9%	5.7%	5.5%
- More than 90 days in arrears	<u>16.6%</u>	<u>17.9%</u>	<u>18.9%</u>	<u>19.7%</u>	<u>20.4%</u>	<u>21.1%</u>	<u>21.1%</u>	<u>21.5%</u>	<u>22.0%</u>
Total	23.1%	24.3%	25.2%	26.4%	26.9%	27.4%	27.0%	27.2%	27.5%
Value of BTL Mortgage Loans outstanding (€bn.)									
- up to 90 days in arrears	2.36	2.22	2.22	2.22	2.31	2.12	1.96	1.85	1.76
- more than 90 days in arrears	<u>7.46</u>	<u>7.93</u>	<u>8.38</u>	<u>7.93</u>	<u>8.58</u>	<u>8.86</u>	<u>8.65</u>	<u>8.77</u>	<u>8.94</u>
Total Value	9.82	10.15	10.60	10.15	10.89	10.98	10.61	10.61	10.70
Value of Total Mortgage Arrears outstanding as % of Total BTL Mortgages	31.4%	32.7%	34.0%	32.8%	35.6%	36.2%	35.8%	36.1%	36.7%
Value outstanding > 90 days as % of Total BTL Mortgages	23.9%	25.5%	26.9%	25.7%	28.0%	29.2%	29.2%	29.9%	30.7%
Total Repossessions	378	414	454	479	502	516	502	568	611

Recent proposals from the Central Bank to dampen down the property market by imposing new loan-to-value limits on mortgage lending for principal dwellings, as well as loan-to-income caps, also include restrictions for buy to let mortgages. The measures set out propose to restrict new lending to buy to let above 70 per cent LTV to no more than 10 per cent of the value of all housing loans for investment purposes.

Given what transpired over the past decade, it may be that some buy to let investors were not fully informed in regard to their knowledge of the property market or tenancy law when entering the residential investment market. There are mechanisms in place to inform and advise landlords on these issues, notably from the landlords' representative association, the Irish Property Owners' Association (IPOA)⁴³, as well as other free online resources for residential landlords.

5.3 PROVIDERS OF PRIVATE RENTED ACCOMMODATION

While information is available from the PRTB on the number of registered landlords, there is no comprehensive information on the composition of the private rented sector in terms of who are the main providers of rented accommodation. The 2004 report of the Commission on the Private Rented Residential sector described the different categories of landlords in the sector. A modified classification, based on developments in the private rented sector over the past decade, is set out below.

The different types of landlords operating in the sector today are likely to include the following:

- *Investor landlords*, who have one or more properties, primarily because they consider property a good investment. The main motivations for being in the sector tend to be the expected capital appreciation of the property as well as the additional source of income or pension on retirement.
- *Professional landlords*, who typically tend to have a portfolio of properties which would comprise their principal source of income. These landlords are likely to be committed to

the sector for the long-term and may have a preference for long-term renters. More recently, the introduction of legislative changes in Budget 2013 introduced Real Estate Investment Trusts (REITs) to Ireland. REITs are a welcome development in the Irish rented sector in that they are attracting experienced international professional property managers to the sector. They comprise mutual funds for commercial and residential real estate which raise money on the Irish Stock Exchange. To date three companies have raised a total of around €865 million, one of which is focused solely on the private residential rented market.

- *Accidental landlords*, anecdotal evidence would suggest, have become an increasing phenomenon in the Irish property landscape, as a result of the property crash which transpired post 2007. Typically, accidental landlords have included persons who rent out their principal residences in preference to leaving them vacant while they temporarily move away for work or move in with relatives requiring care, until such time as they return to their homes or decide to sell. Since 2007 this group has increased to include households who rent out their homes because they cannot afford their mortgage repayments. The group also includes some households in negative equity, who have moved house, but have put off selling their home until house prices recover sufficiently to cover their mortgage. The significant increase in emigration as a result of the economic recession has also seen a number of owners rent out their property while they work temporarily in other jurisdictions, rather than sell in a depressed property market.
- *Resident landlords* comprise those persons who have purchased a property and for financial or social reasons, share the property with individuals in return for payment of rent. These would have always been an element of the rented sector based on the traditional model of 'digs' with one or more persons living in a room or rooms in the owner's house with shared facilities and with meals supplied by the landlady. A related scheme, the 'rent a room' scheme has been in place since 1997⁴⁴ for owners who need assistance with their mortgage repayments. Under the scheme,

⁴³ www.irishlandlord.com

⁴⁴ Section 216A Taxes Consolidation Act, 1997.

there is tax relief on any rental income, up to a maximum of €10,000 per annum. This type of arrangement is less formal than the typical residential letting and tenants (and owners as landlords) are not subject to the requirements of the Residential Tenancies Act 2004 as they are classified as 'licencees' instead of tenants.

- *'Landlords' who provide purpose built student accommodation*, which is a rented sector in itself. The main providers are generally educational institutions or professional companies who specifically target the education sector, providing accommodation for both domestic and foreign students. The current undersupply of student accommodation together with an estimated 100,000 overseas students attending colleges in Ireland each year, and a proportion of the over 200,000 domestic students enrolled in higher education living away from home, has attracted international student accommodation specialists and Irish developers who are expected to spend up to €250m on student accommodation over the next five years⁴⁵. Estimates suggest that some 10,000 bedroom spaces are required in Dublin alone over the next three years. The shortage of purpose built bed spaces for students means that students also occupy properties provided by other landlord categories.

5.4 CONCENTRATION OF THE PRIVATE RENTED SECTOR

In terms of the total properties in the private rented sector, it has previously been highlighted (Table 4.1) that there are 156,643 landlords who have 300,543 tenancies registered with the PRTB. The 2011 Census indicated there were 305,377 households in private rented accommodation, which indicated an 85 per cent compliance rate based on the number of PRTB registered tenancies in 2011 (260,144).

The categories of landlords above are not mutually exclusive; some will be providers across a range of property and tenant types. There are currently 635,122 tenants registered in PRTB tenancies. The main categories of tenants are likely to include the following:

- Persons in employment who chose to rent and/or share accommodation with others;
- Families who chose to rent;
- Contract workers who tend to stay in one place for a defined period of time;
- Employees in accommodation subsidised by their employer, who tends to occupy the highest quality and most expensive accommodation;
- Elderly persons who have been renting long term and for whom home ownership is no longer feasible;
- Students, both domestic and overseas, who tend to have a temporary need for rented accommodation for a set duration, although this category has grown considerably to include foreign students attending colleges in Ireland over the summer months;
- Lodgers renting a room or rooms in a property which the owner also resides;
- Tenants on State support schemes, such as Rent Supplement or Housing Assistance Payment (see below)⁴⁶;

and more recently, due to legacy issues from the economic recession years, the private rented sector has been accommodating:

- Persons who have postponed house purchase due to falling property prices, and are in the rented sector until the time is right for them to become home owners; and
- Households who have lost their homes during the financial crisis.

A key point noted in the 2004 report from the Commission on the Private Rented Sector, and which remains relevant today, is that the heterogeneous nature of the above groups of landlords and tenants means that their expectations, requirements, experiences and perceptions of the sector will vary. Any policy options arising from this study need to be cognisant of this to ensure that they achieve an overall balance for all parties concerned.

Although the PRTB provide data on the total number of landlords and tenancies, data on the number of landlords by number of properties is more difficult to estimate accurately. This is due to the lack of a unique dwelling ID system plus landlords can use a CRO and a PPSN number interchangeably on different tenancies, resulting in

⁴⁵ Knight Frank, June 2014
<http://www.independent.ie/irish-news/news/250m-to-be-spent-on-student-housing-by-2019-30388814.html>

⁴⁶ This classification excludes those persons accommodated in the social housing sector by local authorities and approved housing bodies.

double counting. Landlords also do not always inform the PRTB when a tenancy has ceased or indeed a new tenancy has commenced. The situation can often arise that tenants in a new tenancy can be double counted if termination of their previous tenancy was not notified to the PRTB. However, PRTB data available suggests that two-thirds of landlords have one property, 84 per cent have one or two properties and 90 per cent have less than four properties. This data is consistent with other data presented below from the RED C survey of landlords and the Local Government Management Agency.

The RED C survey of registered landlords suggests the private rented sector is very fragmented. The majority of landlords, some 65 per cent, own just one property and 82 per cent have two or less properties. When those owning 3 properties are included, the proportion rises to almost 91 per cent.

In terms of professional landlords who are likely to have a larger portfolio of properties, the balance in the RED C survey, almost 10 per cent, have more than 3 properties. Moreover, 30 per cent of long term landlords in the sector for more than 10 years own more than 3 properties.

An alternative source is the data collected on the Non-Principal Private Residence (NPPR) charge⁴⁷. This is payable in respect of all residential properties not used as the owner's sole or main residence. While the NPPR charge also applies to holiday homes and a small number of other properties not in the rented market, it does provide details on the size of property portfolios. Based on the latest information available on payment of the NPPR charge, and excluding the estimated 60,000 holiday homes (as per Census 2011), approximately 197,000 persons paid the non-principal private residence charge across the country. As a proxy for the number of landlords, this figure compares with the PRTB figure of 156,643, indicating a difference of around 40,400 or less when those persons with properties not available for rent are excluded⁴⁸.

The total number of properties, excluding holiday homes, for which a NPPR charge was paid, was 317,415 (as of September 2014). The figure

compares with the 300,543 PRTB tenancies. However, it has been acknowledged that some of these NPPR properties would not be available for rent. Similarly one property may have more than one tenancy.

Further details on the number of persons paying the NPPR charge show that around two-thirds or 131,000 persons had just one property (excluding holiday homes) – consistent with the RED C survey (65%). A further 17 per cent had two properties and 6.5 per cent had 3 properties, indicating that 90 per cent had less than 4 properties – also consistent with the RED C survey. Some 95 per cent had 5 or less properties or less, rising to 98 per cent which had less than 10 properties.

Although the numbers at the higher end of the scale are presented in the next Table, the figures may not be reliable as we understand they may include payments by receivers paying for a large number of properties at a time.⁴⁹ Nonetheless the data shows that 2,728 persons had between 10 and 20 properties each and 847 persons had between 21 and 50 properties. There are 20 landlords with over 200 dwellings each.

Table 5.2: Payers of the NPPR Charge

No of Properties	No of Payers	No of Payers *	% share
1	190,882	130,882	66.5
2	34,120	34,120	17.3
3	12,743	12,743	6.5
4	6,211	6,211	3.2
5	3,473	3,473	1.8
6	2,309	2,309	1.2
7	1,441	1,441	0.7
8	1,061	1,061	0.5
9	781	781	0.4
10-20	2,728	2,728	1.4
21-50	847	847	0.4
51-100	176	176	0.1
101-200	77	77	0.0
201-500	18	18	0.0
500-1000	2	2	0.0
Total	256,869	196,869	100
Number of Properties		377,415	
Excluding holiday homes		317,415	

Source: Local Government Management Agency
Data relates to September 2014.

* excluding 60,000 holiday homes (as per Census 2011).

⁴⁷ The NPPR change is administered by the Local Government Management Agency www.lgma.ie

⁴⁸ The NPPR also includes, for example, residential properties owned by the Office of Public Works, as well as embassies and parochial houses.

⁴⁹ Receivers paying for a large number of properties at a time are classified as 1 payer but may be paying the charge for several different landlords in receivership.

Based on the above analysis it is clear both from the RED C survey and the PRTB and NPPR datasets that the private rented sector comprises a large number of small scale landlords.

In regard to the emergence of REITs, it is estimated that over 1,500 residential units have been acquired to date in the Irish market by the three REITs already established. Moreover, assuming the environment remains attractive in terms of capital values and yields, it is likely that this number will increase further over the coming years.

REITs have many benefits for tenants. They generally have higher standards of estate management, maintenance and regulatory compliance than private landlords. They provide related services to the tenant and are likely to avoid disputes at all costs as their commercial remit requires them to maximise their rental income without any interruption. As long term players in the market, there may be the potential to offer longer leases to tenants who wish to be long term renters.

Traditionally, accidental landlords are likely to have been a minor segment of the private rented sector. However, since the property crash the numbers are likely to have increased significantly. In the RED C survey, only 2 per cent of respondents stated that they had become landlords 'by accident'. However, when other categories are included the proportion of accidental landlords is actually around 36 per cent. Also, 16 per cent of accidental landlords in the survey had been in the sector for more than ten years.

Data on the total number of resident landlords is more difficult to estimate. But according to the Revenue Commissioners there are 4,073 claimants of relief based on a review of Forms 11 and 12 for the Rent a Room scheme. However, this figure is likely to be understated, especially in terms of the total number of such landlords which have been operating in the sector for some time prior to the introduction of the Rent a Room relief. The relief operates to exempt any income of up to €10,000 per annum. This form of relief can encourage the take-up of free space in dwellings by single tenants rather than having single tenants taking complete units.

The main providers of student accommodation tend to measure supply in terms of bed spaces.

The existing supply in Dublin is estimated at just 3,000 purpose built student bed spaces.

5.5 STATE SUPPORT SCHEMES FOR PRIVATE TENANTS

As previously outlined, the Irish housing market has traditionally been characterised by four channels of housing provision, notably local authorities, the not for profit voluntary sector, the private owner occupied sector and the private rented sector, which is the subject of this report. However, the lack of investment by the State in social housing since the economic crash has seen the private rented sector playing an increasingly important role in social housing provision. There are a number of State support schemes which operate in the private rented sector. The increasing reliance on some of these schemes to accommodate a small proportion of the most vulnerable social housing applicants is an unsustainable model. The long term vision for a more balanced housing system must include a social housing sector where these households can be better served and supported in terms of their complex needs through the provision of safe and secure housing from local authorities and/or approved housing bodies (AHBs) in the voluntary sector⁵⁰.

5.5.1 Role of Approved Housing Bodies in the Private Rented Sector

Approved housing bodies (AHBs) is the collective term used for housing associations, which are non-profit organisations whose purpose is the provision and management of housing for households who are in housing need. Such households may not be able to afford the purchase of a dwelling, or may contain individuals from certain vulnerable groups such as the homeless, the elderly, people with disabilities and families on low incomes.

Provided they meet certain criteria, voluntary housing associations can apply for 'approved status' from the Minister at the Department of the Environment, Community and Local Government under Section 6 of the Housing (Miscellaneous Provisions) Act 1992. Not for profit housing associations range from small locally based organisations managing one housing scheme to large housing associations with a national remit. It

⁵⁰ The forthcoming Social Housing Strategy from Government is expected to set out actions for a sustainable social housing sector into the future.

is a diverse sector with housing associations of various sizes and different priorities but all with common social aims. At the core of these aims is the provision of safe, secure and affordable accommodation to those who need it most. The sector now comprises around 500 AHBs which provide and manage over 27,000 homes, a figure which has increased from 2,000 in the early 1980s. Half of these 27,000 homes are for general needs accommodation and the other half are used for special needs groups.

AHBs have traditionally provided accommodation for those on local authority waiting lists via acquisition and new build. In this regard, the growth of the sector was facilitated by a range of capital funding programmes introduced by the Government including the Capital Assistance Scheme (CAS), the Capital Loan and Subsidy Scheme (CLSS)⁵¹. The funding model in place today has largely moved from a capital based one to one based on revenue funding. Among the more recent arrangements is the Capital Advance Leasing Facility (CALF), a new funding model which involves matching the limited state funding with commercial finance from private sector sources on the capital side, and a Payment and Availability Agreement, between the AHB and the relevant local authority, on the revenue side.

Delivery reached a peak in 2009 when over 2,000 new homes were completed and, coupled with the provision of additional homes through casual vacancies; almost 3,000 new tenants were accommodated. As already noted, since the downturn, capital expenditure for social housing has been significantly reduced and output has largely been comprised of units under various leasing initiatives, limited special needs housing provision and properties rented or acquired through the National Asset Management Agency (NAMA). There are also the special purpose vehicles, known as National Asset Residential Property Services (NARPS), which involve taking ownership of properties where there is an established demand and then leasing them long-term to an AHB or a local authority. The impact of the various leasing initiatives is addressed below.

32 per cent of PRTB tenancies on State Support Schemes

Returning to the main State support schemes in the private rented sector, it is estimated that around 99,000 households receive State support

⁵¹ This funding scheme was terminated in 2011.

for housing in the private rented sector, or 96,207 (32%) of all PRTB registered tenancies⁵². These figures exclude the 103,016 dwellings let by local authorities⁵³ as well as the over 27,000 properties mentioned previously, which are managed by AHBs.

Table 5.3: State Support Schemes for Housing in the Private Rented Sector

State Support Scheme	Number of households	of which in PRS
Rent Supplement/ Housing Assistance Payment	73,500	73,500
Rental Accommodation Scheme (RAS)	29,469	22,707
Leasing	<u>5,239</u>	<u>2,557</u>
Total	108,208	98,764
Required to Register with PRTB		96,207
<i>% of total PRTB registered tenancies</i>		<i>32%</i>

Source: DECLG.

Note: The RAS figure includes direct transfers from Rent Supplement of which 22,707 represent the numbers accommodated in units supplied by the private rented sector; the balance comprises those households accommodated in the voluntary sector and by unsold affordable units. Figures relate to end of July 2014.

The Leasing figure (end August 2014) includes 2,557 units leased from private landlords, which are not required to register with the PRTB.

Although AHBs traditionally have not been in the private rented sector *per se*, they are increasingly becoming involved in the sector. In this regard, a significant development under the new Residential Tenancies Bill, when enacted, will be to bring all tenancies of AHBs under the remit of the expanded Residential Tenancies Board (currently PRTB).

⁵² This 32% is derived using the latest figure for PRTB tenancies of 300,543 (2014), as a proxy for households and excluding the 2,557 units under the leasing scheme, which do not have to be registered with the PRTB.

⁵³ The DECLG 2012 (www.environ.ie) figure for the stock of local authority dwellings is 132,485 and compares with the Census 2011 figure of 129,033 (Table 3.1). The figure of 103,016 for local authority dwellings excludes the 29,469 properties leased under RAS, which are also counted in the DECLG figure.

Rent Supplement (RS)⁵⁴

Rent Supplement is payable to persons who have been living for six months out of the last twelve months in one, or a combination, of the following:

- Private rented accommodation (proof is needed that the rent was affordable at the beginning of the tenancy but has become impossible to continue paying due to a change in circumstances which occurred after the start of renting);
- Accommodation for homeless people; and/or
- An institution, for example, a hospital, care home or place of detention.

In general, a person will qualify for RS, if his/her only income is a social welfare payment and he/she satisfies a number of other conditions. The scheme is operated by the Department of Social Protection for households in the private rented sector.

The main purpose of RS is to provide an unemployed person with additional income support to facilitate the continued payment of their rent. Payments are made to tenants and these payments are then passed on to their landlords.

More than €344 million has been provided for the RS scheme in 2014. Currently there are 73,500 RS recipients, 49,000 of whom have received this payment for 18 months or more.

The rules of the scheme explicitly prevent a tenant in receipt of RS from working for 30 or more hours per week. This can be seen as a welfare trap and an institutionalised disincentive to work.

Housing Assistance Payment (HAP) Scheme

To simplify the current system under RS, the Housing (Miscellaneous Provisions) Act 2014 (Commencement of Certain Provisions) Order 2014 (S.I No 404/2014 which came into operation on the 15th September 2014), provides for a new Housing Assistance Payment (HAP) which will replace the existing RS scheme.

HAP has been designed and introduced in order to facilitate the Government's aim to transfer responsibility for the provision of rental assistance to persons with a long term housing need from the Department of Social Protection to Housing

Authorities. The result of this transfer will be a more integrated social housing sector under the auspices of the DECLG.

Pilot programmes in seven local authorities have begun during 2014 and the full roll-out of this measure is expected to take place in 2015⁵⁵. All persons deemed to have a long term housing need by local authorities, including those receiving RS, for over 18 months will be eligible for HAP when it is fully operational. It is expected that RS will still be available for persons with a short term need.

Under HAP, recipients will be able to take up full-time employment, without losing their HAP payment. This will enable tenants to take-up employment and will thus remove one of the primary disincentives to returning to work which is a feature of the Rent Supplement scheme.

Eligible households have to find their own accommodation under HAP, within the private rented market, as is currently the case with Rent Supplement. The tenancy agreement will be between the HAP recipient and the private landlord. In order to be included in the scheme, the accommodation concerned must meet the statutory standards for rented accommodation and the landlord must be tax-compliant.

There have been issues with the Rent Supplement process with regard to payment of rent in arrears and the private sector refusing to rent to Rent Supplement tenants as a result. Under HAP, the local authority will pay the rent directly to the landlord on behalf of the tenant. This is very significant as it means that rent payments to private landlords will be guaranteed and it is anticipated that this in turn will provide a high level of confidence for investors in the private rented sector. A major improvement will also be the greater security provided to tenants due to the direct involvement of local authorities. However, it is understood that rent limits will also apply to the HAP scheme, and thus it is unclear how the issue of illegal top-ups by some tenants in supply constrained areas will be addressed.

Other changes include:

- The household pays their contribution to the rent to the local authority in line with the council rents payable in the area.

⁵⁴The first report on Rent Stability deals comprehensively with the issue of Rent Supplement and the determination of rents for Rent Supplement tenants.

⁵⁵ The first phase is to begin in Limerick City and County, Cork City and County and Waterford City and county.

- If a household's main income is from social welfare, the rent contribution this may be deducted via the Household Budget Scheme.
- The council will pay the full amount of the rent, up to the maximum limit, direct to the landlord on the household's behalf.
- Getting HAP means that households can access other forms of housing if they want to, e.g. from the council (including being able to purchase under the incremental purchase scheme) or a housing association, according to the relevant LA's transfer rules.

Critics say that HAP will force thousands of families off the social housing waiting lists, meaning the State will no longer need to find them social housing. Section 37 of the Housing (Miscellaneous Provisions) Act states: "The provision of housing assistance shall be deemed to be an appropriate form of social housing support for a household." However, Threshold has said that HAP would "level the playing field" for those in need of housing support:

"The roll-out of HAP will level the playing field, particularly for those who have been disadvantaged under existing schemes"..... "The vast majority of people on housing waiting lists are single people, who – in the past – have had little likelihood of being allocated a house by their local authority. As a result, they have been forced to source housing at the lowest end of the private rented market.

*HAP will make things much better for those with a long-term housing need, not worse. At the moment, those in receipt of Rent Supplement have no direct links with their local authority and no access to other social housing options; but this will now change."*⁵⁶

Moreover, the Minister for Housing gave reassurance in June⁵⁷ that anyone moved to HAP will be able to apply for a place on their local authority's transfer list, for access to social or voluntary housing as it becomes available.

Rent Accommodation Scheme (RAS)

In general, people who are getting RS for more than 18 months and are assessed as having a long-term housing need are considered for housing under the Rental Accommodation Scheme (RAS).

⁵⁶ <http://www.threshold.ie/news/2014/06/19/threshold-welcomes-introduction-of-housing-assista/>

⁵⁷ <http://www.irishtimes.com/news/social-affairs/new-payment-must-be-accompanied-by-more-social-housing-say-charities-1.1837395>

This scheme has been in place since July 2004 and provides a longer term contract and more security of tenure. The local authority rents the unit from the private landlord at a rate typically set at 8 to 12 per cent below the market rate, for periods between one and four years.

Under the scheme, local authorities draw up contracts with landlords to provide housing for an agreed term for people with a long-term housing need. The local authority pays the rent directly to the landlord, unlike under the RS scheme, where tenants deal directly with the landlord themselves. No deposit is paid. Instead there is a "retained deposit system" where the local authority agrees to cover the cost of repairs to the property in case of excessive damage by the tenant. Tenants may have to continue to contribute to the rent but this contribution is paid to the local authority, not to the landlord.

RAS is funded by a transfer of moneys from the Department of Social Protection to the Department of Environment, Community and Local Government (DECLG) to meet the costs of persons transferring from the Rent Supplement Scheme to the RAS. The total budget for RAS in 2014 is €140 million.

The latest figures (July 2014⁵⁸) show that a total of 50,119 households have been transferred to RAS from RS since 2005. This figure includes 29,631 households accommodated via direct transfers and a further 20,488 accommodated in other social housing options. The direct transfers include an estimated 22,707 households accommodated in private rented accommodation.

Landlords under RAS retain landlord status under the RTA Act 2004 and are subject to the provision of the Act.

Once the proposed HAP scheme is successfully implemented, RAS will be phased out and households will be transferred directly from RS to the HAP scheme.

Leasing Initiative

The Leasing Initiative was introduced in February 2009 to increase the options available to local authorities for the delivery of social housing. Under the initiative, local authorities and/or AHBs lease properties from property owners for a period of between 10 and 20 years, subject to agreed

⁵⁸ Sourced from the DECLG.

terms and conditions. Local authorities have also engaged with approved housing bodies to lease many of the unsold affordable units. Many of these leases are now expiring and approved housing bodies are hoping to continue these arrangements.

Under this initiative, properties are tenanted, managed and maintained by the local authority/AHBs with rent guaranteed for the whole lease period. The lease rent paid is an 'inclusive' rent, inclusive of all rates, charges and taxes that may apply to the property and reflects the strength of the rent and void guarantee, lease duration, the transfer of maintenance and management responsibilities to the local authority and special terms and conditions of the lease arrangement. Rent free periods / break options and rent reviews may form part of the lease negotiations.

Properties are leased from the private sector and used to accommodate households from local authority waiting lists, in accordance with the allocation schemes used by local authorities. Units provided under the leasing initiative are not required to register with the PRTB.

The main types of leasing now in place are listed below:

- Housing authorities leasing vacant accommodation from developers / property owners under long term leases (ten to twenty years);
- Approved housing bodies leasing properties from developers or undertaking acquisition / build to lease projects;
- Housing authorities engaging with AHBs using unsold affordable for medium term lettings (five to ten years);
- Landlords with single or small numbers of housing units, new or previously occupied, who may lease to the housing authority;
- In 2011 the Capital Advance Leasing Facility (CALF) combined with capital funding was introduced with €10m set aside for projects in 2014;
- In 2012 the Approved Housing Body mortgage to rent scheme was introduced.

By the end of August 2014, the DECLG had approved over 8,000 housing units⁵⁹ to be brought into social housing use under the social housing

leasing initiative. A large number (2,043) of the 5,239 operational units are unsold affordable units. However, ultimately, the objective for deploying these units for this purpose remains and they will revert, at the end of the respective lease periods, to being units for sale.

The role of AHBs can be seen from the fact that 1,003 or 19 per cent of all units leased for social housing came from AHBs.

As outlined above, private landlords can apply to have their properties included in the social housing leasing initiative (SHLI), under somewhat similar terms and conditions:⁶⁰

- The local authority/AHB will guarantee payments to the owner.
- Payment will continue regardless of vacancy periods.
- The local authority/AHB will be responsible for day-to-day property maintenance (unlike RAS, where the landlord retains this responsibility).
- The local authority/AHB will be the landlord to tenants.

In addition, property owners who have leased their properties to a local authority will:

- Have no rent collection or rent arrears obligations.
- Not incur advertising or administrative overheads.
- Not have to register the Tenancy with the Private Residential Tenancies Board (PRTB).

Property owners typically receive a lease amount of approximately 80 per cent of the current market rent. The take up by individual property owners was lower than expected due, consultations suggest, to the requirement of a long-term commitment at discounted market rents at a time when rent levels were at their lowest levels for some time. Other issues also raised included the following:

- Landlords' reluctance to have adaptations made to their properties when required for special needs groups. With landlords requiring their properties to be returned in their original state following the end of the lease, this resulted in poor value for money following the adaptations made.
- Landlords in some case are not willing to accept tenants on RS or with disabilities.

⁵⁹ Just over 5,000 units were operational at that time; the remainder were at various stages of funding and approval.

⁶⁰ <https://www.housing.ie/Our-Services/Housing-Management-Services/Social-Leasing/Final-Social-Leasing-Brochure-Web.aspx>

- Leases have been ended in many cases, resulting in tenants being required to leave the property with short notice as the properties were being put up for sale or were caught up in legal difficulties.

The above issues lead us to reiterate the initial points raised at the outset of this section regarding the unsuitability of the private rented sector for a small group of vulnerable households who need much more than their housing needs addressed. These households have complex needs or may have mental health issues and require related supports in order to assist them to live independently. The AHBs are experienced in this regard and need to play a central role in the provision of social rented homes, especially for these vulnerable groups. Central to delivering on this role is the availability of CAS funding and the evaluation of new financial models using private finance, which can facilitate the growth of the voluntary sector in the long term.

5.6 INVESTMENT IN THE PRIVATE RENTED SECTOR

An issue that has emerged repeatedly during this study has been the role that private sector investment could play in the private rented sector. PRTB data and results from the landlord survey, undertaken as part of this research, show that the rental sector in Ireland has been dominated by individual landlords owning a small number of properties. This raises the question as to whether the sector needs to become more consolidated if it is to become a viable and sustainable alternative tenure in the long term. Supply has also been identified as a key issue for the housing market and the role that institutional investors, including individual landlords and REITs, could play in providing this supply is addressed below.

5.6.1 Role of Institutional Investors and REITs

Historically, institutional investors have only played a small role in Ireland's rental market. This reflects, in part the nature of Ireland housing market but also the fact that returns to institutions from residential investment were lower than those that could be achieved in the commercial property market. The fragmented nature of the market meant that it was difficult for institutions to build portfolios of a sufficient size in an efficient manner to generate sufficient returns. In addition, ownership of rental units requires continuous active management.

However, in recent years there has been a change that could see institutional investment become a larger part of the rental market. Legislation announced in Budget 2013 allowed for the establishment of REITs (Real Estate Investment Trusts). REITs are publically traded companies that own and manage property. A REIT must derive 75 per cent of its aggregate income from property rental. A number of REITs are now active in the Irish market, one of which IRES REIT, a subsidiary of the Canadian Apartments Properties REIT (CAPREIT), focuses solely on residential property. The Irish REIT sector currently has a portfolio of around 1,500 residential units while other REIT forms such as special investment vehicles are estimated to have accumulated a similar number of units, which is also increasing. In keeping with the Canadian model IRES aims to invest across a range of residential sectors, affordable, mid-tier and luxury, and would also consider investment in social housing. NAMA also has a special residential investment vehicle, the National Asset Residential Property Services (NARPS) similar in many characteristics to a REIT, which holds about 1,000 units, some of which are leased as social housing to AHBs.

The arrival of REITs in the Irish market may address at least some of the issues that limited institutional investment historically, by facilitating the diversification of risk, and lowering entry costs to property investment. REITs also improve liquidity, as shares can be sold far more easily than a full property. In addition, instead of a number of small investors each buying a property in a development and individually dealing with the management of their property, REITs facilitate the purchase and management of developments as a single block. REITs generally have a preference for complete control of blocks of apartments but consultations suggest that the development of new apartments by these operators is not financially viable at present, other than in select locations. However, the scaling of development ownership offers economies of scale and it is hoped that REITs will contribute to professionalising the management of rental properties and the rental sector over time.

An issue raised during the consultation is whether REITs are subject to the RTA 2014. In this regard, REITs are corporate entities that have been established in Ireland following the passing of the Finance Act 2013. It would appear, based on their status, that they are subject to the terms of the Residential Tenancies Act 2004 as they receive

rent from properties under ownership as principals and are therefore landlords.

A second issue which arose for REITs as commercial entities is that they are not obliged to employ a licensed property service provider and can provide the services to their tenants with their own unlicensed staff. The concern was that these operators, by not requiring a property service provider's licence, may not have the minimum qualifications that similar owner-occupier multi-unit developments enjoy with a licensed property managing agent. However, the provision of accommodation by a REIT's employees does not appear to be a 'property service' for the purposes of the Property Services (Regulation) Act 2011 as the employees will be acting not as agents or independent contractors but as employees of the property owner. Whilst it would be presumably possible to include them, the question of what other property owners should be included then arises. For example, if you wish to achieve parity, would this mean that voluntary housing bodies would need to be licensed also under the legislation?

Construction 2020 contains a commitment from Government to "develop a national policy towards professionalising the private rental sector, to include issues such as investment, standards and regulation". Thus whilst it is evident that there is an increasing appetite in Ireland for large scale professional investors, the intention should not be to move the private rented sector to one dominated by REITs or large scale professional investors with substantial portfolios. A sustainable private rented sector needs a mix of providers who can cater for the different segments of the market.

In Germany, for example, where REITs were launched following legislation in 2007, they have been excluded from having housing in their property portfolios and any residential element in mixed use schemes has to be less than 50 per cent⁶¹. In Germany, the concern was that REITs would operate less in the interest of the tenant than existing institutional arrangements. Other issues for REITs is that they require near-certain index-linked, low risk returns that match their liabilities and their Boards need to be convinced that no reputational risks arise for them on entering the private rented sector.

⁶¹ European Housing Review, RICS Research, 2012.

REITs and other institutional investors will be limited in terms of their penetration of the market, both geographically and in terms of the shortage of large scale residential blocks in suitable locations. They will primarily be constrained by the net income yields in the market, which are likely reduce over time, given recent property price inflation. As large scale residential investors, they have a role to play in looking after the mid to upper end of the market in key locations as well as bringing new much needed finance into the market at a time when public sector funds are constrained. Consultations suggest that REITs could potentially be expected to provide around 3,000 units per annum in the private rented market over the next five years, either through acquisition or new build, which would correspond to an estimated 15,000 tenancies. This level of penetration will depend on the conditions being in place to support the expansion of the sector⁶². The balance would be provided by the other categories of landlords (Section 5.2), including individual private investors, who should have sufficient knowledge of the property market and tenancy law.

5.6.2 Role of NAMA

NAMA is a key player in the residential property market. It has stated that it expects to fund the delivery of 4,500 houses and apartments to serve the Greater Dublin Area in the period from 2014 to end-2016. Of this total, 334 properties have been completed to date in 2014, around 2,000 are currently under construction, and the balance are at pre-construction or planning stage and are expected to be constructed in 2015 and 2016. These properties are in addition to the 862 houses and apartments funded to completion by NAMA in the Dublin area in the period up to end-2013. Separately, the agency says it has also identified sites linked to its debtors that could allow for the development of around 25,000 units in total. It is not possible to say whether these units will end up in the owner occupied market or in the private rented sector.

Any property sourced from NAMA is first offered to local authorities and AHBs to assess its suitability for social housing. AHBs are negotiating with NAMA to buy or lease (sometimes with an

⁶² For a discussion on the blockages to the rapid development of an institutional home leasing market and how the State can assist in removing these blockages, see Nowlan, W.K., (September 2014) Discussion Paper: The nascent investment by Institutions in rental homes in Ireland — including social homes — and suggestions for its rapid expansion.

option to buy) the properties from NAMA. Local authorities to date have not bought any properties from NAMA. Figures published by NAMA in September 2014 show that NAMA has offered 5,445 for social housing and had invested approximately €20 million in capital expenditure to date to deliver social housing. Of the 5,445 units offered, demand has been confirmed by local authorities for 2,077 of these units.

5.6.3 The Role of the Not-for-Profit Housing Bodies

Although not strictly in the private rented sector, AHBs have an important role to play in providing a supply of affordable rental housing that is sustainable to those who need housing most. Their role is acknowledged in the Housing Policy Statement which recognises their capacity and track record by putting AHBs at the heart of the Government's vision for social housing provision. In doing so AHBs can take pressure off the mainstream private rented sector which can concentrate on providing a supply of high quality rented accommodation at an affordable price for those who choose to be short and long term renters with the appropriate security of tenure.

In July 2013, when the former Minister for Housing launched *Building for the Future – the Voluntary Regulatory Code*⁶³ she set out four critical steps essential to support not-for-profit housing associations in their delivery of social housing in a sustainable and integrated manner:

- Engagement with new financial models and intermediaries;
- Measured regulation;
- Sustained policy co-ordination; and
- Capacity building within the sector

As previously noted, the funding model for social housing has moved away from capital based to revenue funding to ensure that funding for social housing remains off balance sheet. One of the key purposes of the new regulatory framework for AHBs is to assist in enabling loan finance from financial institutions and progress is being made across this area. Within this framework not-for-profit housing associations will have to work to leverage the low levels of state capital funding to access private finance and provide more social housing.

⁶³

<http://www.environ.ie/en/Publications/DevelopmentandHousing/Housing/FileDownload,33727,en.pdf>

Historically the growth of AHBs was facilitated by a range of Government funded programmes providing up to 100 per cent of approved costs of housing projects via the Capital Assistance Scheme (CAS – specifically for special needs accommodation) and the Capital Loan and Subsidy Scheme (CLSS). The latter has been discontinued and was replaced by a funding model based on loan finance consisting of four major components:

- CALF (Capital Advance Leasing Facility), which is a capital advance from Government towards acquisition or new build, up to a maximum of 30 per cent of the total cost. It is repayable with interest at the end of the term (usually 30 years).
- Debt finance from private lending institutions or the Housing Finance Agency⁶⁴.
- Payment and Availability agreement (P&A): A legal agreement to make a property available for social housing for a set period of up to 30 years, and to manage and maintain it. The State pays 92 per cent of market rent for the property.
- Own Resources can also be used to support new provision.

In addition, AHBs can also use the Capital Assistance Scheme (CAS) which provides grant funding to construct or purchase homes for people with special housing needs, such as older people or people with special needs. While funding up to 100 per cent is available under the CAS, expenditure on the scheme has been cut severely since 2008. For 2014, €46 million has been made available⁶⁵.

A wide range of other sources of investment finance for the provision of social housing are discussed in a separate paper⁶⁶ but fall outside the remit of this study on the private rented sector.

While it is expected that CALF and P&A will be central to the future provision of social housing these sources of funding are currently relatively small in terms of expenditure. In 2014, the HFA had approved nine housing bodies for direct lending. Some finance has also been raised

⁶⁴ The HFA's function is to advance loan finance to local authorities and the voluntary housing sector to be used by them for any purpose authorised by the Housing Acts, 1966-2009, and to borrow or raise funds for these purposes.

⁶⁵ Minister Alan Kelly's speech at conference on Social Housing, 9th October 2014.

⁶⁶ Nowlan, W K (2014), Financing Social Housing by Approved Housing Bodies: a Short Discussion.

through commercial banks. The take up is low for a variety of administrative and other reasons, including the adjustment required for AHBs to a radically different funding environment in a short period of time.

In this regard the development of an incentivised multi-annual (3 to 5 years) housing development programme for AHBs, which would provide certainty as to their funding allocations under CAS and CALF and set specific housing targets, would significantly increase the sector's capacity to attract private finance and meet the increasing demand for social housing.

The NESC (2014) report⁶⁷ sounds a word of caution about the Government's approach of making the AHB a central plank of Irish housing policy. The key issues which arise within the new approach are access to finance; supply of land and property; ability to fund projects outside main cities; and pressure on own resources.

NESC states that there has been a very limited take-up of CALF and P&A agreements and that housing associations' stock constitute only a small share of total social provision. The new economic landscape of recent years has been one of the contributing factors to this situation, including:

- Limited involvement of financial institutions;
- Design features of various schemes;
- Legacy planning, land and construction-sector issues; and
- NAMA's gradually increasing involvement.

In a recent Review of the Irish Social and Affordable Housing Provision, NESC commented:

*"The limited response may also reflect the capabilities of the Irish housing associations, which it might not be easy to change significantly. While regulation of the housing association sector will improve the credit-worthiness of some associations, it will not turn committed niche providers into major developers and bodies capable of large-scale financial management. A central plank of Irish housing policy remains problematic."*⁶⁸

NESC commented also on the fact that new supply brought on stream by the AHBs will expose the State to meet the costs of rising private rents, since the P&A agreements commit the State to providing 92 per cent of private sector rents. This might not be significant if there were a healthy supply of rental accommodation which keeps rents low, but in the current situation the State is exposed to rising private rents.

Separately, there is likely to be a role for AHBs, who have a long track record in property and estate management, in the management of investor properties for institutional and professional investors, including REITs. Indeed some AHBs are doing this already, a development which would support the further development of mixed tenure communities.

One proposal which has received much coverage since the publication of the NESC report⁶⁹ on social housing is the development of a cost rental model which could potentially operate in the social housing and private rented sectors. Such a system would also reduce the State's exposure to market rents discussed above. The idea with cost rental is that the rents charged are sufficient to cover the current and capital costs associated with providing rental units and as these costs will fall over time, cost-based rents should also fall as the stock of dwellings matures. In other countries such a system of rent is often supported by public guarantees of borrowing, interest subsidies and low interest loans to cover some of the costs and grants, but the predominant source of finance is private borrowing. The likelihood is that the development of cost rental is more likely to be a longer term solution for the lower end of the market and could potentially facilitate a wider role for AHBs. Such a system should be fully examined and the potential role for and impact of cost rental in developing mixed tenure communities should be evaluated in an Irish context.

5.7 PROJECTIONS FOR THE SIZE OF THE PRIVATE RENTED SECTOR

The ESRI uses a structural model of Ireland's demographics in research and forecasting. The Demographic Model is often used in conjunction with the Institute's HERMES model of the Irish economy. In particular, the ESRI's Medium Term Review (MTR) forecasting series uses these models to develop future growth scenarios. These models

⁶⁷ Op Cit., page 13.

⁶⁸ NESC Secretariat Papers (July 2014), Paper No. 10 Review of Irish Social and Affordable Housing Provision (page 23.)
http://files.nesc.ie/nesc_secretariat_papers/No_10_Review_of_Irish_Social_and_Affordable_Housing_Provision.pdf

⁶⁹ http://files.nesc.ie/nesc_reports/en/138_Social_Housing.pdf

take account of important factors in the economy such as migration and labour force participation and are used iteratively to develop consistent scenarios for growth in the medium term.

The Demographic Model focuses on characteristics of the population of Ireland, including life expectancy, fertility, migration, educational attainment and involvement in the labour force. The data used in the model are sourced from the Central Statistics Office and Eurostat. In addition, the model employs some assumptions on future developments to forecast trends in Irish demographics for up to 50 years.

The model produces forecasts of the total population of Ireland for each year. Furthermore, it breaks down the population by age and gender. Forecasts of births, deaths, migration and life expectancy make up the population projections. Participation rates determine the level of involvement in the labour force by the population. These rates depend on the educational attainment of the population⁷⁰. Labour force participation rates are applied to the population to determine the labour supply of Ireland, which is a key output of the model.

The headship rate describes the proportion of the population which heads a household, i.e. the main respondent to the Census. The Demographic Model forecasts headship rates by age and sex and applies them to the population to derive estimates for the number of households in Ireland in each year.

Population forecasts

As outlined above, the Demographic Model provides forecasts the population in each year by single year of age and by sex. For this analysis we use the forecast consistent with the Recovery Scenario in the ESRI Medium-Term Review: 2013-2020. A key difference between the MTR's scenarios is assumed net migration over the period. We use the migration forecast found in the Recovery Scenario of continuing net outflows of migrants until 2016, after which there is zero net migration for the following five years. From 2020 onward, we assume there to be small net inflows to Ireland of 5,000 per year. Our baseline scenario lies between the M2 and M3 scenarios of the CSO's Population and Labour Force Projections 2016-2046. On the basis of these assumptions,

⁷⁰ The categories are Primary Education, Lower Secondary, Upper Secondary and Third Level.

Ireland's population is forecast to surpass 4.6 million by 2020 and increase further to 4.8 million by 2020 and 5.2 million by 2030.

Household forecasts

The number of private households in Ireland grew steadily from 1.12 million in 1996 to 1.65 million in 2011. We now examine the implications of the population forecasts set out above for growth in the number of households over the period to 2030⁷¹. At an aggregate level the headship rate has risen from 30 per cent of the population in 1996 to 36 per cent of the population in 2011. In order to forecast the number of households we develop forecasts of future headship rates. An exponential trend is fitted between the headship data from a pair of Census years. This trend is then used to project forward the rates, which are produced by sex and five-year cohort. We use the headship data of Censuses 2002 and 2011 to estimate the trend. The forecast of the number of independent households is then calculated as the product of the population forecasts and headship rate forecasts, again by age and by sex. Aggregating these results to the total number of households, we forecast the number to reach 2.14 million in 2030, from 1.65 million in 2011. By 2020 the number of households will be 207,000 higher than in 2011, in 2025 this will have reached 340,000 and by 2030 the expected number of new households will be 480,000 higher. These forecasts suggest a continued decline in the average number of persons per household. This is a continuation of a long-term trend in Ireland.

Forecast households in the Private Rented Sector – alternative scenarios

The proportion of households in the private rented sector declined from over 40 per cent in the 1940s to a low of just over 7 per cent recorded in Census 1991 and has recovered to 18.5 per cent in Census 2011, see Figure 5.1.

On the basis of these forecasts for population and number of households we examine the implications for the private rented sector under a number of alternative scenarios.

Firstly, we assume that the proportion of households in the private rented sector remains as recorded in Census 2011 at 18.5 per cent. Thus, the number of households in the sector would

⁷¹ For more details see Duffy, D., D. Byrne and J. FitzGerald, 2014, Alternative Scenarios for New Household Formation in Ireland, Quarterly Economic Commentary Special Article, Spring.

reach over 367,000 by 2025, compared to 305,000 in 2011, an increase of 62,000.

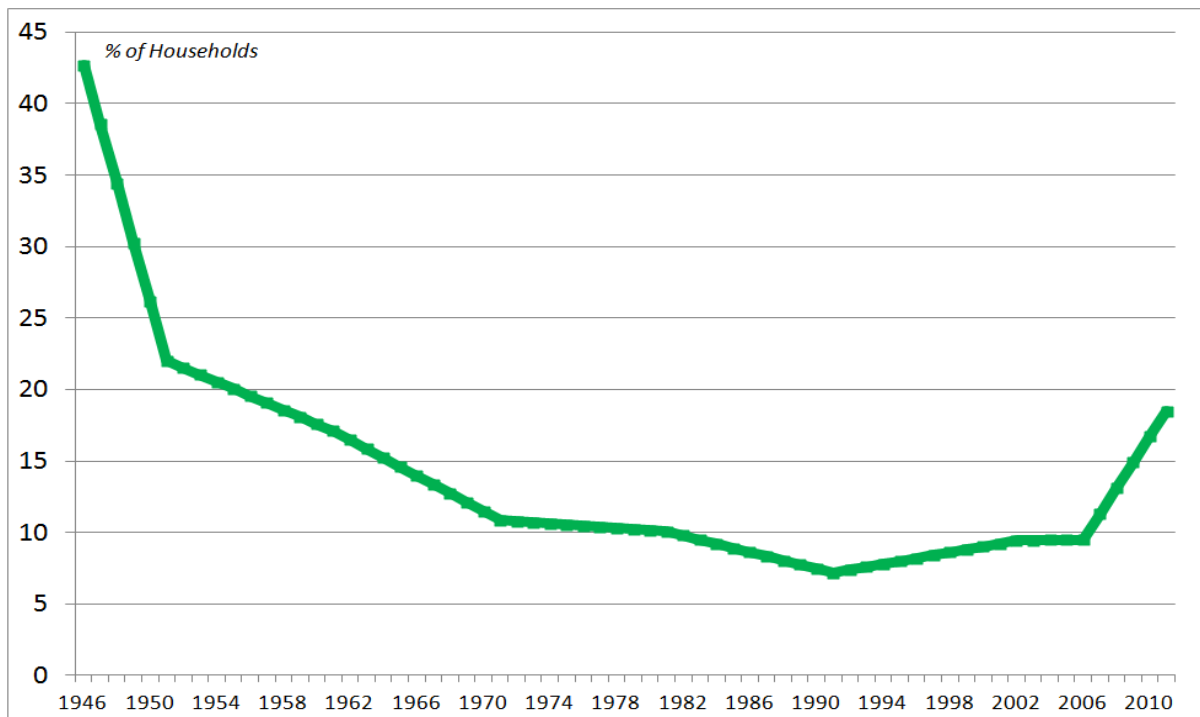
As has been outlined, the private rented sector experienced rapid growth in recent years. If this growth rate were to continue this would imply that the sector would double in size by 2025, with an increase in the number of households in the private rented sector of over 300,000 on Census 2011 to reach 607,000. A continuation of growth at that pace seems unlikely.

The view was expressed in a number of the consultations undertaken as part of this study that the private rental sector would moderate in size from the proportion recorded in the last Census. Thus, our final scenario lowers the proportion renting to the long run average rate of 16.4 per cent of households. Assuming that this moderation commences in 2014 and takes place over a number of years, the number of households

renting would amount to approximately 326,000 in 2025, an increase of close to 21,000 households on 2011 levels.

The scenarios present a number of alternative outcomes for the rental sector given continued population and household growth. These should be treated with some caution as the tenure choice of households can be driven by a wide variety of factors. The RED C survey of tenants finds that 15 per cent aim to leave the sector. While this gives some indication of the intentions of tenants that are currently renting we do not have any information of the intentions of those intending to set up independent households over the coming years. As we have outlined above, the relative cost of renting or buying is a key determinant. In addition, tenure decisions will be influenced by economic, employment and income trends as well as the availability of property.

Figure 5.4: Percentage of Households in the Private Rented Sector



Source: SIRR, L., (2013) "Recession and Renting: the future of the private rented sector in Ireland", paper presented to the European Network for Housing Research annual conference.

Figure 5.5: Alternative Scenarios - Projections for Households in the Private Rented Sector

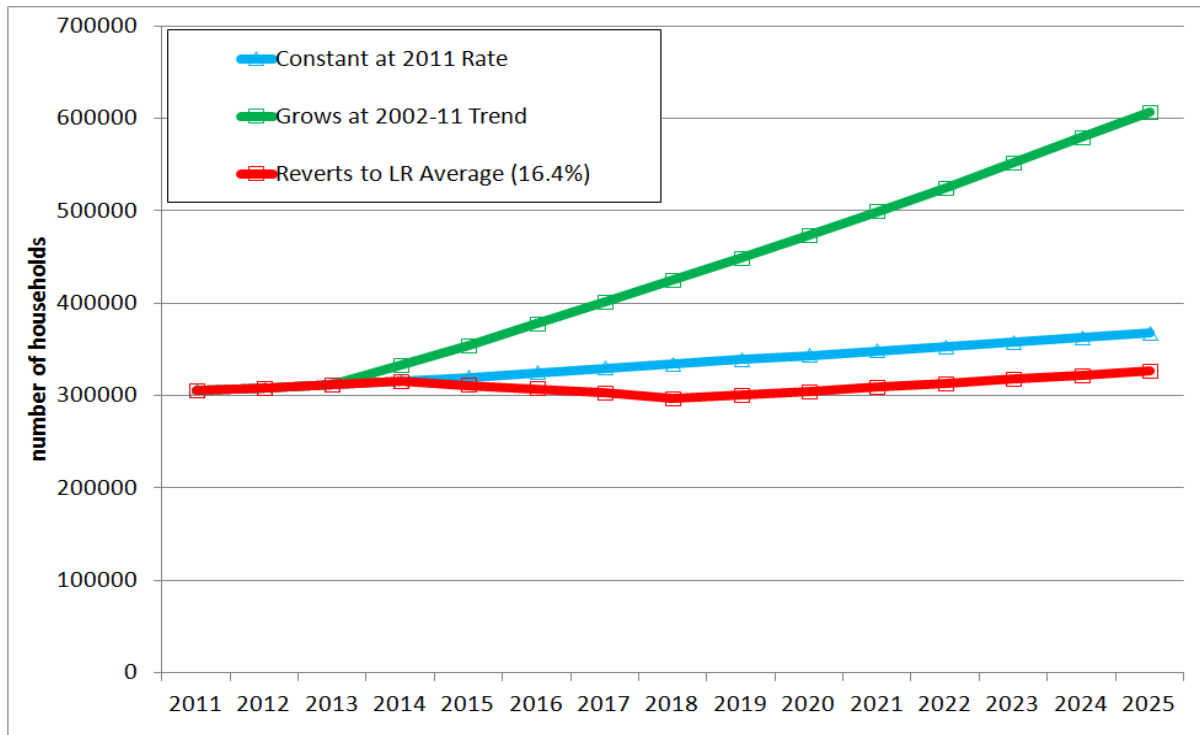


Table 5.4: Projections for Private Rented Sector to 2025

	2011	2015	2020	2025	Percentage Change 2011-2025
Population	4,588,252	4,647,007	4,836,855	5,010,193	9.2
Total Households	1,654,208	1,733,410	1,861,716	1,994,835	20.6
<i>Scenarios - Rented from Private Landlord: total households</i>					
Constant at Census 2011 %	305,377	319,750	343,418	367,974	20.5
Trend Growth Census 2002-11	305,377	354,318	473,360	606,659	98.7
Reverts to LR average of 16.4%	305,377	311,108	304,435	326,204	6.8

5.8 CONCLUSIONS

Investors in the residential property market expect to get in return a combination of capital appreciation and a rental yield, which is sufficient to cover the cost of their investment. Net residential property yields are currently less than 5 per cent. However, as most property investment tends to be leveraged through a mortgage, the cost of interest payments over time can be a very significant component of the overall cost of entering the residential investment/buy to let

sector. This is evident from the mortgage arrears situation in the buy to let sector which is one of the biggest remaining challenges from the financial crisis. Many buy to let investors on interest only mortgages for ten years will be switching to principal and interest repayments and the rental income may not be sufficient to cover the mortgage. While the improved macroeconomic situation and recovery in house prices and employment should benefit buy to let investors who are in arrears, there is the risk that their prospects could substantially change should

mortgage interest rates begin to rise anytime soon.

The private rented sector is made up of different groups of landlords, some of which will be providers across a range of property and tenant types. The heterogeneous nature of the groups of landlords and tenants means that their expectations, requirements, experiences and perceptions of the sector will vary.

Based on the analysis of the portfolios of properties, the private rented sector comprises a large number of small scale landlords. The exceptions are the REITs, which have brought higher standards of estate management, maintenance and regulatory compliance to the sector. The expectation is that the arrival of REITs in the Irish market may address at least some of the issues that limited institutional investment historically, by facilitating the diversification of risk, and lowering entry costs to property investment. It is also hoped that REITs will contribute to professionalising the management of rental properties and the rental sector over time.

REITs could potentially be expected to provide say around 3,000 units per annum in the private rented market over the next five years, either through acquisition or new build, which would correspond to an estimated 15,000 tenancies. This level of penetration will depend on the conditions being in place to support the expansion of the sector.

There are a number of State support schemes which operate in the private rented sector but the increasing reliance on some of these schemes to accommodate a small proportion of the most vulnerable social housing applicants is an unsustainable model. The long term vision for a more balanced housing system must include a social housing sector where these households can be better served and supported in terms of their complex needs through the provision of safe and secure housing from local authorities and/or AHBs in the voluntary sector. It is estimated that around 99,000 households receive State support for housing in the private rented sector, or 96,207 when leased properties are excluded, which represents 32 per cent of all PRTB registered tenancies. These figures exclude the 103,016 dwellings let by local authorities as well as over 27,000 properties which are accommodated and managed by AHBs.

The development of an incentivised multi-annual (3 to 5 years) housing development programme for AHBs, which would provide certainty as to their funding allocations under CAS and CALF and set specific housing targets, would significantly increase the sector's capacity to attract private finance and meet the increasing demand for social housing.

One proposal which is received much coverage is the development of a cost rental model which could potentially operate in the social housing and private rented sectors. The likelihood is that the development of cost rental is more likely to be a longer term solution for the lower end of the market and could potentially facilitate a wider role for AHBs. However, such a system should be fully examined and the potential role for and impact of cost rental in developing mixed tenure communities should be evaluated in an Irish context.

Although scenarios have been presented for projecting the total number of households in the period to 2020 (+207,508), it is not possible to forecast their tenure choice as many factors will influence the decision.

6. REGULATION OF THE PRIVATE RENTED SECTOR IN IRELAND

6.1 REGULATION

Regulations in the private rented sector are generally introduced in an attempt to address some kind of market failure by changing the behaviour of landlords and/or tenants. Regulations are typically concerned with one or a combination of the following three issues: rent controls, security of tenure and the quality of dwellings. This section sets out the regulations that are in place in Ireland at present and follows with an analysis of the disputes which arise in relation to these regulations and the inspections carried out in enforcing standards.

6.1.1 Rights and Responsibilities

The rights and responsibilities of landlords and tenants in the private rented sector are provided for in the Residential Tenancies Acts 2004⁷² and 2009⁷³. The Act places obligations on both tenants and landlords. In general, tenants must pay their rent on time, keep the accommodation in good condition, inform the landlord of any repairs that are required, allow access for the repairs to be carried out and must not engage in any anti-social behaviour. Landlords must carry out repairs when necessary, provide a point of contact for the tenant, insure the structure of the dwelling, refund deposits unless there is damage or rent owing and not penalise tenants for making complaints. The RED C survey of estate agents finds that many of the dealings that estate agents have with landlords or tenants centres around inspection and condition of the rental property. In addition, estate agents were of the view that a substantial proportion of both landlords and tenants are not aware of their rights and responsibilities.

The Act also outlines the regulations and procedures to be followed in terms of:

- Rents
- Security of tenure
- Tenancy terminations
- Dispute resolution

⁷²[http://www.irishstatutebook.ie/pdf/2004/en.act.2004.0027.p](http://www.irishstatutebook.ie/pdf/2004/en.act.2004.0027.pdf)

⁷³[http://www.irishstatutebook.ie/pdf/2009/en.act.2009.0002.p](http://www.irishstatutebook.ie/pdf/2009/en.act.2009.0002.pdf)

- Registration of tenancies

6.1.2 Rents

Rents may not be greater than the open market rate⁷⁴ and may be reviewed upwards or downwards once a year only, unless there has been a substantial improvement or deterioration in the nature of the accommodation (neither is defined) that warrants a review. If a new rent level is to be introduced, tenants must be given 28 days notice. A tenant may seek a review if they feel the rent exceeds the market rate, but only if there has not been a review in the previous 12 months.

6.1.3 Security of Tenure

Different rules apply for non-fixed term and fixed term tenancy (lease) agreements when it comes to security of tenure. In the case of non-fixed term tenancies, security of tenure is based on 4-year cycles. During the first six months, landlords may terminate the agreement without specifying a reason but they must provide 28 days' notice to the tenant. For tenancies longer than six months, but less than 4 years, known as a Part 4 Tenancy, a landlord may only terminate the agreement if one or more of the following apply:

- The tenant does not comply with the obligations of the tenancy.
- The dwelling is no longer suited to the occupant's accommodation needs (e.g. overcrowded).
- The landlord intends to sell the dwelling in the next three months.
- The landlord requires the dwelling for own or family member occupation.
- The landlord intends to substantially refurbish the dwelling.
- The landlord intends to change the business use of the dwelling.

Tenants do not need to give a reason for terminating a tenancy agreement.

At the end of the four years, without a Notice of Termination being served, a new tenancy will commence and the cycle begins again.

Fixed term tenancies should last for the duration specified in the lease agreement and should only be terminated if:

⁷⁴ Section 19 of the Private Residential Tenancies Act 2004 defines the open market rate as "the rent which a willing tenant not already in occupation would give and a willing landlord would take for the dwelling".

- The tenant or landlord has breached one of the conditions of the lease and/or their obligations under the Act.
- The landlord has refused a request by the tenant for assignment of the lease or to sublet the tenancy.
- There are provisions incorporated into the agreement allowing for early termination, provided they are not contrary to the provisions of the RTA.

After six months of a fixed term tenancy have lapsed, the agreement is classified as a Part 4 tenancy. Tenants have the option of continuing occupation after a fixed term tenancy that has lasted six months or more expires. To do this, they must notify the landlord of their intent between one and three months before the fixed term lease is due to expire.

6.1.4 Tenancy Terminations

To terminate a tenancy, a notice of termination must be served to the tenant or landlord as appropriate. The notice periods vary depending on the length of tenancy, as outlined in Table 6.1 below.

Table 6.1: Notice Period and Length of Tenancy

Duration of Tenancy	Notice by Landlord	Notice by Tenant
Less than 6 months	28 days	28 days
6 months – 1 year	35 days	35 days
1 – 2 years	42 days	42 days
2 – 3 years	56 days	56 days
3 – 4 years	84 days	56 days
More than 4 years	112 days	56 days

If a tenant breaches his or her obligations under the Act, then 28 days’ notice is required. However, if the tenancy is over six months old, landlords must first issue the tenant with a warning notice and allow reasonable time for the tenant to remedy the breach. If the breach relates to non-payment of rent, a prior notification of arrears must be sent by the landlord, with 14 days having passed before a valid notice of termination, giving 28 days’ notice is served. If termination is required due to serious anti-social behaviour by the tenant then 7 days notice of termination is sufficient.

Similarly, if a landlord breaches his or her obligations under the Act, then only 28 days’ notice is required, regardless of the length of the tenancy. A 7 day notice may be served, where the landlord’s behaviour poses imminent danger.

In the case of a **fixed term tenancy**, a landlord may not terminate a fixed term tenancy unless the tenant has breached the terms of the contract or there are provisions for early termination provided. If the tenancy is being terminated for a breach of tenant obligations other than for rent arrears, then 28 days’ notice is required. In the case of rent arrears, a prior notification of arrears must have been sent by the landlord with 14 days having passed before a valid notice of termination is served, unless the letting agreement provides that the tenant is generally not entitled to an opportunity to remedy the breach prior to service of the notice

The same considerations apply in the case where the tenant terminates a fixed term lease. The tenant must give prior warning of the failure by the landlord to comply with tenancy obligations with a reasonable period to remedy this. However, if the failure persists outside this period, then the 28 day notice may be served.

6.1.5 Dispute Resolution

Disputes between landlords and tenants are generally referred to the PRTB instead of the courts. The PRTB deals with disputes in relation to deposit refunds, breaches of tenancy obligations, termination of tenancies, rent arrears, complaints from neighbours regarding tenants’ behaviour, etc.

There are two stages in the dispute resolution process.

- **Stage 1:** Confidential mediation or adjudication is chosen by the parties concerned.
- **Stage 2:** A public hearing by a three-person Tenancy Tribunal may take place.

A determination order from the Board will come from the mediated agreement, adjudication or Tribunal. This order may be appealed to the High Court but only on a point of law. If determination orders are not complied with, the case will revert to the Circuit Court. The Board may only award damages of up to €20,000 and rent arrears of up to €20,000 (or twice the annual rent depending on which is greater, up to a maximum of €60,000). Cases involving amounts greater than these must be taken through the courts.

6.1.6 Registration of Tenancies

It is the responsibility of landlords to register tenancies with the PRTB within one month of commencement. The registration fee is €90 per unit and a composite fee of €375 applies when a number of units in the one property are being registered at the same time. Fees are adjusted in line with inflation. Tenants must supply landlords with the information they need to complete the registration, including their PPS number.

Failure to register a tenancy is an offence and the penalty for doing so is a fine of up to €4,000 or up to six months in prison or both. Landlords must be registered with the PRTB to avail of the dispute resolution services but tenants may avail of the service irrespective of whether or not the tenancy is registered.

Registered tenancies that last for more than four years are referred to in the act as “**Further Part 4**” tenancies. At the end of a four year tenancy, if the tenant and landlord are happy for the tenancy to continue, it is the landlord’s responsibility to re-register the tenancy within one month from the expiry of the four year tenancy. Under the RTA Amendment Bill there will be no charge to register a “Further Part IV” tenancy. However, if this one-month deadline is missed a late registration fee will apply. The Bill proposes a sliding scale of late fees rather than an automatic doubling of fees immediately after one month, as is currently the case.

If changes occur to tenancies (e.g. change in rent payable) according to the Residential Tenancies Act 2004, the landlord must notify the PRTB of any changes to the registered tenancy within one month of that change occurring.

6.1.7 Standards

One of the obligations in the Residential Tenancies Act 2004 requires landlords to ensure their dwellings meet standards as set out in the Housing (Standards for Rented Houses) Regulations 2008 and the Housing (Standards for Rented Houses) (Amendment) Regulations 2009⁷⁵. These regulations specify requirements in relation to a range of matters such as structural repair, absence of damp and rot, sanitary facilities, heating, ventilation, light and safety of gas and electrical

supply. The main features of the standards regulations are summarised below.

- All rental accommodation must be maintained in a proper state of structural repair. The dwelling must be sound, internally and externally. All aspects of the dwelling must be maintained in good condition and repair and not defective due to dampness or otherwise.
- All rental accommodation must contain a water closet, with wash hand basin adjacent with hot and cold water and a fixed bath or shower with hot and cold water. These facilities must be provided in a stand-alone room with its own ventilation.
- All rooms must contain a fixed appliance for providing heat. The tenant must have the ability to control the heating appliances.
- Standards have been set out in relation to food preparation and storage and laundry facilities which are set out in Appendix 2.

Funding is provided from part of each registration fee collected by the PRTB to local authorities to finance the inspections of rented accommodation to ensure compliance with the regulations. It is the responsibility of local authorities to inspect rental accommodation and enforce standards regulations. Housing authorities carry out the majority of their functions under the Housing (Miscellaneous Provisions) Acts of 1992⁷⁶ and 2009⁷⁷. These acts define what constitutes a “proper state of repair” (detailed above) and also set out the sanctions regime to be followed where landlords are found to be in breach of regulations associated with standards.

Where a property is found to be in breach of regulations, a series of sanctions can be taken against a landlord. Landlords are first issued with an Improvement Notice which outlines the works necessary for bringing the accommodation in line with regulations. This work must be undertaken within a set timeframe. If the Improvement Notice is not complied with, a Prohibition Notice may be served which forbids the landlord from re-letting the accommodation until all breaches have been rectified. Failure to comply with an Improvement or Prohibition Notice is an offence which has a maximum fine of €5,000. There is an extra fine of up to €400 for each day of a continuing offence.

⁷⁵<http://www.environ.ie/en/Legislation/DevelopmentandHousing/Housing/FileDownload,21710,en.pdf>

⁷⁶<http://www.irishstatutebook.ie/1992/en/act/pub/0018/print.html>

⁷⁷<http://www.irishstatutebook.ie/pdf/2009/en.act.2009.0022.pdf>

6.1.8 Residential Tenancies Bill

The Residential Tenancies Acts of 2004 and 2009 apply only to the private rented sector. However, there is a bill before the Oireachtas, The Residential Tenancies (Amendment) (No. 2) Bill⁷⁸ which was published in July 2012. This bill amends the Residential Tenancies Acts of 2004 and 2009 and brings tenancies from the Voluntary Housing Sector under the remit of the Residential Tenancies Board (which will be renamed from the Private Residential Tenancies Board) for the first time. Its enactment will require all tenancies in the Voluntary Housing Sector to be registered with the Residential Tenancies Board. This will result in housing associations being granted access to the dispute resolutions services, currently only available to private sector tenancies. As is currently the case in the private sector, voluntary sector landlords will be responsible for registering tenancies with the board and both landlords and tenants will have to supply their PPS number as part of this process.

Deposit Protection Scheme

A major development in the Irish Rental sector and probably the most significant change since the establishment for the PRTB is the inclusion of provisions of a Deposit Protection Scheme, as an amendment to the Residential Tenancies Bill⁷⁹. The Programme for Government contains a commitment to establish a Tenancy Deposit Protection Scheme which will protect both tenants and landlords. The Government has approved proposals for a Deposit Protection Scheme operated by the PRTB. The scheme will operate along the lines of a custodial model in which the PRTB will hold deposits for the duration of the tenancy. Where there is agreement between the parties, the PRTB will repay the deposit at the end of the tenancy. Where there is no agreement between the landlord and tenant on how the deposit is to be repaid, the parties may apply to the PRTB for dispute resolution.

Complexity of the Legislation

Observations were made during the consultation process that the Residential Tenancies Act 2004 is complex and difficult to understand. This raises issues for compliance, particularly given that

⁷⁸ <http://www.oireachtas.ie/documents/bills28/bills/2012/6912/b69b12d.pdf>

⁷⁹ The PRTB commissioned separate research into this matter and is available at <http://www.prtb.ie/docs/default-source/publications/feasibility-of-a-tenancy-deposit-protection-scheme---indecon.pdf?sfvrsn=0>

around 84 per cent of landlords have one or two properties. In particular, it was noted that the following areas in the legislation were a cause for concern: the lawful termination of tenancies, tenants' entitlement to security of tenure for up to four years, and the circumstances in which rent may be increased.

6.2 PRTB DISPUTES RESOLUTION ACTIVITIES

The PRTB offers dispute resolutions services to landlords and tenants. Mediation is a process where a mediator will attempt to facilitate and encourage the parties to come to their own agreement in respect of the issues under dispute. The mediator will have no decision-making or advisory role in resolving the matter. Both parties must consent to entering the mediation process in order for a mediation to take place. Should any of the parties reject the outcome of the mediation the case can be appealed to a Tribunal Hearing if the appeal is lodged within 21 days of the decision. Following the Tribunal Hearing, the Board makes a determination order. Failure to comply with this order will lead to the Board seeking enforcement through the courts.

If the parties reject the offer of mediation, a local adjudicator is appointed and an adjudication hearing takes place. An adjudication report is then compiled containing the adjudicator's determination which can be either accepted or rejected by either party. Should it be rejected, the case is sent to a tribunal hearing after which a determination order is made. Failure to comply with this order will lead to the Board seeking enforcement through the courts.

6.2.1 Categories and Frequency of Disputes

In 2013, there were 2,861 applications for dispute resolution received by the PRTB. Of the applications received, the main issues related to rent arrears (999 or 35%) followed by deposit retention (903 or 32%).

These applications in turn incorporated 5,291 categories of dispute. Figure 6.1 details the breakdown of the 5,291 categories of disputes. As can be seen the main category of dispute was rent arrears followed by deposit retention. Similar trends were also evident in 2012.

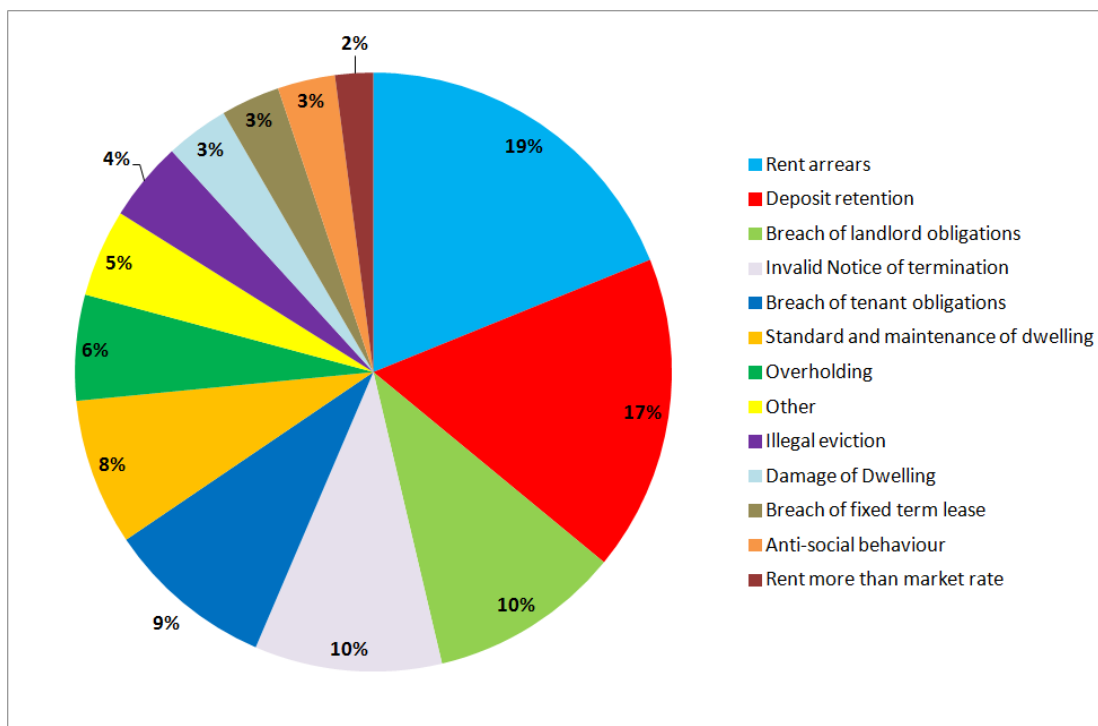
In cases where a tenant fails to pay rent in full or on time despite warnings, a landlord may serve them with a notice of termination. As noted in the 2013 PRTB Annual Report, there has been an

increase in the number of rent arrears cases with arrears exceeding the jurisdiction of the Board. The PRTB may award up to €20,000 in rent arrears or twice the annual rent, whichever is greater up to a maximum of €60,000. It is stated in the report that this highlights the need for landlords to deal with matters of rent arrears when they arise.

Deposits remain the property of the tenant and they may only be retained if a tenant is in arrears,

owes utilities or other charges and taxes, has caused damage beyond normal wear and tear or has provided insufficient notice, resulting in a loss to the landlord. A total of 830 cases relating to deposit retention were heard in 2013. Of these, 57 per cent resulted in the deposit being returned to the tenant in full, 19 per cent resulted in a partial return to the tenant and 24 per cent resulted in the deposit being retained by the landlord.

Figure 6.1: Breakdown of Categories of Disputes 2013



Source: PRTB Annual Report 2013

As deposit retention is a frequent cause of dispute cases, the Minister of State at the Department of the Environment, Community and Local Government has announced plans to legislate for the introduction of a Deposit Protection Scheme. Under the proposed scheme, any deposit paid by the tenant to the landlord must be lodged with a Deposit Protection Scheme at the commencement of the tenancy and will be available to be returned to the tenant at the end of the tenancy⁸⁰. Legislative provisions for the scheme are currently being drafted.

Other frequent dispute types in 2013 were related to breach of landlord obligations (10%), invalid notice of termination (10%) and breach of tenant obligations (9%). These percentages are similar to

those experienced in 2012 when breach of landlord obligations accounted for 11 per cent of cases, invalid notice of termination accounted for 10 per cent, and breach of tenant obligations accounted for 10 per cent.

6.2.2 Cases Appealed to Tribunal

As stated previously, parties to a dispute can appeal the decision of an adjudicator or a mediator to a Tenancy Tribunal. Tribunals are heard by a panel of three members of the Dispute Resolution Committee. A total of 278 tribunals convened in 2013. Within these, 639 dispute types were identified. Figure 6.2 illustrates the percentage breakdown of these dispute types.

The breakdown generally mirrors the breakdown of disputes at the mediation or adjudication stage. The largest category was deposit retention which accounted for 18 per cent of cases. This was

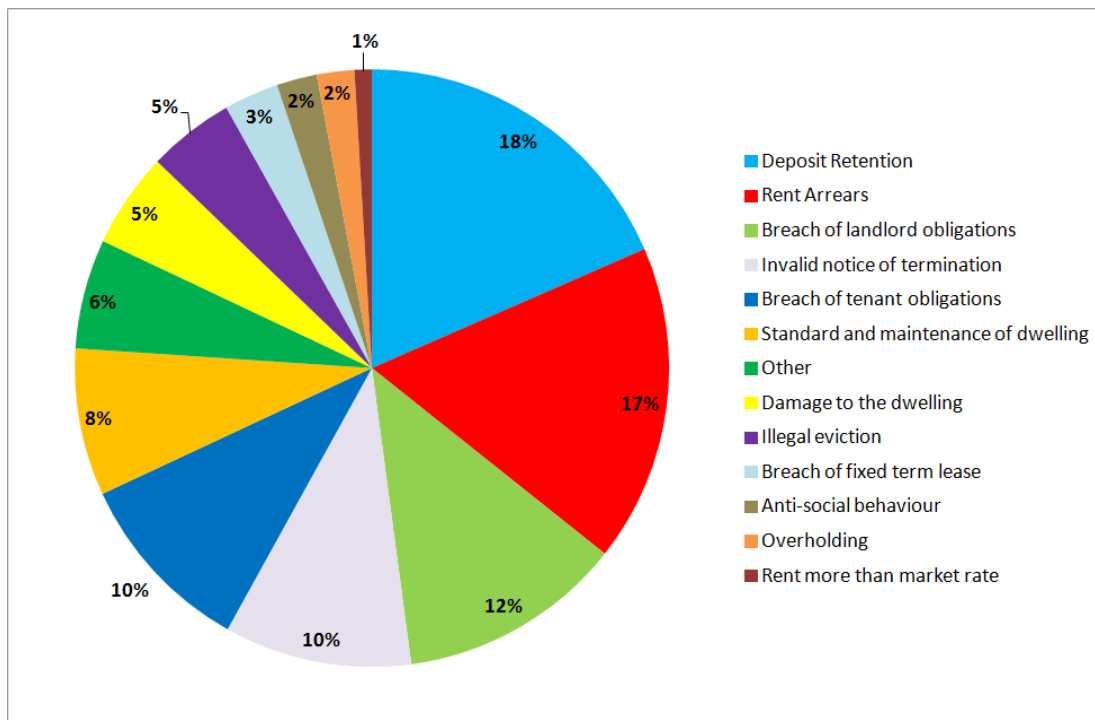
⁸⁰ <https://www.kildarestreet.com/wrants/?id=2014-05-01a.315>

followed by rent arrears on 17 per cent. Breach of landlord obligations, invalid notice of termination and breach of tenant obligations followed with 12 per cent, 10 per cent and 10 per cent respectively.

In 2013, 49 per cent of deposit retention cases before the tribunal resulted in the deposit being partially refunded to the tenant, 41 per cent of cases resulted in a full refund and 10 per cent of cases resulted in the deposit being retained. Deposit retention and rent arrears were the two largest dispute categories before the tribunal in

2012 also. However, in that year, 36 per cent of cases were related to deposit retention while 20 per cent were related to rent arrears. Deposit retention was the single largest category of dispute before the tribunal in 2011, 2012 and 2013.

Figure 6.2: Dispute Type Determined at Tribunal Hearing 2013



Source: PRTB Annual Report 2013

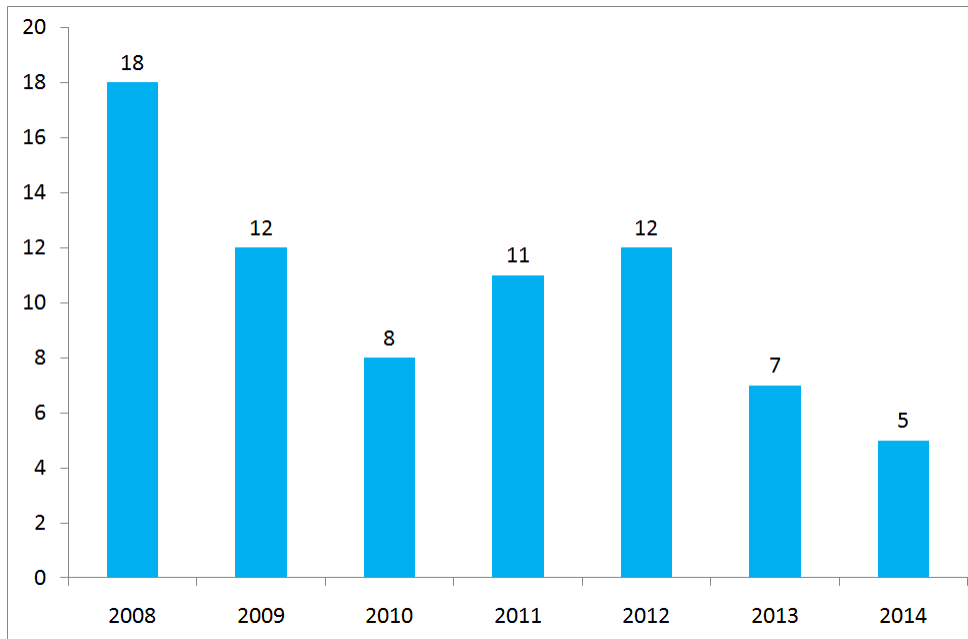
6.2.3 Processing Time

The average length of time it takes to process a dispute and issue a determination order has decreased from 18 months in 2008 to 7 months in 2013 according to the PRTB Annual Report 2013. It is noted that as of October 2014, the average time taken to process a dispute has now reached 5 months, primarily due to the introduction of telephone mediation, which has a processing time of only 9 weeks. It is noteworthy that dispute applications increased by 73 per cent from 1,650 to 2,861 in the 2008-2013 period. While the dispute processing time has improved in recent years, it was noted by some stakeholders in the consultation process that the lengthy dispute resolution process could be acting as a disincentive to investment in the sector.

6.2.4 Registration Enforcement

Failure to register tenancies can result in prosecution, with fines up to €4,000 and/or six months imprisonment. The PRTB actively pursues landlords for non-registration by issuing official enforcement notices, solicitors' warning letters, occupier notices, general information notices and summons. According to the PRTB's Annual Report for 2013, a total of 50 summonses were issued to landlords in 2013. This resulted in 34 convictions involving 19 different landlords and total fines of €46,300. By comparison, the total number of summons in 2012 was 26.

Figure 6.3: Average Processing Time in Months 2008 - 2013



Source: PRTB Annual Report 2013

6.3 STANDARDS INSPECTIONS

6.3.1 Introduction

All landlords are obliged to ensure that their rented properties comply with the standards regulations set out in Section 7.1.6. The responsibility for the enforcement of these regulations lies with the Local Authorities who carry out inspections of rented accommodation in their area. Tenants or third parties can complain or send queries to the Housing Section of the relevant Local Authority if they wish to raise concerns.

This section contains an analysis of the number of inspections carried out by Local Authorities and the number of dwellings found to be in breach of regulations since 2005.

6.3.2 Analysis of Inspections by Local Authorities

Figure 6.4 below shows that despite slight decreases in 2011 and 2012, the number of inspections on dwellings in the private rented sector per year has been increasing since 2005. The total number of inspections in 2013 was 21,223 which is 211 per cent higher than the 6,815 carried out in 2005.

Table 6.2 displays the total number of inspections carried out and the percentage of inspections that

uncovered breaches in regulations in 2013. South Dublin accounted for 2,147 of inspections carried out in 2013. Wexford and Westmeath council areas accounted for 1,364 and 1,133 respectively. On the lower end of the scale, Offaly, Leitrim and Louth county council areas accounted for only 64, 50 and 17 inspections respectively in 2013. In terms of inspections in the City Council areas, Dublin City accounted for 2,789 while Galway City accounted for only 169 in 2013. Cork City, Limerick City and Waterford City accounted for 1,053, 629 and 561 respectively.

As can be seen from Figure 6.4, the percentage of dwellings found to be in breach of regulatory requirements after inspections has also been on the rise in recent years; however this may be a function of targeting specific concentrations of properties which were deemed to be at risk. The figure in 2013 was 47 per cent. In the Louth county council area in 2013, 100 per cent of inspections found breaches of regulations. Counties Fingal, Galway, Cork and Sligo were also on the higher end of the scale as 84 per cent, 83 per cent, 77 per cent and 76 per cent of inspections respectively found breaches of regulations. No inspections in Limerick and Donegal county council areas found breaches in 2013. In the City Council areas, 74 per cent of inspections in Limerick City and 60 per cent of inspections in Cork City found breaches in 2013

The figures for Galway City, Dublin City and Waterford City were 54 per cent, 42 per cent and

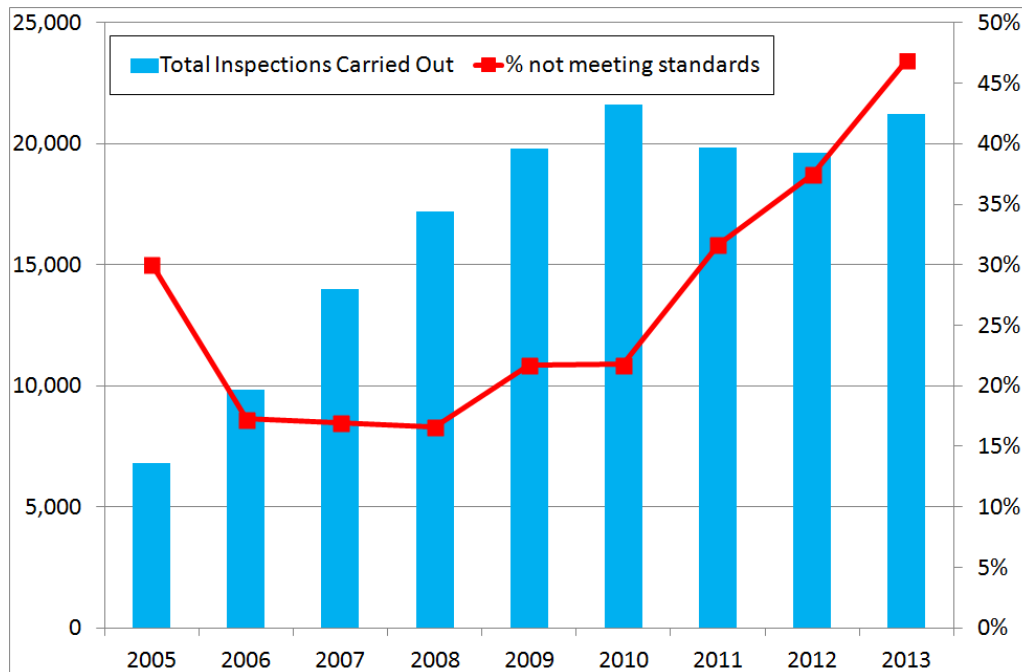
15 per cent respectively.

Table 6.2: Inspection Details by Council Area 2013

	No of Dwellings Inspected	No of Inspections Carried Out	% of Dwellings Inspected not Meeting Standards
County Council			
Carlow	154	215	57%
Cavan	682	682	18%
Clare	579	668	74%
Cork	752	874	77%
Donegal	550	550	0%
Dun L.-Rathdown	222	615	52%
Fingal	381	435	84%
Galway	104	104	83%
Kerry	916	938	51%
Kildare	470	503	66%
Kilkenny	136	233	52%
Laois	135	195	31%
Leitrim	50	50	54%
Limerick	127	127	0%
Longford	126	150	67%
Louth	17	17	100%
Mayo	610	610	18%
Meath	271	432	56%
Monaghan	377	377	3%
North Tipperary	456	476	9%
Offaly	40	64	63%
Roscommon	421	640	51%
Sligo	816	932	76%
South Dublin	1,832	2,147	49%
South Tipperary	147	153	2%
Waterford	585	585	0%
Westmeath	959	1,133	52%
Wexford	1,363	1,364	74%
Wicklow	753	753	5%
City Councils			
Cork City	852	1053	60%
Dublin City	1725	2789	42%
Galway City	164	169	54%
Limerick City	467	629	74%
Waterford City	610	561	15%
Total	17849	21223	47%

Source: DECLG

Figure 6.4: Total Inspections Nationally and Percentage of Inspections Finding Breaches 2013



Source: DECLG

The Dublin areas of Dun Laoghaire-Rathdown, Fingal, South Dublin and Dublin City accounted 28 per cent of inspections in 2013. This equates to a total number of 5,986. Dublin City and South Dublin, where 2,789 and 2,147 inspections respectively took place, accounted for the majority of these. A total of 615 inspections took place in Dun Laoghaire-Rathdown and the remaining 435 inspections took place in Fingal. As illustrated in Figure 6.5, the total number of inspections carried out in these Dublin areas has remained roughly between 5,000 and 6,000 per year since 2005.

As can be seen from Figure 6.6, the percentage of inspections finding breaches of regulations has been increasing across all of the Dublin areas. In 2013, 84 per cent of inspections found breaches in Fingal, while the figures for Dun Laoghaire-Rathdown, South Dublin and Dublin City were 52 per cent, 49 per cent and 42 per cent respectively.

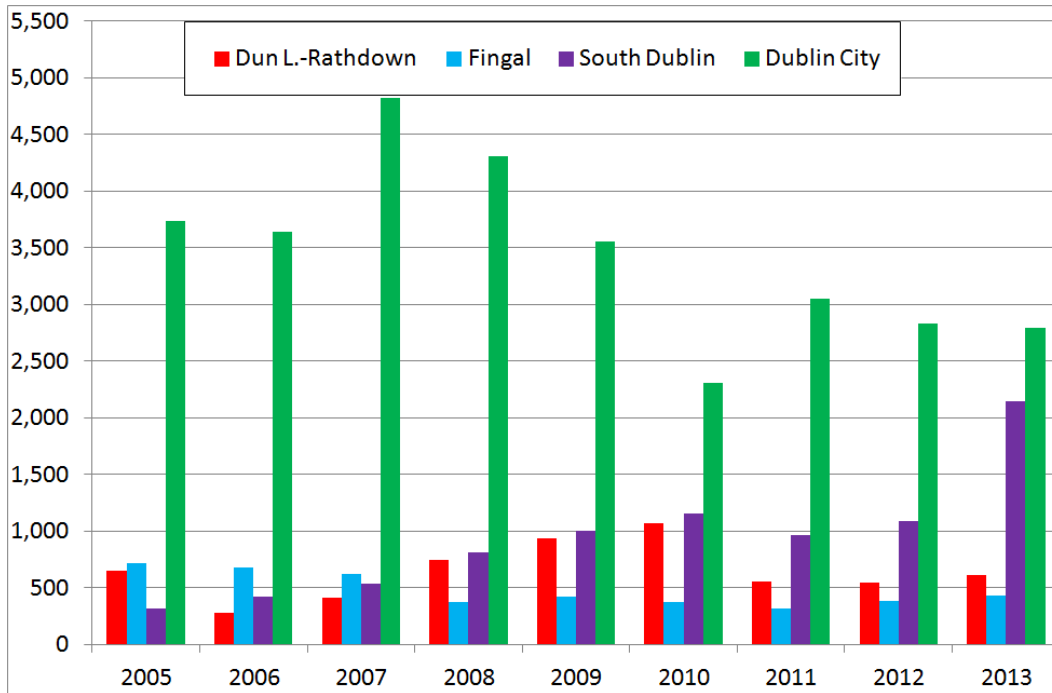
The data show that legal action is initiated very rarely. In 2013 it was only required in 11 cases. A total of 9 of these were in the Dublin City Council area while the remaining 2 were in the South Dublin Council area. 2012 was one of the busiest years in recent times in terms of legal action initiated against landlords in breach of regulations. A total of 40 cases were started. The Dublin City

Council area accounted for 36 of these while the remainder were accounted for by Carlow.

As previously mentioned, the high proportion of breaches in standards may reflect a policy of targeting properties deemed at risk. Since May 2012, Dublin City Council has implemented an Intensified Inspection Programme of private rented housing, funded by the Department of the Environment, Community and Local Government. Under the Programme, Dublin City Council inspected a substantial portion of the stock of private rented properties on a systematic basis, targeting specific concentrations of rented properties which were deemed to be at risk, to ensure the effective enforcement of the rented housing standards legislation.

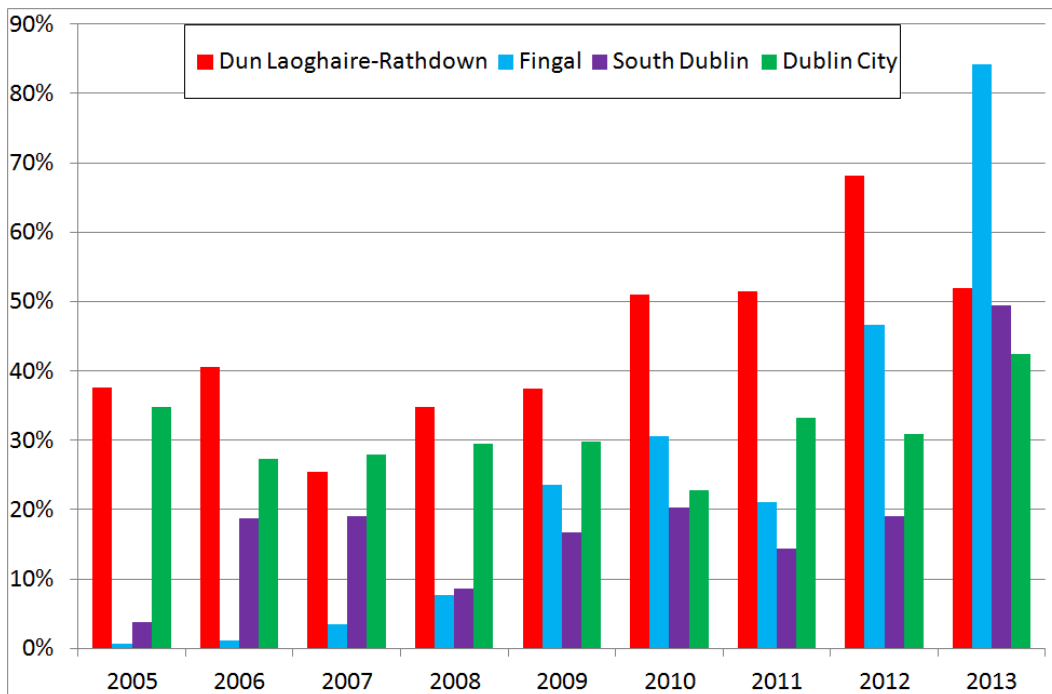
Up to April 2014, just over 4,700 dwellings had been inspected of which the vast majority (93%) were non-compliant in some way with the Standards. Enforcement notices were served and follow-up inspections undertaken by which time 60% of the non-compliant properties had achieved compliance. The Programme is still underway with follow-up action including the issue of Prohibition Notices and, where necessary, legal proceedings.

Figure 6.5: Number of Inspections per Dublin Area 2005 – 2013



Source: DECLG

Figure 6.6: Percentage of Inspections finding Breaches per Dublin Area 2005 – 2013



Source: DECLG

6.4 CONCLUSIONS

General Regulation of the Private Rented Sector

Regulation of the private rented sector in Ireland is largely concerned with the rights and obligations of landlords and tenants, security of tenure, and standards.

The rights and responsibilities of landlords and tenants in the private rented sector are provided for in the Residential Tenancies Acts 2004⁸¹ and 2009⁸². The Act places obligations on both tenants and landlords in relation to the standards, the payment of rent on time, keeping the accommodation in good condition, and carrying out repairs when necessary, etc.

Rents may not be greater than the open market rate and may be reviewed upwards or downwards once a year only, unless there has been a substantial improvement or deterioration in the nature of the accommodation (neither is defined) that warrants a review.

In terms of security of tenure, different rules apply for non-fixed term and fixed term tenancy (lease) agreements, but there is a set of rules governing when and how contracts can be terminated by either party. Notice periods must be served and their duration depends on how long the agreement has been in place. Once a tenant has been in the property for six months or more, they automatically qualify for a Part 4 tenancy. This means that they have the right to stay in the property for up to four years. If the contract is a fixed-term lease, the tenant must notify the landlord of their intentions to stay in the property between one and three months from the contract's expiry.

All tenancies must be registered with the PRTB and it is the responsibility for landlords to ensure registration. Landlords must be registered with the PRTB to avail of the dispute resolution services but tenants may avail of the service irrespective of whether or not the tenancy is registered. If a tenancy lasts for four years, a new registration application will apply where a further Part 4 tenancy commences immediately afterwards, albeit there will be no charge to register a further Part 4. Landlords must also inform the PRTB of any

changes to tenancy agreements within one month of that change occurring.

Concerns that the Residential Tenancies Act 2004 is complex and difficult to understand were raised during the consultation process. This raises issues for compliance, particularly given that around 84 per cent of landlords have one or two properties. In particular, it was noted that the following areas in the legislation were a cause for concern: the lawful termination of tenancies, the tenant's entitlement to security of tenure for up to four years, and the circumstances in which rent may be increased.

Residential Tenancies Bill

The Residential Tenancies Acts of 2004 and 2009 apply only to the private rented sector. However, there is a bill before the Oireachtas, The Residential Tenancies (Amendment) (No. 2) Bill which was published in July 2012. This bill amends the Residential Tenancies Acts of 2004 and 2009 and brings tenancies from the Voluntary Housing Sector under the remit of the Residential Tenancies Board (which will be renamed from the Private Residential Tenancies Board) for the first time. Its enactment will require all tenancies in the Voluntary Housing Sector to be registered with the Residential Tenancies Board. This will result in housing associations being granted access to the dispute resolutions services, currently only available to private sector tenancies. Voluntary sector landlords will be responsible for registering tenancies with the board.

An amendment to the Residential Tenancies Bill will include provisions for a Deposit Protection Scheme which will protect both tenants and landlords. The Government has approved proposals for a Deposit Protection Scheme operated by the PRTB. The scheme will operate along the lines of a custodial model in which the PRTB will hold deposits for the duration of the tenancy. Where there is agreement between the parties, the PRTB will repay the deposit at the end of the tenancy. Where there is no agreement between the landlord and tenant on how the deposit is to be repaid, the parties may apply to the PRTB for dispute resolution.

Dispute Resolution Process

The PRTB's dispute resolution service was introduced to offer an alternative to court proceedings when disputes arise between landlords and tenants. The number of cases being heard has been increasing steadily since its

⁸¹<http://www.irishstatutebook.ie/pdf/2004/en.act.2004.0027.pdf>

⁸²<http://www.irishstatutebook.ie/pdf/2009/en.act.2009.0002.pdf>

introduction. The most common disputes relate to deposit retention, rent arrears, breach of landlord obligations, invalid notice of termination and breach of tenant obligations. It is hoped the introduction of the Deposit Protection Scheme will reduce the number of dispute relating to deposit retention. The average length of time it takes to process a dispute and issue a determination order has decreased from 18 months in 2008 to 5 months in 2014.

The PRTB also actively pursues landlords who have not registered via a range of methods. In 2013 a total of 50 summonses were issued and fines totalling €46,300 were collected for non-registration.

Dwelling Inspections by Local Authorities

It is the responsibility of Local Authorities to inspect rented properties to ensure they are complying with standards regulations. Despite slight decreases in 2011 and 2012, the number of inspections taking place has been on an increasing trend since 2005. The percentage of dwellings found to be in breach of regulatory requirements after inspections has also been on the rise in recent years. The figure in 2013 was 47 per cent; however this may represent a policy of targeting at risk properties.

7. TAXATION OF THE PRIVATE RENTED SECTOR

7.1 CURRENT TAX TREATMENT OF LANDLORDS IN IRELAND

7.1.1 Charge to Irish Tax on Rental Income

Rental income is generally chargeable to tax under Case V of Schedule D under the Taxes Consolidation Act (TCA) 1997, and is chargeable to tax as income tax where the rental income accrues to individuals, and corporation tax where it accrues to companies⁸³.

Rental income is computed on the basis of the gross amounts of rents receivable and a surplus or deficiency is calculated separately for each rental source. The rental income chargeable to tax is the aggregate of the surpluses as reduced by the aggregate of the deficiencies. Rental losses occur when the deficiencies exceed the surpluses.

Individuals

In the case of individuals, any rental income surplus is generally chargeable under the following heads of charge:

- Income tax at rates of 20% /41%
- PRSI at rates of 4%
- USC at rates of 2%/ 4%/ 7% /10%.

For income tax purposes, the marginal rate of income tax, PRSI and USC on rental profits will be somewhere between 26 per cent and 55 per cent.

Table 7.1 below summarises the marginal rates⁸⁴ of income tax, PRSI and USC that apply on the basis of income levels of a singly assessed individual⁸⁵. It should be noted that the rates of tax are progressive and all forms of income will be taken into account in arriving at the rate of tax applicable to income of an individual.⁸⁶ As can be

seen, the rate of overall tax (of which income tax is only part) is progressive and will increase substantially once an individual hits €32,800.⁸⁷

Additionally, the rate of USC increases to 10 per cent for an individual who has *relevant income*⁸⁸ exceeding €100,000 in a tax year. Relevant income includes all forms of trading income and rental income of an individual. As such, the highest or marginal rate of tax on rental income of individuals is 55 per cent.

Table 7.1: Effective Tax Rates for Individuals*

Income	Income Tax Rate	USC ⁸⁹ Rate	PRSI Rate	Total
€10,000	20%	2%	4%	26%
€20,000	20%	7%	4%	31%
€ 30,000	20%	7%	4%	31%
€40,000	41%	7%	4%	52%
€100,000	41%	7%	4%	52%
€ 150,000	41%	10%	4%	55%

*(including PRSI and USC, based on different income levels).

The impact of the USC is however perhaps understated somewhat in some cases. As the USC is chargeable on 'gross income' **before** deduction for Section 23 relief, capital allowances on plant and machinery and certain tax incentive reliefs (capital allowances)⁹⁰, its real effect is greater than it would be if it were a higher rate of income tax.

Tenants of non-resident landlords are obliged to deduct tax from payments of rent at a rate of 20 per cent of the gross rent.⁹¹ This is a payment of tax on account. This withholding obligation does not apply where an Irish-based resident is

Rental income falls under the definition of 'relevant income' for USC purposes.

⁸⁷ Higher income levels before entry to the top marginal income tax rate will apply where an individual is assessed under joint or separate assessment (with a spouse or civil partner).

⁸⁸ Relevant income will generally be all forms of income except employment income, deposit interest subject to DIRT and social welfare pensions, but will include rental income.

⁸⁹ For individuals over 70 or individuals holding full medical cards, where 'aggregate income does not exceed €60,000, the rate of USC is reduced by 3%.

⁹⁰ This contrasts with the position that applies where capital allowances are available to be claimed against trading income as in that case, the USC will be calculated on the income after deduction of capital allowances.

⁹¹ Where the landlord is non-resident, the tenant has an obligation to retain tax at the standard rate of income tax (20%) from the gross rent payable and pay this over to Revenue – section 1041 Taxes Consolidation Act 1997. This obligation has the potential to place significant tax compliance burdens on tenants, who may not have access to advice.

⁸³ In the case of real estate investment trusts ("REITs"), a different taxation regime applies.

⁸⁴ This is the highest rate of tax to which the individual will be subject (the effective rate will generally be lower due to tax credits and lower USC charges although the higher the income level, the more likely it is that the effective rate of tax will be close to the marginal rate).

⁸⁵ Where an individual is assessed under joint or separate assessment (with a spouse), the higher rate of income tax (41%) will only arise at higher income levels.

⁸⁶ USC or the universal social charge can be chargeable at different rates depending on the source of the income. In particular, it is chargeable on 'relevant income' or 'relevant emoluments' at rates of 2% to 10% (the latter rate only applying to 'relevant income' exceeding €100K per annum).

appointed to act for tax compliance purposes on behalf of the non-resident.

Companies

In the case of Irish resident companies⁹², they are generally liable to corporation tax on rental income at a rate of 25 per cent (the 12.5% rate of corporation tax only applies to trading income).

Additionally, where the Irish resident company is a 'close company'⁹³, an additional charge to tax is levied where there is any estate or investment income *undistributed* at the end of 18 months following the end of the accounting period in which it arose. This charge, a 'surcharge on investment income' is charged at a rate of 20 per cent on the undistributed taxable income after allowance for mainstream corporation tax (i.e. an effective 15 per cent on the gross income chargeable to corporation tax⁹⁴).

The effective rate of corporation tax on rental income of Irish resident companies can therefore be up to 40 per cent. By contrast, non-resident companies are chargeable to income tax (and not corporation tax) at a rate of 20 per cent. Tenants of non-resident landlords are obliged to deduct tax from payments of rent at a rate of 20 per cent of the gross rent.⁹⁵ This is a payment of tax on account. This withholding obligation does not apply where an Irish-based agent is appointed to act for tax compliance purposes on behalf of the non-resident.

7.1.2 Computation of Taxable Rental Income

In arriving at taxable rental income, taxation legislation prescribes that only certain expenditure can be deducted. Broadly speaking, deductible expenditure is allowable only to the extent that:

- It would be allowable if the receipt of rent were treated as the carrying on of a trade or business during the currency of the lease or

during the period in which the individual or company was entitled to the rent;

- It is not of a capital nature;
- It is incurred by the individual entitled to receipt of the rents.

Deductions in computing rental income are generally speaking limited to the following:

- Rents payable by the landlord in respect of the property (this would be a superior lease rent or a ground rent);
- Rates payable by the landlord to a local authority in respect of the property. This generally only applies in relation to a commercial property. In the case of residential property, commercial rates are generally not chargeable save where the property is used in connection with a rateable business. Property taxes including the household charge and the non-principal private residence (NPPR) charge, levied up to the end of the tax year 2013, are not allowable deductions from rental income for tax purposes. This is discussed separately below.
- The cost of PRTB registration fees.
- The cost of any service or goods which the landlord is, under the lease, required to provide, such as refuse collection, water charges, utilities, maintenance charges.
- Maintenance of the property such as cleaning and general servicing, exterior and interior painting and decorating (but only on or after the period from when the property is first let).
- Insurance of the premises against fire, public liability insurance etc.
- Fees payable to management companies in relation to the letting and collection of rents and legal fees for drawing up leases.
- Accountancy fees incurred for the purposes of preparing a rental account.
- Repairs to the property (but not capital expenditure generally consisting of improvements to the property).
- Interest on money borrowed to purchase, improve or repair the let property. There are certain restrictions outlined below in relation to the letting of private residential property⁹⁶.
- Certain mortgage protection policy premiums.
- Expenditure on decoration and upkeep of the property between lettings.

Although capital expenditure is not deductible against rental income, capital allowances are

⁹² Section 23A Taxes Consolidation Act 1997 contains rules to determine tax residence of companies. Generally, companies which are 'managed and controlled' by their board of directors in Ireland will be Irish tax resident.

⁹³ This is determined under Part 13 Taxes Consolidation Act 1997. Generally, a close company is a company under the control of 5 or fewer participators (shareholders).

⁹⁴ For example, if the rental income was €100,000, mainstream corporation tax would be €25,000. The surcharge, where it applies would be levied at 20% of the income net of corporation tax (i.e. €75,000) and would be €15,000. Adding this to the corporation tax of €25,000 gives a charge of €40,000.

⁹⁵ Where the landlord is non-resident, the tenant has an obligation to retain tax at the standard rate of income tax (20%) from the gross rent payable and pay this over to Revenue – section 1041 Taxes Consolidation Act 1997.

⁹⁶ Notably the restriction limiting the deduction to 75% of the interest otherwise allowable.

available in relation to fixtures and fittings within the premises which constitute *plant and machinery*⁹⁷ for taxation purposes⁹⁸. These will include, for example, loose furniture, kitchen appliances and other plant. Capital allowances are granted over a period of 8 years at an annual rate of 12.5 per cent of the cost of same.

What generally speaking will not be deductible in computing taxable rental income will also include the following:

- Repayments of borrowings obtained in relation to the purchase, improvement or repair of the rented residential property⁹⁹.
- Capital improvements to the fabric of the premises, to include improvements such as consolidating living units within the building (save to the extent that this is expenditure on plant and machinery items¹⁰⁰) and upgrade of the premises to meet regulatory standards for rental properties¹⁰¹.
- Expenditure on upgrading of property, whether by repairs or otherwise, prior to the first letting of the property.

7.1.3 Deduction for Interest on Borrowings

Currently, tax legislation provides that interest on money borrowed to purchase, improve or repair let property is deductible in computing rental income chargeable to income tax or corporation tax.

The test under the legislation is generally to be assessed on the basis of whether the interest was incurred 'wholly or exclusively' in connection with the rental business.

In relation to interest accruing on or after 7 April 2009, the deduction for interest on loans employed on the purchase, improvement or repair of rented residential property is restricted to 75 per cent of the interest accruing. It is noteworthy that this restriction, introduced by Finance Act

2009, does not apply to loans employed on the purchase, improvement or repair of non-residential rental property, where the full amount of interest continues to be deductible in such cases.

The Exchequer saving in relation to the amendment introduced was estimated in the Summary of Budget Measures published at €95 million in a full tax year.¹⁰²

Notwithstanding this level of saving, the cost of a full reversal of the measure is likely to be €112 million in a single tax year, based on Revenue Commissioner estimates made in 2012.

Table 7.3 outlines the increase in the overall tax burden for individual investors. The restriction of interest together with the increased rates of taxes since 2009 primarily have contributed to significant tax increases particularly for investors who borrowed to acquire rented residential premises.¹⁰³

It should be noted that the restriction on interest deductibility has no impact on cash investors or certain types of fund investors (for example, REITs, pension funds, unit trust arrangements), in the latter case due to the tax exempt nature of those entities.

This measure restricting interest deductibility did not apply to investors borrowing to invest in the commercial property sector. For investors seeking investment opportunities, this is a factor where the investment is being sourced from borrowings.

The distinction between the commercial investor property sector and the residential investor sector, in terms of the ability to claim interest deductions, is almost unique when one looks at the sectors in other jurisdictions reviewed. Additionally, the

⁹⁷ Plant and machinery will include fixtures and fittings in the property and can include kitchen units, sanitary ware, heating systems, hot water systems, fire safety equipment, carpets, blinds, curtains, furniture.

⁹⁸ This is subject to the property being a house let as a furnished house and let on bona fide commercial terms in the open market – see s284(7) Taxes Consolidation Act 1997.

⁹⁹ Although deductions are available for interest on borrowings employed in the purchase, improvement or repair of rental properties, there is no relief for repayments of the loans themselves.

¹⁰⁰ See commentary above.

¹⁰¹ See below for different incentive schemes providing relief/allowances for capital expenditure.

¹⁰² See Summary of measures published on 7 April 2009. The basis for the introduction of the restriction was cited by the Minister for Finance as being, "We need to broaden our tax base so that everyone makes a contribution. We will remove unjustified reliefs and we will ensure that capital is taxed in a fair manner".

¹⁰³ This assessment of the increased tax burden for investors on the expiry of tax incentive reliefs since 2007 is not factored into this report. Readers are referred to the Tax Policy Report of the Department of Finance of December 2011 and the Goodbody/Indecon Report of February 2006. The 'guillotine' in relation to certain tax incentive reliefs, introduced in Finance Act 2012, to apply in many cases from the end of 2014 may have additional effect in this regard.

nature of the restriction is not in keeping with international comparisons.¹⁰⁴

Additionally, from 2006 onwards, interest on money borrowed for the purchase, improvement or repair of rented residential property is not deductible unless it can be shown that the registration requirements of the PRTB have been satisfied in relation to all tenancies in the particular premises in charge for the period in question.¹⁰⁵ This was a measure to ensure compliance with the Residential Tenancies Act 2004 on the part of landlords in the residential sector.

In relation to interest deductibility, the following points might also be noted:

- Revenue has confirmed in its guidance notes¹⁰⁶ that interest on a loan or part of a loan used to pay stamp duty, legal fees and other expenses incurred in relation to the purchase, improvement or repair of a premise is not deductible.
- Additionally, it might be noted that the deductibility of interest only arises for the period from when a property is first let. Interest is not deductible in the period following the purchase of the property up to the time the property is first let. Interest relief, however, continues to be available in between lettings.

available as a deduction in calculating the chargeable gain for capital gains tax purposes.

The distinction between repairs and capital expenditure can be somewhat difficult to apply in practice but the following general points might be noted:

- Any work involved in converting existing parts of the premises through the breaking down of walls and increasing sizes of residential units will, generally speaking, be capital in nature.
- Any replacement of items in the premises with improved replacements will generally be capital. For example, replacement of single glazed windows with double glazing would be treated as capital expenditure and no allowances or relief are available for such expenditure.
- Improvement of heating facilities and plumbing will generally be viewed as capital in nature and again, absent being able to claim capital allowances as plant and machinery, such expenditure will not be deductible.

Table 7.2: Differences in the Computation of Rental Income Chargeable to Tax: Residential Vs Non-Residential Property

Type of Expenditure	Residential	Non-Residential
Rates/ taxes	No deduction	Deduction *
Interest on borrowings	limited to 75%	full 100%

* Where not payable by the tenant

Relief for Capital Expenditure

Although deductions are permitted for repairs and restoration of assets in rented residential premises, capital expenditure does not (with the exception of expenditure on plant and machinery) give rise to a deduction against rental income for tax purposes. Any such capital expenditure is

¹⁰⁴ See paragraph 5.2 of this section.

¹⁰⁵ Section 11 Finance Act 2006.

¹⁰⁶ Chapter 4.8.6 (Par.7) of the Income Tax, Capital Gains Tax & Corporation Tax Manual.

Box 13: Tax Treatment of Landlords In Other Jurisdictions

Germany

Under German Law rental income is defined as the making available of an asset to another person for a valuable consideration.

All rental income of individuals is taxable under German Law pursuant to Paragraph 21 EStG (Einkommenssteuergesetz), independent of the source from which it is generated. Rental income consists of the rent itself (“**net rent**”) plus the advance payment for service charges (“**gross rent**”).

Usually, rental income is liable to income tax unless the rented property forms part of the assets of the business. In this case, rental income is liable to business tax under paragraph 21 EStG.

Expenditures related to the purchase, the safeguarding and the maintenance of the rented property (“**income-related expenses**”) reduce the tax liability.

Income-related expenses are:

- Depreciation for deterioration;
- Service charges, e.g. charges for water, electricity or fuel (if not passed on to the tenant);
- Property tax;
- Depreciation for rented furniture;
- Finance charges, e.g. mortgage fees, interests;
- Costs for repair and maintenance;
- Legal fees related with the tenancy agreement;
- Accountancy fees;
- Costs for fire insurance, legal cost insurance and third party liability insurance; and
- Administration costs (including travel costs).

The rental income after the deduction of all applicable income-related expenses is subject to taxation. A positive balance leads to a payment of taxes, whereas a negative balance leads to a tax saving which can be set off against other taxable income from other sources.

Rental income not exceeding €520.00 per year from the temporary rent of a room in the family home or a small holiday apartment is tax free and need not to be declared to the Revenue. However, if such rental income not exceeding €520.00 is declared to the Revenue, income-related expenses cannot reduce the tax liability.

Tenancy agreements with relatives

Furthermore, tenancy agreements with relatives are strictly controlled. In general, to obtain tax deductions under such agreements, they must be made and executed on an arms lengths basis. If the Revenue does not accept the tenancy agreement, rental income is neither taxable nor reduces the tax burden.

In the situation where a house/apartment is rented (to a relative) for other than valuable consideration, tax deductions are not available. However, where rented at a discount, a tax deduction is permitted if the rent paid by the relative is 66 percent of the rent customarily in place. A rent of at least 66 percent allows for the full application of income-related costs. If the rent is less than 66 percent, say 60 percent, only 60 percent of the income-related expenses can be declared.

Income tax rates

In most cases, rental income is taxed under income tax. The income tax rates depend on the income of a person. The average income tax rate lies between 2.6 and 35.1 percent. The maximum income tax rate is 42 percent.

Business tax rates

Where the rented property belongs to a business, i.e. the rented property is owned by a body corporate or partnership, the rental income is treated as business income. The business tax is a community tax under German Law and therefore varies depending on the particular assessment rate. Partnerships are granted a tax allowance of €24,500, corporations are not.

United Kingdom

The way rental income is taxed differs depending on the situation. In the following the main rules are explained.

How tax is calculated

Income tax must be paid on any profit from renting out property. The profit is the sum left once the aggregate amount of rental income is added together and then reduced by any allowable expenses or allowances such as repair and maintenance costs, legal service costs, insurance costs, improvement costs or depreciation.

Taxes must be paid on the profit made from renting out the property, after deductions for 'allowable expenses'¹⁰⁷.

Allowable expenses are costs incurred on the day-to-day running of residential property, i.e.:

- Letting agents' fees;
- Legal fees for lets of a year or less, or for renewing a lease for less than 50 years;
- Accountants' fees in preparing the rent account;
- Buildings and contents insurance;
- Interest on property loans;
- Maintenance and repairs to the property (but not improvements);
- Utility bills, such as gas, water and electricity;
- Rent, ground rent, service charges;
- Council tax;
- Services paid for, such as cleaning or gardening; and
- Other direct costs of letting the property, like phone calls, stationery and advertising.

Allowable expenses do not include capital expenditure, i.e. costs incurred for buying a property or renovating it beyond repairs related to wear and tear. Depreciation cannot be deducted for residential property. However, special tax allowances for rental business property may be claimed to take account of depreciation.¹⁰⁸

Taxable income

The taxable income is primarily the rent received, but also any separate sums receivable from the tenant for the use of furniture, as well as charges for services normally provided by a landlord, such as cleaning of communal areas, provision of hot water and heating and arranging repairs to the property.

If the person has several properties, all rental receipts and expenses can be lumped together, so expenses on one property can be deducted from receipts on another.

The only caveat to this is that overseas properties are treated separately to UK properties, so for instance one is not allowed to lump together a UK holiday let and a Spanish property.

Applicable tax rate

The rental profits are taxed at the same rates as income received from business or employment – 20%, 40% or 45%, depending on which tax band the income falls into.

Trading income

If services are provided that are not normally offered by a landlord such as cleaning of rooms when let, a regular laundry service or regular meals, this income will usually be treated separately as trading income rather than rental income. In this case, the tax allowances for self-employed persons can be applied.

If joint owners share the income from the same property, each receives up to £2,125 tax free, even if there are more than two of them, e.g. three joint owners could claim in aggregate £6,375.

Rent a Room Relief

A rent-a-room relief can be claimed even in the case where the rental is treated as trading income, providing furnished accommodation is let in a privately-used home. To qualify one must let furnished residential

¹⁰⁷ <https://www.gov.uk/renting-out-a-property/paying-tax>

¹⁰⁸ <http://www.hmrc.gov.uk/manuals/pimmanual/pim3005.htm>

accommodation in one's only or main home. The relief does not apply to rooms rented as an office or for other business purposes.

If the gross income is below the rent-a-room limit of £4,250 (or £2,125) the profit is automatically exempt from tax under the rent-a-room scheme. However, one can decide to opt out and elect to be taxed in the normal way. A loss on the rent-a-room accommodation cannot be set against other rental income outside the rent-a-room scheme.

Even in the case of a lodger, where a tenant sublets a room, the tenant has to pay taxes on the rental income. In these cases a rent-a-room relief brings great advantages. For example, a tenant charges his lodger £450 a month rent to share the house; the annual rent of £5,400 is more than the rent-a-room allowance (£4,250). Under the rent-a-room scheme, over a year £4,250 of the rent will be tax-free, leaving £1,150 profit to be taxed. The tax payable would be £230 (£1,150 x 20%).

France

Under French Law furnished and unfurnished properties are treated differently for tax purposes. Unfurnished property is regarded as non-commercial property. Furnished property is treated as commercial. If a person is renting both, then each will be taxed on a separate basis. A second distinction is the turnover. Small landlords are given some choices as to the basis on which to be taxed.

Taxation of rental income from furnished lettings

There are two different income tax regimes for the taxation of profits from furnished accommodation. As said, small landlords can choose the regime under which they wish to be taxed. The two tax regimes are micro-enterprise and régime réel. Additionally, there exist different charges for social charges/social security contributions.

(a) Micro-enterprise

Small landlords of furnished accommodation can qualify to be taxed as a micro-enterprise under a taxation system called Bénéfices Industriels et Commerciaux ("**BIC**"). A person is eligible for the Micro-BIC tax status if the gross revenues do not exceed a fixed amount each year. The tax liability is calculated after deduction of a fixed percentage allowance against the annual turnover.

The level of the fixed allowance and turnover limit depends on the type of furnished accommodation provided. Owners of rural gîtes, meuble de tourisme and chambres d'hôtes benefit from a fixed percentage cost allowance of 71 percent, with a turnover limit of €82,200. Technically, to be called a gîte, the owner must live nearby in order to provide help, assistance, and a warm welcome to guests. Gîtes are generally old farm workers' cottages or converted outbuildings and barns within proximity of the owners' principal residence. Furthermore, in order to qualify for the 71 percent allowance, the owner must be affiliated to the "Gîtes de France".

For all other furnished accommodation a tax allowance of 50 percent can be claimed against earnings and the maximum turnover limit is €32,900 per year.

The actual rate of taxation will be that applicable under the normal rules for personal income tax.

(b) Regime Réel

Under the régime réel, the tax liability is determined after the deduction of the eligible costs against the gross rental income. Eligible costs include general management costs, the costs of property insurance, local property taxes, the costs of a managing agent, guardian, caretaker, gardener and the costs of insurance against the risk of non-payment of rent by the tenant. In addition, also deductible are the interest costs associated with the purchase, repair or improvement of a rented property purchased with the view to it being let. Depreciation is deductible as well, but cannot be used to create a deficit or to increase a deficit if one can be created from other sources. That said, if the costs for depreciation cannot be used in the beginning, they can be carried forward for use in later years.

It should also be noted that costs of repair and maintenance of a property are deductible. Works to increase the size of a property or to add additional units are not deductible.

The actual rate of taxation will be that applicable under the normal rules for personal income tax.

Social Charges

The social charges and the social security contributions to which a landlord is liable depend on whether the business is registered or not.

If a business is not registered the landlord will be liable for social charges, called *prélèvements sociaux*, at a rate of 15.5 percent on the net rental income. This charge is deductible against income tax at a rate of 5.1 percent.

If the business is registered, the social charges and social contributions depend on the business tax status.

As a micro-enterprise¹⁰⁹ one pays social security contributions of 45 percent on the rental income after a deduction of a fixed cost allowance of 50 percent. This cost allowance is increased to 71 percent in the case of *chambres d'hôtes* (lodgings)¹¹⁰ and rural *gîte* (rural lodgings) owners. They pay 45 percent on 29 percent of their rental income.

As an auto-entrepreneur¹¹¹ one pays a fixed percentage social security contribution. The rate depends on the nature of accommodation and services offered. The normal rate for furnished accommodation is 24.8 percent on the gross rental income. This figure is reduced to 14.2 percent for *chambres d'hôtes* and rural *gîtes* owners, because they offer a number of services, e.g. cleaning, reception, which makes them quasi-hoteliers.

Any person taxed under the regime *réel* pays social security contributions of 45 percent on the actual net profits.

Value Added Tax

VAT will only be charged where breakfast, daily cleaning, reception service and/ or linen service are provided to the tenant.

Taxation of rental income from unfurnished lettings

Rental income from unfurnished lettings is taxed under a system called *revenus fonciers*.¹¹² Two income tax regimes apply for *revenus fonciers*: *micro-foncier* and *regime réel*. In addition, all landlords are liable for the social charges.

(c) Micro-foncier

Where the rental income from unfurnished property does not exceed €15,000 a year, then a person is entitled, but not obliged, to be taxed under the system of *micro-foncier*. The income figure is doubled if the rental property is owned and run by a couple. Under this system the tax authority automatically applies an allowance of 30 percent against the gross rental income. Therefore, no calculation and deduction is needed as the allowance will be applied automatically.

If the eligible costs are less than 30 percent of the gross income, then a person would benefit from this approach.

It should be noted that losses cannot be carried forward under this system as is possible under the *regime réel*.

(d) Regime réel

If the costs are higher than 30 percent of the gross rental income, one can choose to be taxed under this system. If the rental income exceeds €15,000 per year, one is obliged to use this system.

Under the *regime réel* the tax liability is determined after deducting the actual eligible costs against the gross rental income. The eligible costs include general management cost, the costs of property insurance, local property taxes, the costs of a managing agent, guardian, caretaker, gardener and the costs for an insurance against of the non-payment of rent by the tenant.¹¹³ Furthermore, interest costs associated with the repair or improvement of a rented property, as well as on a mortgage for a property purchased with view to being rented, are deductible.

¹⁰⁹ The European Union defines micro-enterprises as those that meet two of the following three criteria and have not failed to do so for at least 10 years: fewer than 10 employees, balance sheet total below EUR 2 million and/or turnover below EUR 2 million.

¹¹⁰ Means: room in a Bed & Breakfast.

¹¹¹ Means: sole trader.

¹¹² Means: property income.

¹¹³ See article 31 – Code général des impôts, CGI.

Social charges

Additionally a landlord is liable for the social charges at a rate of 15.5 percent on the net rental income. This charge is deductible against income tax at a rate of 5.1 percent.

The Netherlands

Taxable income generally is split into three “boxes”, and each box is assessed separately. Spouses and other legally recognised partners are assessed separately, although they can choose their own allocations for certain income and deductions.

Property is taxed under box three, irrespective of the actual income received. Income from property owned but not lived in as a main residence is taxed here. Note that the value of the asset rather than the actual income is taxed. It is an imputed nominal return equal to a 4 percent tax on 30 percent of the value of the asset, i.e. a flat tax of 1.2 percent per year. An amount of €21,139 of the value of the assets is exempted.

The amount of money invested in approved “green investments” is exempted up to €56,420. Moreover, a tax credit is applied for these investments in the amount of 0.7 percent per year.

There are special provisions for depreciation of an “immovable property”. A distinction is made between immovable property held for investment purposes and buildings used in a trade or business.

Investment property cannot be depreciated to an amount lower than the property’s official fair market value for tax purposes, which is known as WOZ-waarde. In other words, a property will not be subject to depreciation unless the carrying amount of the building and the land on which it is located is higher than its value for tax purposes. This value is determined by the municipal tax authorities annually. As this value is based on the assumption that the property is free of a lease, the value for tax purposes of commercial real estate may be lower than fair market value.

Maintenance costs continue to qualify for tax relief and any maintenance-related value increase does not lead to a compulsory upward revaluation of the property. Moreover, a property is not required to be re-valued where its value increases due to market developments.

Belgium

Individuals who receive income from Belgium pay income tax. Taxes due on rental income derived from letting property in Belgium are generally calculated over the “Revenu Cadastral” value of the property, regardless of the actual amount of rent received.¹¹⁴

A cadaster, using a cadastral survey or cadastral map, is a comprehensive register of the real estate or real property's “metes-and-bounds” of a country. A cadaster commonly includes details of the ownership, the tenure, the precise location, the dimensions and area, the cultivations if rural, and the value of individual parcels of land.

In order to calculate the cadastral income one needs to know the regional tax rate plus the provincial and district additions. Unfortunately, there is no harmonisation at a national level of the percentage of the cadastral income that will be charged.

The cadaster office determines the cadastral income by an estimation of the annual net rental income on the basis of rents applicable in 1975. Either the cadaster office or the notary informs the owner of property about the specific cadastral income.

The cadastral income reflects the average amount of money that would be charged as a monthly rent. To compensate the fact that the cadastral income is calculated on a 1975 basis, the cadastral income is increased. The increase itself depends on the use of the property.

For a built-on plot the cadastral income is increased by 60 percent, for an unbuilt-on plot by 90 percent.¹¹⁵ A rented

¹¹⁴ Revenu cadastral means: cadastral income.

apartment that is only used for private purposes is taxed with a cadastral income increased by 40 percent.¹¹⁶

If a property is rented to a private person who uses it for private and commercial purposes, the minimum tax rate is the cadastral income increased by 40 percent. The same applies if property is rented to a corporation.¹¹⁷

In other words, real estate income includes rental income from both real estate that is used for professional activity and for private purposes. A tax on immovable property is levied on all real estate property. The rate of this tax ranges from 1.25 percent to 2.5 percent depending on the region where the property is located. The tax is levied on the deemed rental income of the property.¹¹⁸

There has been a request for a preliminary ruling of Hof van Beroep te Antwerpen (Antwerp Court of Appeal), submitted on 10 September 2013, dealing with the question of whether the cadastral income taxation system is contrary to Article 56 of the EU treaty.¹¹⁹

Taxable income is based on the 'cadastral income', which is the property's deemed income. This is an annual indexed value determined by the tax authorities, but in practice the 1975 index is used, so that cadastral income values tend to be lower than actual rental incomes.

The cadastral value minus deductible expenses (which includes depreciation, repairs, maintenance, renovations, interest payments, as well as property and inheritance tax payments) is taxable.

Luxembourg

Under Luxembourg tax law, rental income that is taxable includes either the income from the actual rental of a building or the rental value of a building occupied by an owner-occupier.

However, only the net rental income derived from the property is taxable.

Determination of the net rental income derived from the actual rent

The net income equals the gross rental income less deductible expenses. Deductible expenses for rental income include the maintenance costs for the building, interest and charges related to the financing of the property, property taxes, insurance premiums and the depreciation of the building.

Property is depreciable, with the exception of land. If no split is made in the deed of sale between the price for the land and the price for the building, it is assumed that 20 percent represents the value of the land. The depreciation is determined using the straight-line method. The acquisition costs, expenses for the registration duties, the notary's and architect's fees form the basis for the depreciation. The rates vary between 2 percent and 6 percent per year and are based on the useful life of the assets.

There exists a lump-sum allowance for certain expenses being lesser than 35 percent of the gross rental income and not exceeding €2,700 per year.

Determination of the net rental income derived from the owner-occupier

An imputed rental income is calculated on the basis of the real estate assessed unitary value as determined and communicated by the Luxembourg tax authorities. The taxable imputed rental income ranges from 4 percent to 6 percent of the assessed unitary value.

The rental value of the occupier's principal dwelling can only be reduced by interest paid on a loan financing the acquisition of the property or the construction of an extension to the property, subject to a certain maximum amount. Ceilings are fixed at €1,500 per year per family member for the first year and the five following ones. This amount falls to €1,125 for the next five years of occupation, then to €750 for the following years.

¹¹⁵ Frank/Walter: Handbuch Immobilienrecht in Europa, Rn 500 ff

¹¹⁶ Frank/Walter: Handbuch Immobilienrecht in Europa, Rn 500 ff.

¹¹⁷ Frank/Walter: Handbuch Immobilienrecht in Europa, Rn 500 ff.

¹¹⁸ www.minfin.fgov.be

¹¹⁹ C-489/13.

Where the unitary value of the building is very low, the imputed rental income is usually negative and creates a loss which can be offset against other taxable income

Sweden

Under Swedish tax law rental income is considered to be capital income. Individuals are liable to capital income tax of 30 percent on all investments including real estate.

Tax is assessed on annual rentals and other income received from the property after deduction of related expenses. For private property, the related expenses are deemed to equal a standard amount of SEK 21,000¹²⁰ or 20 percent of the annual rental income. If property is rented from an employer to an employee, the standard deduction is not available.

Non-private property is treated as business property. Income from business property is subject to tax under the provisions applicable to business income. Rental income from property that is not deemed to be a private dwelling is considered as business income on the basis of net income. The taxable income is calculated according to the accruals concept. Actual costs for maintenance such as repairs, insurance costs, real property tax and interest costs are deductible. Furthermore, depreciation on buildings is tax deductible according to particular percentage tables. The corporate tax rate is 22 percent.¹²¹

If an employee earns rental income from business property, then income from the rental business is taxed on top of the employee's taxable income, thus at a marginal tax rate of 50 percent to 58 percent.

Switzerland

In general, the taxable rental income under Swiss tax law is the actual income,¹²² unless the property is rented to relatives or friends at a discount or if they are allowed to live there for free. In that case, the owner is liable for the amount of the rental market value.

If the rental income is less than 50 percent of the rental market value, it is assumed that the tenancy agreement has been concluded for tax avoidance reasons. In this case 70 percent of the rental market value will be the basis of the taxable rental income. This method appears to be similar to the German one.

Furnished holiday apartments are taxable at a rate of 80 percent of the gross income.

Rental income is taxed under income tax as all income falls under income tax. The Swiss income tax is levied on the gross income.

Income tax is levied three times in Switzerland, by the federation (i.e. the central State), by the canton and by the community. The cantonal and community tax rates vary as they are determined by each canton and community independently.

For example, the income tax rate in canton Thurgau ranges from 13.9 percent¹²³ up to 19.1 percent.¹²⁴

United States

Under US Tax law all income is liable to taxes, unless the law considers income as specifically not liable to tax.¹²⁵ Rental income is liable to taxes and is taxed under the income tax code. Sources of income are not distinguished. Furthermore, all taxes are declared by self-assessment.

Federal Income Tax and State Income Tax are levied separately and have to be declared in separate tax returns. The federal income tax rate depends on income and marital status. The State income tax rate varies between 0.36

¹²⁰ 21,000 SEK = 2,325 EUR (1 SEK = 0.110720 EUR; 1 EUR = 9.03181 SEK),
Mid-market rates: 2014-05-20 11:27 UTC.

¹²¹ <http://www.tradingeconomics.com/sweden/corporate-tax-rate>.

¹²² BGE 71 I 131; LGVE 1984 II Nr. 6.

¹²³ Bottighofen is the community with the lowest income tax rate in the canton Thurgau.

¹²⁴ Hauptwil is one the communities in the canton Thurgau with the highest income tax rate.

¹²⁵ Internal Revenue Code, sec. 61 IRC.

percent and 11 percent, depending on the State. In seven States, State income tax does not have to be paid. These are Alaska, Florida, Nevada, South Dakota, Texas, Washington and Wyoming.

The taxable rental income is the net income after deduction of eligible costs such as mortgage fees, property tax, management fees, utility bills, insurance costs, repair and maintenance costs, legal service fees, advertising materials associated with the property, improvement costs and depreciation.

Conclusion

A review of other jurisdictions has revealed differences in practice between the jurisdictions. It would seem there are certain practices that are worthy of further consideration in the main report but not in the current report. Such practices and rules would in some cases require an overhaul of the Irish tax rules on rental income.

Most jurisdictions do however treat the rental sector as a business without making significant distinctions between the residential and investment sectors. See Table 5.4.

The UK rules bear closest resemblance to the Irish rules, which is unsurprising as many of our legislative provisions concerning the computation of income are very closely aligned with the UK.

7.2 TAX ISSUES FOR LANDLORDS IN PRACTICE

In relation to the tax regime applicable to the private residential rental sector, there have been a number of legislative amendments over the past number of years which have impacted adversely on the tax position for landlords and tenants within the sector. These are outlined and discussed below.

This section also details the possible impact of tax changes over the past seven years. To some extent, the impact of the tax changes has not fed through to higher rents due largely to the property crash which had a deflationary effect on rental rates. However, in a market where supply is more limited, upward pressures on rents are likely to arise at least partly from fiscal interventions within the sector.

Consideration of the tax issues outlined below is useful to enable the addressing of whether such tax measures impact on the following:

- The level of rents sought in the residential investment sector;
- The possible exit of existing investors from the sector;
- The impact on supply into the sector.

75 per cent Limit on Interest Relief

This restriction introduced as and from 7 April 2009 has been highlighted above.

The restriction is in contrast to lettings in the commercial investment sector which enjoy full interest relief to the extent it arises on borrowings taken out the purchase, improve or repairing the premises.

As highlighted elsewhere in this section, the restriction on interest relief is not reflective of other international jurisdictions.

The interest restriction has a number of potential effects:

- Existing investors in the sector, particularly those who acquired properties in the period from 2004 to 2007 are likely to have suffered significant increases in taxation on rents¹²⁶. This presents a risk to the maintenance of stock within the sector in light of risks of bank defaults and sales within the sector.¹²⁷
- The restriction on interest relief for investors places a greater burden on cash buyers and institutional investors to increase supply within the sector. Whilst increased institutional involvement will no doubt assist the professionalisation of the sector, those forms of investor will not solve supply issues on their own.
- The restriction may encourage investors using borrowings to focus on the commercial investment sector. As such, increased bank lending may be applied by investors into the commercial investment sector.¹²⁸

¹²⁶ See Table 5.3.

¹²⁷ The RED C Survey found that 70 per cent of landlords had an outstanding debt on their property and close to one third intend to sell their properties as soon as they can.

¹²⁸ Based on the RED C Poll, 70% of landlords currently have debt on their properties – this increases to 81% for investors who invested in the last 6 to 10 years.

Lack of Tax Relief for Capital Expenditure on Rental Properties

Section 23 type relief¹²⁹ has largely been phased out and this has reduced significantly the incentive to invest in rented residential property situated in locations which might not be considered attractive.

The removal of this relief and other tax incentive reliefs has been a firm policy decision based on a number of reports commissioned by the Department of Finance.

Additionally, the Countrywide Refurbishment Scheme¹³⁰, which was targeted at incentivising the carrying out of capital expenditure to upgrade rental stock, is now eliminated. The withdrawal of the refurbishment relief that applied on a countrywide basis is in this regard somewhat regressive as far as landlords are concerned and this is perhaps particularly exacerbated by the fact that the Home Renovation Incentive Scheme Introduced in Finance (No. 2) Act 2013 only extends to principal private residences and does not extend to capital work carried out on rented residential accommodation¹³¹.

Having regard to the Housing Standards¹³² that now apply to rented residential accommodation, the lack of tax relief for capital expenditure to bring properties up to the requirements of the Housing Standards is proving an effective bar to such work being undertaken.

It is posited that older rental premises which do not meet the standards are more likely to fall out of the rented residential sector due to the fact that such properties are generally owned by older landlords who have neither the means nor the desire to invest heavily in such properties,

¹²⁹ Section 23 of the Finance Act 1981 and extended by subsequent legislative amendments. It applied in respect of certain expenditure incurred on the purchase, construction or refurbishment of properties located in certain tax incentive areas, where the properties were used as rented residential accommodation.

¹³⁰ The Countrywide Refurbishment Scheme was introduced by the Finance Act, 2001. The scheme provided for tax relief in the form of a deduction from a lessor's rental income of expenditure incurred on the refurbishment of a rented residential property

¹³¹ Depending on the nature of the capital work, plant and machinery capital allowances might be available to the landlord – these can be claimed over 8 years.

¹³² Housing (Standards for Rented Houses) Regulations 2009 (SI534/2008) ("Housing Standards") came into effect on 1 February 2009

particularly when such investment does not attract tax relief against the investment.

It is to be noted that in some international jurisdictions reviewed, the principle of tax relief for depreciation on premises is accepted, thereby providing a measure of relief for capital depreciation against the charge to tax on rental income. This does not appear to be universal practice and it would be more usual for such tax reliefs to be targeted at a particular objective.

Capital repayments on borrowings

One issue which has been highlighted by landlords in the consultations is the fact that there is no tax relief against rental income for capital repayments on bank borrowings. It should be noted that such tax relief is not available in the commercial rental sector and generally speaking is not available in the international jurisdictions reviewed during this assignment.

Increases in the Tax Burden for Individuals

Table 7.3 below summarises the effective tax position arising from the increased tax rates and the introduction of the local property tax.¹³³ The table sets out a comparative tax position between the year 2007 and 2014 taking into account three buy to let investors who each purchased a property in Dublin on a variable mortgage in 2000, 2004 and 2007, based on identical rents and a range of assumptions in regard to typical operating costs. The tax position is evaluated based on five cases: three for self-employed persons and two for employees.

The final rows for each class of worker evaluated provide the increase in tax charges compared with 2007. Thus for a self-employed landlord who purchased with a mortgage in 2000 and is earning less than €100,000, his tax charges between 2007 and 2014 increased by 28 per cent. In such an instance the effective increase in rent that would be required to achieve parity with the after-tax position that pertained in 2007 is estimated to be in the region of 20 per cent. The corresponding increase required for an employee paying tax at the lower rate, who would have experienced a 76 per cent increase in the tax charge, is estimated at 16 per cent.

¹³³ Up to 31 December 2012 the charge on property consisted of an NPPR charge and the annual household charge of €100. In the year 2013, the NPPR and 50% of the Local Property Tax was payable. As and from 1 January 2014, Local Property Tax only is payable.

The conclusion in this regard is that legislative amendments may have necessarily played some part in the increase in rents which has been experienced to date. In a market in which rental supply is tighter, pressures for increased rents arise not just from the wish to have greater profits but also to address cost increases and changes in the fiscal regime. However, rents reflect supply and demand in the market and what tenants are willing to pay, which may leave limited scope to increase the rent above this level

generally deductible when calculating rental income for a landlord. It is noteworthy that the Thornhill Group, which reported to the inter-departmental group on the design of a local property tax, recommended that owners and not occupiers be liable for property taxes in the residential investment sector. The Group also recommended that the LPT charge be deductible similar to commercial rates for tax purposes. (PQ 4171/13). This is being examined as part of the Construction 2020 Strategy.

Deductibility of property taxes

In other jurisdictions which have been reviewed, property taxes on rented residential properties are

Table 7.3: Effective Tax Position for Landlords: 2007 Vs. 2014

Date of House Purchase	Jan-00	Jan-04	Jan-07
Overall Cashflow (excl Tax)	495.0	495.0	495.0
= (Local Property Tax)			
(Reduction from 2007 to 2014)			
% reduction in cashflow	-65%	-10%	-4%
Increase in Tax 2007 Vs. 2014			
A. Self-employed - <€100K	-1,121	-1,407	-1,444
% increase since 2007	28%	68%	n/a
B. Self-employed >€100K	-1,370	-1,584	-1,528
% increase since 2007	+34%	+76%	n/a
C. Self-employed - Lower Rate	-876	-947	-861
% increase since 2007	+41%	+85%	n/a
D. Employee - Higher Rate	-1,549	-1,631	-1,444
% increase since 2007	+44%	+89%	n/a
E. Employee - Lower Rate	-1,303	-1,171	-861
% increase since 2007	+76%	+131%	n/a
Effective Increase in Rent to Achieve Parity			
A. Self-employed - <€100K	20%	24%	24%
B. Self-employed >€100K	25%	28%	27%
C. Self-employed - Lower Rate	12%	13%	12%
D. Employee - Higher Rate	26%	27%	24%
E. Employee - Lower Rate	16%	15%	12%

Notes:

1. The difference in the overall cashflow is the Local Property Tax as it is assumed that all other costs remain the same for each investor in 2007 and 2014. The percentage reduction from 2007 to 2014 thus represents the annual change in the cashflow for each landlord.
2. The implied increase in rents required to offset the increase in taxation is derived by applying the effective rate of tax for the particular individual to the increase in tax (plus LPT) to derive the required increase in gross income required to sustain the increase in tax. This is then expressed as a percentage of the total rental income of €16,500.

Table 7.4: Tax Deductions Allowable for the Private Rented sector Internationally

Deductions	Ireland	Germany	Belgium	The Netherlands (Note: Certain property tax scheme)	Luxembourg	Sweden	Switzerland <i>Not Specified</i>	France	UK	USA
Letting fees	Yes	Yes	No	No	No	No	The federal state and every province have different tax laws.	Yes	Yes	No
Maintenance	Yes	Yes	Yes	Yes	Yes	Yes	ditto	Yes	Yes	Yes
Capital Expenditures	No	Yes	No	No	Yes	No	ditto	Yes	No	Yes
Depreciation	No	Yes	Yes	Yes	Yes	Yes	ditto	Yes	No	Yes
Repairs	Yes	Yes	Yes	No	No	Yes	ditto	Yes	Yes	Yes
Interest	Yes (75%)	Yes (100%)	Yes (100%)	No	Yes (100%)	Yes (100%)	ditto	Yes (100%)	Yes (100%)	Yes (100%)
Property Tax	No	Yes	Yes	No	Yes	Yes	ditto	Exemption (15 years)	Yes	Yes

7.3 TAX ISSUES FOR TENANTS

7.3.1 Relief for rent paid

Prior to Finance Act 2000, a limited form of tenants’ tax relief existed for certain tenants. The relief was originally introduced into the Taxes Consolidation Act 1997 by Section 142A Income Tax Act 1967.

The relief operated by allowing tenants paying rent to claim a deduction against tax of an amount equal to the standard rate of tax multiplied by the level of rent paid up to certain limits. The limits for tenants under 55 were relatively low although the limits for married couples were double those of individuals. For individuals aged 55 or over or widowed individuals, higher limits applied.

The relief for tenants not having a tax liability was zero in that the relief was capped by the amount of income tax paid by the individual. Although the Commission Report of 2000 recommended that the relief be reconstituted into the form of refundable tax credits, which would allow benefit to be taken by individuals not within the tax system, this recommendation was never followed.

In Finance Act 2000 and subsequent Finance Acts, the limits in relation to the relief were increased, although the actual relief continued to be capped based on the tax liability of the individual claimant.

This relief was essentially introduced in order to bring certain landlords operating in the black economy into the spotlight from a Revenue perspective, in that the Landlord’s details had to be included in relation to any claim made to Revenue.

The relief has been abolished in respect of rent paid on new tenancies on or after 8 December 2010. In respect of existing tenancies, the relief is being tapered off before finally expiring at the end of the tax year 2017.

This relief provided a measure of benefit to tenants on premises and its removal has increased the effective cost of paying rental income of private rented accommodation for tenants.¹³⁴ From a social assistance perspective, it is notable that this relief did not provide any benefit to tenants not within the tax net as the relief was

¹³⁴ The relief did not apply in relation to tenancies where the landlord was a housing authority for the purposes of the Housing Act 1966.

given against the income tax liability of the individual claimant or claimants.

7.3.2 Rationale for elimination of relief

The Commission on Taxation 2009 recommended the abolition of this relief. The rationale for the elimination of the relief appears to have been to achieve parity with the owner occupier sector in that mortgage interest relief has also effectively been eliminated and will finally taper off at the end of 2017. Additionally, Budget 2011, which was handed down in December 2010, highlighted that the elimination of the relief over a full year would give rise to savings of €97 million.

In consultations with the Department of Finance, they have indicated that from a tax policy perspective, any fiscal measures introduced to address the current issues in the private rental sector should not seek to discriminate against the owner occupier sector. In this regard, having regard to the elimination of mortgage interest relief, the roll-back of the elimination of this relief would offend this policy.

7.3.3 Rationale for Freezing rent relief for rent paid by certain tenants

As outlined above, the original rationale for the introduction of this relief was to identify landlord's operating in the "black market".

In general, the rental sector is considerably more compliant than it was at the time of introduction of the relief and the original rationale for introducing the relief may not be so significant today.

However, in light of the fact that tenants, particularly lower paid tenants, in the private rental sector are competing for accommodation with higher paid individuals, as well as with owner occupiers where properties are exiting the rental sector, there may be a financial rationale for considering a limited freezing of the removal of the relief until supply comes on stream.

In considering any freezing of the removal of the relief, we are conscious of the need to avoid any distortion with the owner occupier market¹³⁵ and any measures which will serve to increase market rents. In this regard, we consider there is a case for the limited reintroduction of the relief on the following basis:

¹³⁵ Mortgage interest relief is due to expire in 2017 although there are no tapering provisions in that legislation.

- That the freezing of relief would be restricted to individuals with earnings below a certain threshold, to be based on a percentage of the average industrial wage.
- The freeze should only apply for a limited period of time until supply within the residential sector increases. A period of 3 years is suggested in this regard with the relief being removed in 2017 as planned.
- The freeze in relief will be at 2013 limits¹³⁶, which were 50 per cent of the limits that applied up to the tax year 2010 and would indicate that if rent relief were to be reintroduced completely, that the cost of same would be approximately €17 million per annum. By applying income limits at a low level, this figure should be significantly lower. The Employment Earning Inequality in Ireland report¹³⁷ divided the population into quintiles from poorest to richest based on median pay. Assuming the same distribution applies to tenants in the private rented sector and assuming low income individuals are accounted for in the first three quintiles set out, then 60 per cent of individuals renting would qualify for the relief, suggesting a cost of circa. €10.2 million per annum.

This cost would increase by the same amount annually over the 3 years until the abolition of the relief. As many individuals eligible for the relief may not be in a tax payable situation, it would be suggested that the relief could be claimed against any USC or income tax paid by the individual. This relief would be claimed following the end of the tax year although administrative arrangements might be possible to be organised, with the approval of Revenue.

7.4 CAPITAL TAX FOR PRIVATE RENTAL SECTOR

The Commission appointed to consider the future of the Private Rental Sector in 2000 stated in their conclusions as follows:

¹³⁶ Per the table contained in Section 473 TCA 1997, as introduced in Finance Act 2011. This specifies that the appropriate relief for a widowed/surviving civil partner or married person under 55 was €400, and €800 for persons aged over 55. For other individuals, the relief would be capped at €200 per annum for single individuals under 55 and at €400 per annum for single individuals aged 55 years or over.

¹³⁷ <http://www.publicpolicy.ie/wp-content/uploads/Employment-Earnings-Inequality-in-Ireland.pdf>

“The commission’s recommendations were framed in the context of the agreed objective that a more professional approach to the provision of management of rented accommodation would be desirable. The majority considered that this could best be achieved by treating for tax purposes the business of providing accommodation for renting in the same way as any other business, where appropriate, and provided that it is a legitimate business being actively managed”.

The private rental sector has since the first Bacon Report of 1998 been the subject of certain tax amendments which have led to business models diverging from the commercial rental sector. Separately, from a capital tax perspective, the private rental sector is not generally viewed in the same manner as an active business. The origins of this lie in historic distinctions being drawn between earned and unearned income and also from the scheme under which tax was assessed, particularly since the Income Tax Act 1918.

The comments below outline distinctions between the treatment of the private rental sector and active businesses, and also with the commercial rental sector where appropriate.

Capital Gains Tax

Capital Gains Tax is levied on any gain arising from the disposal of property by individuals or corporates. The gain is generally the difference between the price paid on the property, any enhancement expenditure incurred on the property and the disposal price or value of the property at the date of disposal. Tax, where it arises, is chargeable at a rate of 33 per cent for individuals and corporates.

Certain reliefs apply in relation to Capital Gains Tax, such as retirement relief, and this is generally available on the disposal of an interest in a business or shares in certain qualifying family companies. Retirement relief permits the person making the disposal, who has achieved the age of 55 years, to dispose of the qualifying assets and obtain the full relief of the certain limits.

Qualifying assets will not include assets held as investments and as such, rental properties will not be included for the purposes of retirement relief.

In relation to the private rental sector, a relief was introduced in Finance Act 2012¹³⁸ to provide an incentive for investment in land and buildings in Ireland (although the relief was extended to properties acquired in other EEA jurisdictions to comply with EU law and EEA bilateral agreements). The relief provides that for any properties acquired on or before 31 December 2014¹³⁹ where the property is held for seven years prior to a disposal of the property. Where the conditions are met, any gain arising on the disposal of the property can be taken either tax free on a disposal seven years from the date of purchase or, where disposed of later, relief will be available to the extent of the gain multiplied by seven years as numerator and the entire period of ownership as the denominator.

The above relief provides significant benefit to individuals investing in land and property in the State and extends to individuals operating in the Private Rental Sector.

Capital Acquisitions Tax

Capital Acquisitions Tax is the collective tax term for gift tax and inheritance tax. Gift tax is generally payable by a beneficiary taking a benefit from a disponent to the extent that the gift or benefit exceeds the particular tax free threshold as between the individual beneficiary and the disponent. The rate of tax applicable on any excess is 33 per cent.

Inheritance tax is applied in a similar manner but generally only arises on death. The rate of tax is similar and there is no distinction on rates or tax free thresholds between gift tax and inheritance tax.

Within the Capital Acquisitions Tax regime, there are targeted reliefs and exemptions include agricultural and property relief, relevant business property relief and dwelling house relief.

The reliefs allow for either an effective 90 per cent reduction in asset values qualifying for the relief for tax purposes or a full exemption in some cases.

The reliefs mentioned do not apply to taxable benefits consisting of residential investment property. However, such reliefs equally do not apply to commercial investment property. As such,

¹³⁸ Taxable rate Section 604A TCA 1997 was introduced by Finance Act 2012.

¹³⁹ The final date was previously 31 December 2013 but this was extended by the Finance Act 2013.

there is no distortion in the capital tax regime concerning capital acquisitions tax between the commercial rental sector and the residential rental sector.¹⁴⁰

Stamp Duty

At the present time, stamp duty is levied at a rate of 1 per cent on residential property and 2 per cent on non-residential property. There is no distinction drawn between properties held by investors in rented accommodation and owner occupiers. The rate of stamp duty applicable does not form a barrier to entry into the private rental sector.

In the Commission on taxation report of 2009, one of the recommendations was an exemption from stamp duty for purchasers of residential property by owner occupiers. The report specifically stated that any such exemption should not apply to investors in residential property. The current rates of stamp duty on residential property of 1 per cent applied both to owner occupiers and investor purchasers.

Many of the comments on this section highlight the differences in the tax regime between the commercial property sector and the residential investment sector, with most being unfavourable to the latter. In relation to stamp duty, the residential investment sector fares better in relation to properties having a value of less than €1 million, as a rate of 1 per cent applies.

With regard to equalising the position in relation to stamp duty between the commercial investment and the residential investment sectors, there would appear to be no good reason why there should be a difference in rates. An increase in the rate of stamp duty on the purchase of residential investment property to 2 per cent might additionally assist with offsetting any cost in granting increased interest relief for investors in residential property in certain cases.

Based on sales in 2014 to date being 28,000 and approximately 6,000 of those sales being of residential investment properties, it is considered

¹⁴⁰ It should be noted however that commercial property which is used for an active business, and which is owned outside a company carrying on a business can qualify for certain tax reliefs under the Capital Acquisitions Tax code and the Capital Gains Tax code. However, this is generally where the property has been used for the business for a period of time and is being transferred at the same time and to the same person as the underlying interest in the active business.

that the benefit of an increase in the stamp duty rate for residential investment purchasers would be in the region of €15 million

7.5 RISK ISSUES RE TAX INCENTIVES

Measures were introduced in Finance Act 2011 to restrict the use of property reliefs through a ring-fencing approach, and targeted a yield of €60 million in its first year. In a report carried out by the Tax Policy Unit of the Department of Finance in December 2011¹⁴¹, it was concluded that the proposals would have amounted to an effective termination of reliefs given the limited rental yield associated with the properties that give rise to the reliefs. It was determined in the report that despite the potential gain to the State from a termination of reliefs, long term and immediate costs would occur including possibly in terms of reputational effects which might impact on fiscal and other economic instruments of the State.

Arising from this report in December 2011, amendments were introduced in Finance Act 2012 which sought to apply a guillotine to certain capital allowances incentives to apply at the end of 2014 or, if later, the expiry of the tax life of the relevant capital allowances.

Over the years, a proliferation of tax incentive schemes had developed, some of which gave capital allowances and some which gave what was referred to as Section 23 Relief. The latter applied generally in relation to investment properties in certain areas targeted for investment.

In 2005, the Department of Finance commissioned Indecon Economic Consultant and Goodbody Economic Consultants to undertake a detailed review of the various property-based reliefs. A conclusion of the study was that the schemes had generally served their purpose and that there was absolutely no case for further government incentives and absolutely no case for future government incentives. The view expressed in the report was that continuing to approve new projects would contribute to oversupply and represent a clear waste of scarce public resources.¹⁴² Following the report, Budget 2006 closed down virtually all of the tax incentive

¹⁴¹ *Economic Impact Assessment Of Potential Changes To Legacy Property Reliefs.*
<http://www.finance.gov.ie/sites/default/files/Property-Based-Reliefs-Impact-Assessment.pdf>

¹⁴² See page 11 of the December 2011 report.

schemes in use¹⁴³ and provided for transitional arrangements in relation to certain pipeline projects.

In considering options for the purposes of this report, the authors are conscious of the need to avoid any incentives being granted which would run counter to the 2005 report. However, and following current tax policy, the following points might be noted:

- Tax incentives for these purposes would not include measures seeking to remove any distortion or differences in the fiscal treatment as between the commercial investment sector and the residential investment sector.
- Any measures being considered would, to the extent that they provide any incentives, be time limited.

7.6 CONCLUSIONS

It is clear that the tax regime for landlords investing in the residential investment sector is in the main less favourable than for investors in commercial investment property.

The main disadvantages arise in relation to investors in residential investment property who are seeking to utilise borrowings to assist with the purchase of such properties. These individuals or companies are subject to interest deductions of 75 per cent, as against 100 per cent for the commercial rental sector. This is the main disadvantage as between the two sectors although the lack of deduction for local property taxes also represents a less favourable position for residential landlords.¹⁴⁴

The fiscal changes in the period between 2007 and 2014 have increased substantially the tax burden on residential landlords, particularly those with borrowings taken out in relation to the purchase of investment properties. The restriction on deductions and increased tax [including USC and local property taxes] charges could justify increases in gross rents of approximately 20 per cent to 24 per cent, depending on the personal circumstances of a landlord (Table 5.3). Whilst the market rent will be dictated by a number of factors, it is clear that the increased fiscal costs

may explain some of the operate pressure on private rental sector rent levels.

Separately, the fiscal amendments, particularly the restriction of interest deductions, have the potential to create a barrier to entry into the private rental sector for individuals and companies wishing to finance the purchase through borrowings. Although banks generally speaking have not been the source of investment into the private rental sector recently¹⁴⁵, increased supply into the private rental sector will depend on new investors coming into the market. Without levelling the investment outcomes for individuals leveraging such purchases with investment in the commercial property sector, there is a potential barrier to entry for investment into the private rental sector.

Whilst the lack of interest deductibility is not an issue for REITs or cash buyers, international evidence would indicate that such buyers will only represent a relatively small percentage of the market.¹⁴⁶

¹⁴³ See page 12 of the report of December 2011 for a list of the relevant schemes.

¹⁴⁴ *Report of the Inter-Departmental Group on the Design of a Local Property Tax.*
<http://www.environ.ie/en/PublicationsDocuments/FileDownload,31669,en.Pdf>

¹⁴⁵ According to the IBF approximately 4% of mortgage drawdowns in 2013 were for Residential Investment Letting

¹⁴⁶ The introduction of REITs in Germany in 2007 has not played a major role on the real estate market, particularly in relation to the tenant market. Only 4 REITs and 2 Pre-REITs have been founded since 2007.

The Private Rented Sector Internationally



8. THE PRIVATE RENTED SECTOR INTERNATIONALLY

8.1 INTRODUCTION

This section presents a profile of the private rented sector internationally. It commences with a review of the housing tenure of the population across a number of European jurisdictions and discusses the trends in tenure choice over time. This follows with a review of the landlord and tenant profile in a sample of countries. Finally, a literature review of the key issues affecting the private rented sector at present are set out. This section sets the background for the review of developments in other jurisdictions with respect to the three themes of:

- ✓ Affordability
- ✓ Initiatives to increase supply and investment in the sector; and
- ✓ Regulation of the Sector.

Section 9 reviews the supply incentives internationally, followed by Section 10 which details the regulations which prevail elsewhere. The theme of affordability has been dealt with in detail in the Rent Stability report.

8.2 PROFILE OF THE PRIVATE RENTED SECTOR INTERNATIONALLY

The rental of dwellings from private landlords is a sector of residential markets which varies significantly in both scale and importance internationally. At the outset it is important to define what is meant by the private rented sector. Definitions of the private rented sector vary across jurisdictions. A review of the literature suggests that a number of definitions exist. Oxley (2010) sets out four categories of housing that might be included in the private rented sector, based on the ownership and allocation of housing:

- Private ownership by individuals and companies where allocation is by market forces (i.e. market rents);
- Private ownership by individuals and companies where allocation is not by market forces but linked to employment or family relationships;
- Private ownership by individuals and companies where allocation is not by market forces but by socially determined criteria such as tenant income, soft loans or tax concessions.

- Non-profit organisations and public bodies where allocation is by market forces (i.e. market rents)¹⁴⁷.

Other researchers, such as Scanlon *et al* (2011)¹⁴⁸, note that private renting may be defined in a number of ways:

- By reference to landlord type (i.e., as housing owned by a profit-making, non-municipal and/or non-housing association landlord)
- In contrast to owner-occupation (i.e., any housing that is not owner-occupied)
- By reference to the type of tenancy (i.e., housing that is occupied under a particular form of contract)
- By the way in which households secured their dwelling (i.e., any rented housing allocated purely on the tenant's ability to pay market rent).

Clearly this indicates that a common definition of the sector is not possible. Scanlon *et al* (2011) notes that in many cases private renting is defined by reference to popular understanding, statistics or legislation. The international review undertaken for the purposes of this study incorporates a significant literature review and so it is feasible to say that the definition of private renting is similar to that as set out by Scanlon *et al* in that it is more defined with reference to popular understanding, statistics or legislation across the various jurisdictions.

In many developed countries worldwide, the private rented sector has reduced from being the tenure of choice in the last century to a minority option today. The decline in the private rented sector in many cases reflects the impact of expanded social housing along with household preferences for owner-occupation. Table 8.1 sets out the housing tenure of the population across the European jurisdictions reviewed. The most up to date information relates to 2012¹⁴⁹; however it is anticipated that there are unlikely to have been any significant changes since then. It is evident that in many of the European countries selected, the population residing in the private rented sector is larger than the EU27 average of 12 per

¹⁴⁷ Oxley, M., Lishman, R., Brown, T., Promoting Investment in Private Rented Housing Supply – International policy comparisons, UK Department of Communities and Local Government, November 2010, page 17

¹⁴⁸ Scanlon, K. and Kochan, B (2011). Towards A Sustainable Private Rented Sector The Lessons From Other Countries. London School of Economics London 2011 Page 15

¹⁴⁹ 3rd European Quality of Life Survey (2012), Eurofound.

cent. In particular, the proportion of residents in the private rented sector in Germany is relatively high by Western European standards, accounting for 36 per cent of the population, almost in line with that of owner occupation. The private rented sectors in Sweden and France represent in excess of 20 per cent of the population, while in both Ireland and the UK it stands at 18 per cent. Of the European countries reviewed, the Netherlands has a relatively undersized private rented sector at just 8 per cent of the population.

The relatively low proportion in the Netherlands is likely to be a reflection of the sizeable social rented sector there which accommodated 31 per cent of the population in 2012 compared to a EU27 average of 12 per cent. Germany (22%), UK (20%), France (15%) and Sweden (14%) also have strong social housing sectors relative to the EU average, while in Ireland and Belgium, the social rented sector accounted for only 7 per cent and 9 per cent of the population respectively.

Table 8.1: Housing Tenure (%) for Selected Countries & EU27, 2012

	Owner Occupier	Private Rented	Social Rented	Rent Free/Other
Belgium	63	23	9	5
France	58	22	15	5
Germany	40	36	22	2
Ireland	72	18	7	3
<i>Ireland (Households) *</i>	<i>70</i>	<i>19</i>	<i>9</i>	<i>3</i>
Netherlands	58	8	31	3
Sweden	58	23	14	5
UK	58	18	20	4
EU27	66	12	12	4

Source: *European Quality of Life Survey (2012)*

* *2011 Census of Population (based on households).*

Large private and social rental sectors as observed in Western and Northern Europe may be explained by demographic factors, as the 2012 European Quality of Life Survey found that younger people are most likely to inhabit rental accommodation. According to the RED C survey, the average age of a tenant is 33 years. Historical and societal factors may also play a role in these trends as evidenced by Germany where preferences towards household mobility and security of rental tenures (arising from longer contracts) have suppressed home ownership rates. The higher transaction costs of moving homes for owner- occupiers along with the risk of negative equity in downturns are said to be contributory factors to the elevated German private rental rates. Tight credit conditions in recent times may have also acted to reduce the opportunities for individuals to purchase residential property, while East Germany is still catching up to the norms of homeownership present in the western portion of the country¹⁵⁰.

and 2012. The changes in the proportions renting are particularly striking as all countries have either experienced growth or stability in this sector of the residential market over the 18-year period. Meanwhile, owner- occupancy rates have largely fallen since 1994, with the sole exception of The Netherlands. This would suggest that Western and Northern European countries are increasingly shifting towards rental properties which reduce debt burdens and increase mobility and flexibility for tenants.

Table 8.2 illustrates how tenures have evolved across the above group of countries between 1994

¹⁵⁰ The German Private Rented Sector – A Holistic Approach (2014), Jonathan Fitzsimons

Table 8.2: Distribution of Population by Housing Tenure (%) for Select Countries, 1994-2012

	Owner- Occupier			Renter/ Other		
	1994*	2003*	2012**	1994*	2003*	2012**
Belgium	72	73	63	25	21	37
France	60	52	58	36	44	41
Germany	44	52	40	52	46	60
Ireland	83	72	72	15	24	28
Netherlands	53	55	58	46	40	42
Sweden	-	67	58	-	30	42
UK	72	64	57	27	33	41

Source: * Eurofound (2007), EurLIFE Quality of Life Database ** Eurostat (2014)

International evidence from outside Europe also provides pertinent insights into homeownership rates. In Canada, 69 per cent of homes were inhabited by the owner in 2011; a trend that has continually moved upwards since 1991. This rising homeownership rate has been attributed to two factors:

- 1) Homeownership rates increase with the age of the primary occupant of the household (up to the age of 75). The 30-34 year old age group is very important in this regard as 59.4 per cent of householders in this age bracket own their dwelling, up significantly from 23.8 per cent and 44.1 per cent for under-25s and 25-29 year olds respectively.
- 2) Income was also a strong determinant as households with higher annual total incomes had higher homeownership rates.

Cumulatively these findings would suggest that the increasing homeownership rate in Canada is driven by an ageing population and rising income levels in specific households¹⁵¹. In the United States, the homeownership rate of 65.2 per cent stands at its lowest level since 1995¹⁵². Slow job growth, tight credit conditions and rising property prices have contributed to this situation which has reduced the vacancy rate in rental properties to the lowest level in over a decade. Australia had a home ownership rate of 67 per cent in 2011 which was slightly in excess of the 2012 EU27 average but below the long-term national mean. Total rental tenures amounted to 29.6 per cent of the market in 2011, and have been on an upward trend for a

number of decades¹⁵³. Such evidence would suggest that private and social rental tenancies are increasing in popularity both within Europe and across major international countries.

8.3 PROFILE OF LANDLORDS AND TENANTS INTERNATIONALLY

8.3.1 Tenant Profile

The profile of tenants in a number of jurisdictions has been examined by Scanlon *et al*, in the paper, 'Towards a Sustainable Private Rented Sector – Lessons from Other Countries (2011)'¹⁵⁴. The paper found that tenants of private rental housing in such states are most likely to come from the following categories:

- 1 Younger or older age groups
- 2 Low income earners
- 3 Singles without children
- 4 Single parents
- 5 Immigrants

The result of this composition is that the private rental sector in many countries is dominated by the most disadvantaged households. Middle-income families in most developed countries aspire to purchase their own homes and thus remove themselves from the private rental sector, hence tilting the profile of tenants towards more deprived categories.

In the UK, the private rental sector generally houses the young, most mobile (including immigrants) and lowest income households which

¹⁵¹ 2011 National Household Survey: Homeownership and shelter costs in Canada

¹⁵² Residential Vacancies and Homeownership in the Fourth Quarter 2013, U.S. Census Bureau News.

¹⁵³ Housing Tenure Data in the Census (2012), Australian Bureau of Statistics.

¹⁵⁴ Towards a Sustainable Private Rented Sector – Lessons from Other Countries (2011), London School of Economics.

do not qualify for social rental housing. Comparable issues have been experienced in Australia where older and vulnerable tenants are housed in the private rented sector as oppose to social housing. Likewise, inefficiencies in the selection process for social housing in France have also contributed to a situation similar to Australia, with many deprived households being forced to lease dwellings at the very bottom of the private rental sector. This acts to skew the profile of tenants towards disadvantaged cohorts.

French private rental tenants also tend to be younger as low savings accumulations and trends towards starting families at an older age are deterring young people from purchasing their own homes. Mobility is another key feature as private tenants in France stay in rental accommodation for an average of five years, below the equivalent levels for social renters (10 years) and owner occupiers (20 years).

While tenants in the rented sector in Germany tend to be younger and have lower incomes than the owner occupied sector, the rented sector still attracts a range of household types. According to a 2014 review of the sector¹⁵⁵, the profiles of households living in the sector include:

- Very high percentage of single men and women and sole parents
- A high proportion of households aged under 40
- Couples without children

Interestingly, the study notes that the private rented market in Germany does not have the same characteristics of other jurisdictions such as Flanders (Belgium) and Australia where the rented sector often accommodated low income vulnerable households.

The profile of the rented sector in The Netherlands indicates that the demographics of tenants differ between the two main ownership groupings of housing organisations and individual landlords. Tenants renting from organisations tend to be older and have greater disposable incomes than those renting from private landlords. It is said that private landlords dominate the student market and this could be a contributory factor in these findings. In general terms private rental tenants in The Netherlands tend to be either single or in a relationship without children, while tenancies

remain in place for in excess of 11 years on average¹⁵⁶.

Canada differs from this age profile to a large degree though, as middle age brackets account for the greatest number of primary householders in rental accommodation¹⁵⁷.

The United States witnessed a boom in homeownership in the last two decades which acted to alter the characteristics of private rental tenants. The ratio of median renters' income to median household income fell from c.90 per cent in 1975 to c.63 per cent in 2009 as individuals on higher incomes strived to purchase their own properties. However, since the onset of the financial crisis, homeownership rates have fallen away in America, and this will have acted to change the composition of private rental tenants.

8.3.2 Landlord Profile

Across both European and international countries the profile of landlords is largely split between private owners and institutional bodies. Overall, there is a general tendency for private individual investors to dominate. A 2014 presentation by Michael Oxley¹⁵⁸ set out that the proportion of individual investors in a range of jurisdictions. It revealed that the proportion of individual landlord investors ranged from a low of 60 per cent in Australia to a high of 96 per cent in France.

Table 8.3: Proportion of Private Rented Sector stock by Individual Investors

Jurisdiction	(%)
USA	66
Australia	60
France	96
Germany	62
England	88

Source: Michael Oxley 2014

The profile of landlords in a number of jurisdictions has also been examined by Scanlon *et al*¹⁵⁹. This paper, in line with that of Oxley, also

¹⁵⁵ Fitzsimons, J. (2014) The German Private Rented Sector - A Holistic Approach

¹⁵⁶ Towards a Sustainable Private Rented Sector – Lessons from Other Countries (2011), London School of Economics.

¹⁵⁷ 2011 National Household Survey, Statistics Canada.

¹⁵⁸ The role of policy in influencing differences between countries in the size of the private rented housing sector. Land Economy Seminar 26/04/2014

¹⁵⁹ Towards a Sustainable Private Rented Sector – Lessons from Other Countries (2011), London School of Economics.

indicates the dominance of the private individual investor.

In Germany the market is mostly comprised of private individuals each with one or a small number of rental properties. This grouping accounts for 80 per cent of all landlords and represents 60 per cent of private rental dwellings. Private individual landlords are dominated by self-employed individuals, white collar workers and retirees, with the latter generally relying on rental income to supplement their retirement funds. German landlords' average disposable income is twice that of households without rental income, though this may in part be explained by the higher average ages.

While individual landlords also dominate the market in the Netherlands, larger organisations (encompassing pension funds, property investors, estate agents and insurance companies) play a greater role, accounting for 37 per cent of private rental dwellings. The latter group is dominated by the 31 members of the Association of Institutional Property Investors (IVBN) in The Netherlands and tends to own larger, higher quality and more modern (62% built post-1970) dwellings than the private landlord grouping which command higher rental prices. The Swedish rental market is also characterised by a strong representation of corporations amongst landlords. Although data is scarce, it is recognised that such corporations tend to own multi-storey rental buildings, while single residential units under the ownership of individual landlords make up only a limited proportion of the market.

The American private rental sector is dominated by non-corporate individuals and partnerships which account for the majority of the housing stock, while the same applies in France where almost all private landlords are individuals. Amongst these French owners, the most common profile is older persons with small portfolios and relatively high incomes. Interestingly, properties in France are not generally acquired for investment purposes as half of individual landlords inherit their rental dwellings while the other half purchase the dwelling to occupy at first but subsequently move.

Despite attempts to entice institutional landlords to purchase multiple dwellings in the British private rental market, the vast majority of properties remain under the ownership of individual landlords. Turnover of properties is

higher in the UK compared to other countries but this is attributed to capital gains benefits as opposed to any specific characteristics or preferences of landlords. Overall the role of REITS has been limited internationally.

8.4 KEY ISSUES AND TRENDS IN THE PRIVATE RENTED SECTOR

Much of this literature deals with issues similar to those being faced in the Irish rental market at present. Given the extent of the literature it is not possible to undertake a complete review – rather in this section we aim to present some of the findings. What is interesting is the extent to which the themes that emerge are common across the economies reviewed. These issues include the supply and quality of rental accommodation, security of tenure, affordability, and improved regulation.

The US housing market has seen a large increase in the numbers opting to rent, driven by foreclosures, the cost of house purchase as well as concerns about the risks of homeownership, as highlighted by the recent housing market crash. The US rental market recovered relatively quickly due to strong demand. According to the Joint Centre for Housing Studies (2013) two main demographic trends in the US will underpin changes in rental demand over the next decade. Firstly, the ageing of the population will result in demand for smaller rental units, with good access to transportation and located near the community where the household is currently living. Secondly, it is expected that rental demand will reflect the increasing role played by migrants in household growth. Based on the demographic profile of migrants to the US, these households will seek larger homes, with access to schools and employment.

The supply of rental housing for low-income households in the US is a concern, partly due to the gap between development costs and what households can afford to pay in rent. The quality of the housing stock for rent and the loss of low-cost rental housing are issues that pose challenges for the sector. The issue of the quality of the rental housing stock is common across a number of studies, including Rugg and Rhodes (2008), Sirm (2013) and House of Commons (2013).

A review of the rental sector in the UK, (Rugg and Rhodes, 2008) pointed to a number of issues. These included the delivery of new and affordable

supply, encouraging higher institutional investment, professionalising rental housing management, property quality, sustainable tenancies, homelessness prevention and managing problem private renting, where problem renting may be due to concentrations of rental demand in a particular area. In addition, the sector was also seen to face a number of challenges. While most of these overlap with the issues identified (property quality, management standards and security of tenure) the review identified an additional challenge that is also important in the context of the Irish rental market – the impact of the ‘Buy to Let’ crisis on the sector.

More recently Oxley (2011)¹⁶⁰ pointed out that, one of the key emerging trends in the UK in recent times is the use of the private rented sector to accommodate households in need of social housing. In the period 2001-2009, there was a significant increase (c. 800,000) in the waiting list for social housing which reached 1.8 million in 2009. Due to the lack of investment in the social housing sectors, there was little alternative but to accommodate families in the private rented sector. Furthermore, it is advocated that growth in the sector has been influenced by policy changes outside of the housing sector, including higher education and the general economy. While the growth in the private rented sector has been significant in recent years, some researchers such as Ball (2010) indicate that one should not be overly optimistic for the future of the sector given that home ownership remains the desired tenure of choice.

The rental market is considered to be a complex sector with a variety of constituent markets that can vary by geographical area. On the supply side there are a wide range of landlord types, including accidental landlords, who have become landlords for a range of reasons. At the same time on the demand side there are a wide range of tenant types, each group with their own needs with regard to accommodation type and security of tenure. Indeed, Sirr (2013) in an overview of the Irish rental market argues that there exists a number of factors that should underpin a demand for longer leases in the future. These include the provision of social housing by the private sector, the emergence of an increasing number who view

renting as a lifestyle choice, the reliance on FDI, with non-national FDI employees preferring to rent. However, the move to longer-term leases interacts with the quality of rental accommodation and its suitability for longer term living. Demographic trends are seen by the House of Commons (2013) as factors driving a demand for longer-term leases, as families with children look for longer-term security. In their review the House of Commons (2013) argues that institutional investors are offering longer-term leases, in some case up to 5 years, and that these leases are available to tenants after six months.

Having identified that the private rental sector in the UK plays an important role in accommodating low income households and the ‘intermediate’ market (those at work but unable to afford owner-occupancy), the UK rental market should seek to deliver new and affordable housing supply. While there has been a focus on the role that private investment might play in delivering this supply, a key question remains that this may only be viable in high densities. With regard to supply, the reliance of many small landlords on the use of individual mortgages to fund their rental property purchases is problematic, not only on an on-going basis but particularly due to the impact of the crisis on the BTL sector. Problems can arise due to the risk of repossession for the landlord but also the tenant, as well as the fact that highly leveraged landlords are reliant on the rental income to cover the mortgage and so their ability to remain in the sector is uncertain in difficult economic times. In an Irish context this argument is also made by Sirr (2013).

The Rugg and Rhodes 2008 review also considers a number of policy directions for the sector. In order to be able to effectively formulate policy for the sector it is important to develop a sound evidence base. Professional property management is seen as a valuable addition to the sector that would offer protection to both the tenant and the landlord. This argument is also made in an Irish context by Sirr (2013). A theme that emerged in our analysis of the rental sector in Ireland reflects a similar theme in the Rugg and Rhodes analysis of the UK sector; that is the need to recognise that letting property is a business, and is a business that requires active management. The UK review also points to some of the issues associated with renting for low-income households and states that if private renting is to be a long term option for low-income families, then policies must aim to reduce the risks associated with renting and

¹⁶⁰ Oxley *et al.* Promoting investment in private rented housing supply. International policy comparisons (2010). Department for Communities and Local Government

develop an understanding of the reasons behind why tenancies come to an end. Finally, there is a need for effective redress against those who are judged to be in breach of the regulations governing the sector. In a similar vein the House of Commons (2013) points to a widespread lack of awareness of rights, responsibilities and the law amongst both landlords and tenants. Many of the conclusions and recommendations from the 2008 review were echoed in the House of Commons (2013) analysis of the private rented sector.

The housing market in Germany has traditionally been characterised by low home ownership rates, compared with other countries, however, they have been increasing slowly over the last two decades. According to Westerheide (2011)¹⁶¹, this change can be explained mostly by East German households catching up with the West German standard of living.

One of the major issues with the German private rented sector identified by Westerheide (2011) is the risk of a housing shortage. The first signs of significant rent increases are visible, especially in the larger urban areas. Another issue identified is the ageing population. Westerheide (2011) explains that new kinds of dwellings that cater for more elderly residents will be required in the future. Such dwellings include accessible apartments, housing with services for elderly residents or multi-generational housing, which, Westerheide (2011) explains, will reduce the need for professional help. Westerheide (2011) notes that this will require large-scale refurbishment of the building stock but against the backdrop of tight fiscal budgets, tax incentives for housing investment are unlikely.

Another challenge for landlords in Germany identified by Westerheide (2011) is energy saving refurbishment of the housing stock. It is obligatory for landlords to inform new tenants of the energy consumption of the building and this is increasingly becoming a competitive element in the rented market.

The private rented sector plays a very important role in the Australian housing system. The sector here has grown over the last few decades and according to the 2011 Census, 23.4 per cent of all Australian households rent. This is the equivalent

of over 1.8 million households. Stone et al (2013)¹⁶² carried out a study of the private rented sector in Australia which identifies a number of trends and issues. The authors note that, in terms of demand, migration policy has added to the number of households entering Australia. The majority of these households (70%) start out in private rental. It is also noted that greater female participation in the workforce is enabling more women to set up independent households. One major issue of concern centres on the fact that many low income households are unable to access social housing as a result of the relative contraction in the size of the sector.

On the supply side, Stone et al (2013) highlight deregulation of the finance system and a favourable tax environment as major contributors to the sizeable growth in the private rented sector in Australia. However, there is a growing focus of rental investment on the purchase of established dwellings rather than new stock. This has negative consequences for affordability due to the upward pressure it places on price inflation, which in turn generates more rental demand. Much of the focus has been on investment at the higher end of the market such that there are shortages at the lower end.

8.5 CONCLUSIONS

The private rented sector varies in both scale and importance across countries worldwide, ranging from 36 per cent of all tenancies in Germany to only 8 per cent in the Netherlands as of 2012. Demographics, financing and the provision of social housing are only a number of many issues which influence the scale of the sector in specific states. Correspondingly, homeownership rates are also influenced by these factors.

In terms of the profile of tenants internationally, similarities exist across countries in that typical private rented sector tenants tend to come from the following groupings:

1. Younger or older age groups
2. Low income earners
3. Singles without children
4. Single parents
5. Immigrants

¹⁶¹ https://www.lse.ac.uk/geographyAndEnvironment/research/london/events/HEIF/HEIF4b_10-11%20-newlondonenv/prslaunch/Book.pdf

¹⁶² http://www.ahuri.edu.au/downloads/publications/EvRevReports/AHURI_Final_Report_No209_Long-term_private_rental_in_a_changing_Australian_private_rental_sector.pdf

Deviations from these trends exist, but it has been shown that middle income households in developed countries tend to aspire to own their own properties, hence reducing their long term reliance on the private rented sector.

Landlords internationally tend to be individuals or corporations/ institutional investors. Individuals dominate in countries such as the UK, France, Germany and the United States, while institutional investors play a greater role in the market in the Netherlands.

International academic and policy research has pointed to a number of key issues which affect private rental sectors, and hence may be applicable to Ireland. In the US, issues of demographics and financing have significant impacts on the private rented sector as an ageing population combined with high foreclosure rates and tight lending conditions have negatively affected the sector. In the UK, the 'Buy to Let' crisis and the use of the private rented sector for those in need of social housing have also generated problems for the sector. Professional management and effective redress measures have been highlighted as vital to the future of the private rented sector in the UK. In Germany, issues relevant to Ireland such as housing shortages and the need to build accessible accommodation for an ageing population have been highlighted. Finally, in Australia the contraction of the social housing sector has reduced options for households most in need while a favourable financial environment and taxation regime have contributed to a buoyant private rented sector, albeit with the result that affordability has reduced.

9. SUPPLY INCENTIVES FOR PRIVATE RENTED ACCOMMODATION INTERNATIONALLY

9.1 RATIONALE FOR INVESTMENT IN THE PRIVATE RENTED SECTOR

Investment in housing represents a decision based on expected rates of return on housing relative to other investments. In relation to the private rented sector, rents are the main rate of return on housing while capital appreciation is also considered. In general, the main return considered by small landlords in the Irish market in the past has been capital appreciation.

An investment decision will generally depend on a number of factors as set out by Walker (1981)¹⁶³ including:

- What will the building cost?
- What will the market rents be during its lifetime (assuming that the property can be rented at the market rent)?
- What will the variable costs be?
- What rate of return could be realized on some other form of investment?
- What tax policy will apply in the calculation of net income tax payable on income from the investment?

Nevertheless, it is also important to recognise that investment in the sector will also depend on the type, location and quality of the building, the type of tenant/households and the conditions in the property market as well as the economic cycle prevailing.

This section of the report reviews supply incentives that have prevailed elsewhere. A review of the literature seeks to assess how successful such incentives have been and to identify how these practices differ from the situation in Ireland.

9.2 INITIATIVES TO INCREASE SUPPLY/INVESTMENT

Recent trends in the rented sector in Ireland and some other jurisdictions indicate that the lack of supply of rented accommodation is increasing the rent burden for tenants and creating a shortage of affordable housing. With capital investment for social housing constrained in Ireland over the past number of years, the private rented sector is now playing a major role in the provision of housing for low income households. The recent affordability issues affecting the sector pose the question as to whether government intervention is warranted to address the lack of supply, either through direct provision of social housing or through incentives to stimulate the supply of rented accommodation in the private sector.

A range of policy options are available which seek to increase the supply of affordable accommodation in the private rented sector. These approaches can include demand side subsidies to households or supply side subsidies to developers or landlords.

- Demand side subsidies may include income assistance to households and can be conditional on household size or housing costs such as Rent Supplement, or may be unconditional based on personal circumstances rather than housing costs such as tax credits.
- Supply side subsidies, such as grants, soft loans or tax reductions, may be unconditional or alternatively conditional on limited rent levels or applicable to low income households.

The use of various subsidies is subject to debate among economists with some arguing that demand side subsidies are more appropriate while others suggest that in many cases the supply of rented accommodation is not sufficient to meet demand and so supply-side subsidies are required to complement demand-side subsidies.

This section of the report will focus on supply side subsidies that have prevailed elsewhere and will seek to assess how successful such incentives have been. In some cases incentives are focused on increasing affordable rented accommodation while others are more general supply side subsidies.

¹⁶³ Walker (1981) Rent Controls Myths and Reality. International Evidence of the Effects of Rent Control in Six Countries. The Fraser Institute Canada.

9.3 PROPERTY INCENTIVES IN DIFFERENT JURISDICTIONS

9.3.1 Introduction

International comparisons are always fraught with difficulty and the area of incentives focused on the supply of rental properties is no exception. This is due to the fact that different countries have different tenure preferences, due to unique historical, economic and political circumstances. There are even regional differences within countries, as exemplified by Germany. The responses of governments in turn are influenced by these considerations and are subject to change as the economic and political winds shift.

Accordingly, the review of a number of countries across Europe and America reveals a wide range of incentives that are in place to support investment in accommodation in the private rented sector, many of which are focused on affordable accommodation for low income households. In undertaking this review, particular emphasis was placed on countries which have a strong private rented sector. Brief summaries of often very complex interventions are set out below for France, Australia, US, UK and Germany. It is outside the scope of this study to fully assess the effectiveness of the listed incentives and this section therefore just reports the findings of other authors, where available.

9.3.2 Overview of Jurisdictions

The various supply side incentives that have been or are currently in place elsewhere are set out in

Boxes 1 to 5. It is evident that there are a range of incentives available including soft loans, tax incentives and building funds.

Some of the incentives are specifically focused on the development of new rental units such as subsidies in Germany and the Low Income Housing Tax Credit in the USA while others also allow for the acquisition of rented units. Some jurisdictions, such as France, also allow certain incentives to be used for improvements to current rented properties. Similar incentives are available in Germany where subsidies are available to increase the energy efficiency of rental units.

In many instances, such schemes are subject to conditions such as rent limits or are applicable to low income houses for a period of time and as such are a social housing support mechanism. Such schemes include soft loans in France which target the intermediate and higher rental markets as well as bricks and mortar subsidies in Germany which support short term social housing before ultimately returning to the private sector.

In undertaking the review, it became apparent that the general taxation treatment of the private rented sector is also a significant factor in supporting investment in the sector. To account for this, the taxation treatment of the sector in Germany is summarised below in Box 5, however it is known that similar tax practices are also in place in other jurisdictions including France. This has been set out in the Taxation Chapter

BOX 1: AUSTRALIA

Tax Incentives

National Rental Affordability Scheme

The National Rental Affordability Scheme (NRAS) was introduced by the Australian Government in 2008 to encourage investors to build affordable rental housing. The scheme seeks to address the lack of affordable rental housing by offering tax-free financial incentives to build and rent dwellings to low and moderate income households at below-market rates for 10 years. The scheme aims to encourage medium to large-scale investment in affordable housing normally comprising 100 or more housing units.

Eligible tenants include those with low to moderate incomes. Income levels are assessed against gross income limits according to the household composition. Income increases of up to 25 per cent above the initial income limit thresholds are allowed for two years after entering a dwelling. However, tenants cease to be eligible if their household income exceeds the applicable income limit by 25 per cent or more in two consecutive eligibility years. Selection of tenants is undertaken by investors and their tenancy managers, except in Queensland. Queensland tenants are selected from the Queensland Government's One Social Housing Register.

In 2014, the scheme offered an income tax free incentive of \$9,981 per dwelling per year, which is indexed each year to the rental component of the CPI. The incentive comprises an Australian Government contribution of \$7,486 per dwelling per year which is paid as a refundable tax offset and a State/Territory

Government contribution of \$2,495 per dwelling per year as a financial support. In addition, investors can apply for property expenses and non-cash deductions and allowances against a lower (80% of market) assessable rental income which could amplify the negative gearing benefit.

Impact

As the scheme failed to deliver on targets set out, the Government announced in the 2014-15 Budget that it will not proceed with Round 5 of the National Rental Affordability Scheme. A major criticism of the scheme was the inappropriate use of the scheme by universities to build housing for international students as well as developers trading incentives in lieu of completing dwellings. In the 2008-2014 period, approximately 38,000 dwellings were contracted to be built while 20,000 units have been completed to date.

Box 2: USA

Tax Incentives

Low Income Housing Tax Credit

The LIHTC Program has been in operation in the US since 1986. The programme provides a tax incentive to the private market in order to stimulate investment in affordable rental housing. Tax credits are awarded to developers of qualified projects who in turn can sell these credits to investors to raise the necessary capital to proceed with the project¹⁶⁴. The programme operates on the premise that since the debt required to construct the property is lower, it is feasible to charge a lower rent.

The programme allows investors to receive a dollar-for-dollar credit against their Federal tax liability each year over a period of 10 years. The amount of the annual credit is based on the amount invested in affordable housing and is calculated based on the costs of development and the number of qualified low-income units, however the credit cannot exceed the amount needed to make the project feasible. Generally investors do not expect the project to produce income but rely on the credit to offset their income tax liabilities. It is also possible for the investor to receive tax benefits related to any tax losses generated through the project's operating costs, interest on its debt, and deductions such as depreciation and amortization.

Tax credits are allocated to State housing agencies by the IRS (Internal Revenue Service) who in turn award credits to qualified projects. The annual allocation of credit is limited to \$1.75 per resident¹⁶⁵. The programme stipulates that priority is given to projects that serve the lowest income families; and are structured to remain affordable for the longest period of time. It is also necessary that 10 per cent of each State's allocation is set aside for non-profit organizations.

Projects are eligible for the credit provided that they are a residential rental property; are committed to one of two possible low-income occupancy threshold requirements, charge rents, including utility charges, which are limited in low-income units and that the units operate under the rent and income restrictions for 30 years or longer.

The low income occupancy threshold requirements are either:

- 20-50 Rule: At least 20 per cent of the units must be rent restricted and occupied by households with incomes at or below 50 per cent of the HUD-determined area median income (adjusted for household size); or
- 40-60 Rule: At least 40 per cent of the units must be rent restricted and occupied by households with incomes at or below 60 per cent of the HUD-determined area median income (adjusted for household size).

In addition, rents in the units must be set so that the tenant's monthly housing costs, including a utility allowance, do not exceed the applicable LIHTC rent limit. Rent limits are based on a percentage of area median income, as adjusted by unit size. However, the LIHTC Program restricts only the portion of the rent paid by the tenant, not the total rent and so it is possible that certain rental assistance programmes can be used to raise the total rent above the LIHTC rent limit.

¹⁶⁴ Developers typically sell the rights to the future credits to syndicates (a group of investors) in exchange for up-front cash.

¹⁶⁵ Adjusted for inflation since 2003.

Impact

According to a Congressional Budget Office (CBO) study of the LIHTC¹⁶⁶ the credit was deemed “*unlikely to increase substantially the supply of affordable housing.*” The CBO ascertains that the programme may displace other affordable housing that would have been available through private, unsubsidized investment. It has also been suggested that there is a possibility of marginal projects being selected.

Box 3: UK

Equity Finance Support/Debt Guarantee

Build to Rent Fund

The Build to Rent Fund was launched in the UK in 2012 with the aim of attracting large institutions to invest in the private rental sector by providing equity finance to investors for purpose-built private rented housing. The scheme is based on the premise of reducing risk for developers looking to invest in the private rented market. The fund may be used to provide bridge finance in order for the developments to be built, managed and let. Once the scheme is fully let, the developer may sell on its interest or re-finance and repay the loan or equity. However, any properties that form part of the programme will need to remain as private rented accommodation at least until the scheme is refinanced and the investment is repaid.

Housing Debt Guarantee Scheme

In addition, the UK also operates a private rented sector housing debt guarantee scheme which offers developers a government guarantee on debt raised to fund the development of new private rented properties. The scheme seeks to reduce borrowing costs and thus attract investors who want a stable, long-term return on investment without exposure to residential property risk. Projects must have a minimum value of £10m although this may be spread over more than one development. The debt will be available for up to 30 years and housing units must remain in private rental for the period of the debt guarantee.

Impact

The £1bn Build to Rent Fund aims to build 10,000 new homes to rent by 2015. However, as of April 2014, only 17 building projects have been identified to proceed to development at a cost of £300m. Furthermore, anecdotal evidence in the market suggests that the increased demand arising from the Help to Buy Scheme has seen builders move away for the Build to Rent initiative.

Box 4: FRANCE

Grants/Soft Loans

There are currently four different loans that can be used for the construction, acquisition or renovation of social rental dwellings namely, Pret Locatif a Usage Social (PLUS), Pret Locatif aide d’intégration (PLA-I), Pret Locatif Social (PLS) and Pret Locatif Intermédiaire (PLI). Two of these, the PLS and PLI subsidies are applicable to private rental landlords also and are explained below.

The **PLS** is a soft loan granted for the construction, purchase or rehabilitation of housing to be rented as social housing¹⁶⁷. It is available to any investor that wishes to provide rented accommodation in the intermediate sector. This sector is just above the traditional social rental sector. The target areas are regions with tight housing markets experiencing a large gap between the cheap social rental sector and the expensive market rental sector. The target group is the upper middle class.

The tax benefits associated with a PLS loan is a reduced VAT rate and an exemption from property tax for a period of 25 years. Regardless of why they are obtained, PLS loans must cover at least 50 per cent of the investment costs and the term is subject to a maximum of 40 years (50 years for land purchases). If the investor applies for a PLS loan and is successful, they must enter a contract with the French state for 15 – 30 years during which they are required to adhere to rent regulations and tenant income thresholds.

¹⁶⁶ U.S. Congressional Budget Office, *The Cost Effectiveness of the Low-Income Housing Tax Credit Compared to Housing Vouchers* (Washington: GPO, 1992), pp. 2-14.

¹⁶⁷ <http://www.territoires.gouv.fr/pret-locatif-social>

The **PLI** loan facility is similar to the PLS as it is a soft loan granted to both public and private landlords for the construction, acquisition or rehabilitation of housing to be leased as social housing¹⁶⁸, but it targets a more up-market section of the intermediate rental sector in large cities with over 250,000 inhabitants and a handful of zones with particularly expensive rental markets. Private rental market landlords must let the home they build or purchase with the loan for a minimum of nine years and a maximum of 30 years. During this period, the landlord must comply with rent regulations and tenants must not earn more than 180 per cent of the income limit for normal social housing. Recipients of the loan are subject to property tax. Loans are subject to a maximum of 30 years (50 years for land purchases).

Rates for both loans are variable and indexed to the booklet A. In 2014 the Booklet A rate was 1.25 per cent and varied for private investors from 2.36 per cent - 2.66 per cent¹⁶⁹.

Tax Incentives

The **Duflot**¹⁷⁰ tax incentive which was introduced in 2013 is designed to increase the supply of accommodation in the private rented sector in France. It is available to all French taxpayers who buy a new or soon to be completed rental property between 1 January 2013 and 31 December 2016. Housing must also meet a standard of overall energy performance. It allows a tax reduction of 18 per cent on rental property investment in the form of a yearly tax deduction of 2 per cent of the investment cost in the first nine years. The investment cost is limited at €300,000 and is capped at two properties per year. However, this is also limited to a *maximum price per square metre of €5,500*. In addition, the overall limit on tax is set at €10,000 per year.

The incentive requires that the property is rented out as a main residence for a minimum 9-year period, with the rental agreement effective within the 12 months following building completion. The incentive sets out the maximum allowed rent, generally set at 80 per cent of the market rate. In addition, it is necessary to rent out the unit to tenants with an annual income below the set annual limit¹⁷¹.

Investment must be in designated investment areas that are characterised by under supply in rental accommodation. In addition, the Duflot tax allows the maximum rents to be tailored to the local housing market situation with higher rents in areas of high demand.

Impact

While the Duflot incentive is the latest to be offered in France, a number of other similar incentives have been in operation over the past number of years. A review carried out by Hoekstra¹⁷² found that rental investment clearly increased after 2004, particularly as a result of the Robien¹⁷³ tax incentive and that despite a drop in investment due to the credit crunch, investment increased again in 2010 as a result of the Scellier¹⁷⁴ tax incentive. The study concludes that *'there seems to be a rather strong correlation between the attractiveness of a particular tax incentive and the rate of housing production in which it results'*. Of course there is still a possibility that some of the construction would have taken place anyway and so there is some element of deadweight, however this has not yet been calculated.

An additional study by ANIL¹⁷⁵ (*Agence National pour l'information sur le logement*) found that in very constrained housing markets the impact of tax incentives are relatively small primarily due to the investment cost involved being too high for most individual investors. However, other research also suggests that tax incentives have disrupted the housing market in smaller cities where there is now an oversupply of dwellings and an increased vacancy rate among older units.

¹⁶⁸ <http://www.territoires.gouv.fr/prest-locatif-intermediaire>

¹⁶⁹ <http://www.cbanque.com/credit/prest-locatif-pls-pli.php#>

¹⁷⁰ http://www.territoires.gouv.fr/spip.php?page=article-sous-site&id_article=1810&sommaire=380

¹⁷¹ In Paris the limit is €36,502 for an individual or €85,384 for a couple with two children.

¹⁷² Hoekstra, Joris (2013) Boosting the supply of affordable rented housing: learning from other countries – Paper.

¹⁷³ The Robien incentive was a buy-to-let scheme available to individuals wishing to construct, purchase or refurbish dwellings for the 'free' market rental sector.

¹⁷⁴ The Scellier tax incentive allowed the acquisition cost of a rented property to be set off against income tax over nine years.

¹⁷⁵ Ibid

BOX 5: GERMANY

Supply incentives in Germany are primarily concerned with the provision of social housing through private landlords, with the housing unit returning to the private rented market in the future. The responsibility for social housing was transferred from Central Government to the Federal States (*Laender*) in 2007. Each of these local governments is pursuing a range of policies, with the major cities targeting particular policies. Capital expenditure on social and affordable housing has become less important than the support of tenants. These housing allowances (“Wohngeld”) and overall rent regulation remain within the competencies of Central Government. As each region acts within its own historical and political background, it is difficult to generalise the many varied measures. The most prevalent, universal approaches which are relevant to the rented sector are summarised below.

Loans/Grants¹⁷⁶

Support for the provision of social housing in Germany is regulated by the *Wohnraumsfoerderungsgesetz (WoFG)*¹⁷⁷. Private landlords can apply for social housing support mechanisms and the provisions allow privately owned subsidised properties to pass into the private rented sector when the social renting requirements have been achieved.

It lists social housing support mechanisms, primarily as:

1. Grant (non-repayable) and/or loans at favourable interest rates
2. Provision of reduced price sites.

In 2007, the responsibility for the provision of social housing has been handed over to the *Laender*. Since then, the WoFG has become less relevant, as the *Laender* are free to formulate their own social housing support regulations. This can consist of a mix of measures which changes according to market needs. Anybody can apply for support in providing social housing, be they private investors or housing associations. The *Laender* administrations realise that the support for investors has to be attractive; else they would not be interested. Therefore the packages change over time and vary from administration to administration. This can consist of non-repayable grants of low interest rate loans (not very attractive at this time, as interest rates are at historic lows).

- Loan repayment periods vary.
- Grants do not have to be repaid unless the terms and conditions of the contract are breached.

The rents are typically set 10 per cent to 20 per cent below the local market rent.

To be eligible for this social housing, tenants have to be below certain income thresholds, the WoFG stipulated the following (which may be amended by the *Laender* to reflect local income levels and housing needs).

Income Thresholds

Single person household	€12,000
Two person household	€18,000
For any additional person belonging to the household	€4,100
For any child belonging to the household	€500

After 10 to 20 years (again, depending on the local authority), the supported units can revert to private use. However, sitting social tenants must not be evicted. Their financial situation will be re-assessed and they may have to contribute towards the newly set rent (which is subject to local rent controls). If the sitting tenants are still below the income threshold for social housing they would be supported by rent supplement.

The social housing provision in Germany has supplied a huge need after the destruction of the Second World War. Then, it was funded directly from the exchequer, and built by government agencies. Now, the

¹⁷⁶ Based on Notes from conversation with Fr Bohndick from Department of the Environment
Direct line tel 0049 30 18 305 6250

¹⁷⁷ 13/09/2001 (BGBl. I 2376) amended 01/01/2002

housing market has taken over this provision and the State, through its various organs, supports the private sector to supply social housing for tenants. However, currently only about 10 per cent of the population of Germany live in social housing. Affordability for low income households is supported by *Wohngeld* which is a rent supplement, drawn by all social welfare recipients, irrespective whether they live in social or private housing.

The Wohnungsbindungsgesetz – WoBindG¹⁷⁸ sets out the processes to be followed by a landlord who has received state support for providing social housing.

- The local authority which supported a private investor in the provision of social housing has to be notified immediately when a unit becomes available.
- The unit may only be made available to a tenant who can provide a certificate which proves his/her eligibility for social housing (obtained from the local authority. The unit must be of the appropriate size and condition, as specified in the certificate.
- Once the unit has been rented, the landlord must hand over this Certificate to the local authority
- If the support for the social housing unit stipulated a particular population group (elderly, special needs etc), only tenants from these groups can be accepted by the landlord.

Impact

This time limit which allows the supported units to revert to market use has been a source of criticism as the State effectively subsidises long-term private housing investments. Currently, there are more of these social houses reverting to private use than new social housing being constructed (between 1987 and 2012 the number of such housing units in West Germany fell from 3.9 million to 1 million¹⁷⁹). One of the reasons for this reduction is that low borrowing costs have made these investments less attractive.

Tax Incentives

The general taxation treatment of the German private rented sector has also been cited as an incentive to invest in the sector and so key aspects of taxation which are most relevant are summarised below.

Depreciation

Until the end of 2005, degressive depreciation allowed the investor to write off larger shares of depreciation in the early years of the ownership period of a rental building than at the end of 40 or 50 years (this was only ever applicable to new buildings).

Since then, standard, linear depreciation can be used for any existing building that is to be rented or used for commercial purposes. Depreciation rates of 2 per cent are constant over 40 or 50 years. Each buyer can start over with this depreciation process, even if the building had been fully written off before. If the buyer starts to occupy the property him/her self, this stops.¹⁸⁰

Capital Gains Tax

When a property is owned for more than ten years, capital gains tax exemptions apply. These are also available to owner occupiers. If the property is sold off before the full period, tax is applied at the marginal income tax rate. This is to prevent speculation.

Tax Write-off

The costs of investment in renovation or modernisation in the existing housing stock can be written off in the year of the investment.

Negative Gearing

Losses arising from housing investments (i.e. depreciation and debt interest) can be deducted from other income for tax purposes. This measure is seen as particularly attractive to small scale private landlords.¹⁸¹

¹⁷⁸ Gesetz zur Sicherung der Zweckbestimmung von Sozialwohnungen <http://www.gesetze-im-internet.de/wobindg/BJNR009540965.html#BJNR009540965BJNG000203320>

¹⁷⁹ Pt.RWTH (2012), Wohnungsbau und oeffentliche Foerderung
http://www.pt.rwth-aachen.de/files/dokumente/pt_materialien/pt_materialien_29.pdf

¹⁸⁰ http://www.steuernetz.de/aav_steuernetz/lexikon/K-12472.xhtml?currentModule=home

¹⁸¹ Haffner M (2013), Affordable Rental Housing Produced by Private Rental Landlords.
<http://housingsupply.our.dmu.ac.uk/files/2013/07/ESRC-Paper-Marietta-Haffner.pdf>

Impact

The building of temporary social affordable housing in Germany has slowed down due to the relative ease of obtaining funding for private housing. This trend has been implicated as a cause contributing to the rise in market rents and housing shortages in growing metropolitan areas.

A recent study by Institut der deutschen Wirtschaft Koeln concluded that the present depreciation rates of 2 per cent allowed by the tax system are below the economic depreciation rates. It is estimated that dwellings depreciated in 25 years on average with 4 per cent per annum. The study stated that as a result, new construction of dwellings and investment in existing dwellings (renovations and acquisitions) would be disadvantaged in comparison to alternative investments and building activity will therefore decrease, leading to increased rent levels.

9.4 LESSONS FROM THE INTERNATIONAL REVIEW

Given the intricacies of the housing market and the range of factors that can impact upon the performance of any one sub sector it is difficult to assess the individual impact of policies to increase investment. As has been set out previously, the overall size of the private rented sector is a function of a range of factors. In particular, the attractiveness of other investment opportunities as well as government policies on other tenure choices has a role to play.

The impact of the various incentives to increase the supply of rented accommodation has varied across jurisdictions. It is evident that some of the schemes reviewed have been subject to some abuse, notably the Australian Scheme which did not meet the objectives set in terms of low income households generally. Furthermore, in some jurisdictions the incentives appear inappropriate to the market, such as the Build to Rent Scheme in the UK which largely contradicts the business model of developers. This would suggest the need for strong controls and clearly defined guidelines to ensure the objectives of the scheme are met and policies that are in line with developers' business models.

Other schemes appear to have been effective, notably the French, German and US incentives which have been credited with increasing the supply of rented units. Many of these countries have a long history of State support to the PRS. In the United States, the LIHTC has been in operation since the 1980's while the French state has supported investment in the private rented sector through various initiatives for a number of years. Equally, Germany has a long history of State support particularly following reconstruction after the war and German reunification.

In France, State support in the private rented sector peaked at the end of the 1990s and subsequently declined thereafter; only to increase again in 2004 following the creation of the Agence Nationale pour la Rénovation Urbaine (ANRU, National Agency for Urban Renovation) which sought to implement renewal projects in disadvantaged areas (Whitehead, 2012). While the Duflot incentive is the latest to be offered in France, a number of other similar incentives have been in operation over the past number of years, albeit there have been changes over the past decade arising from austerity measures to cut the country's public deficit.

A review carried out by Hoekstra¹⁸² found that rental investment clearly increased after 2004, particularly as a result of the Robien tax incentive. The Robien recentré¹⁸³, a buy to let scheme available to individuals wishing to construct, purchase or refurbish dwellings for the 'free' market rental sector was recorded as attracting 230,000 individual landlords to the sector in the 2003-2008 period (Whitehead 2012). Moreover, Hoekstra noted that despite a drop in investment due to the credit crunch, investment increased again in 2010 as a result of the Scellier¹⁸⁴ tax incentive, which was credited with accounting for two thirds of new home sales in 2009 and 2010¹⁸⁵.

¹⁸² Hoekstra, Joris (2013) Boosting the supply of affordable rented housing: learning from other countries – Paper.

¹⁸³ Under the scheme properties had to be let for a minimum period of nine years and were subject to maximum rents. The scheme allowed 6 percent of the construction or acquisition costs to be deducted annually from rental income for a period of seven years, declining to 4% for the following two years. A maximum negative balance of €10,700 per annum applied.

¹⁸⁴ The Scellier tax incentive allowed the acquisition cost of a rented property to be set off against income tax over nine years.

¹⁸⁵ <http://www.pie-mag.com/articles/2133/france-to-end-scellier-housing-tax-break-next-year/>

While the presence of incentives to increase supply of rental units has been credited with increasing the size of the private rented sector, equally the lack of incentives or their withdrawal has been attributed to a decline in the sector. In an Irish context, it is argued that while Section 23 incentives¹⁸⁶ resulted in a major expansion in private rented accommodation and an improvement in the quality of the stock, the limited public subsidies for private renting is one of the key reasons for the historic decline of this sector. However, it must be noted that in many countries, the decline may also be related to the increased accessibility of owner-occupation.

Of course there has been some criticism of supply incentive schemes particularly around the potential for deadweight. The Congressional Budget Office (CBO) study of the LIHTC, has suggested that it is possible that programme may displace other affordable housing that would have been available through private, unsubsidized investment. Other negative impacts of supply incentives include the possibility that they disrupt the housing market. In France, it was noted that some incentives have resulted in an oversupply of new housing in smaller cities with the result that there is a high vacancy rate among older units.

Aside from specific supply incentives, the literature suggests that the general tax treatment of the private rented sector has been a significant factor in supporting investment in the sector. A 2011 review of policy options internationally to promote investment in the private rented sector¹⁸⁷ found that tax advantages which boost the rate of return on investment and thus housing supply is a significant lesson from overseas experience. It was noted that the USA, Germany and France, all of which have large rented sectors, have been and continue to be supported by taxation treatment of the sector which increases the rate of return on investment.

In particular, generous depreciation allowances which reduce taxable net rental income were noted as being significant in encouraging investment in the sector and promoting new building for private renting. Furthermore, the potential to use rental income losses to reduce taxable income from other sources (tax shelter)

were also noted. In addition, the treatment of capital gains tax was cited as a factor influencing investment in the sector, with many countries with a large private rented sector having lower capital gains tax depending on years of ownership.

The taxation treatment of the German private rented sector has been cited in a number of reviews of the sector with the view that the size of the sector is a reflection not just of supply side subsidies but also the tax treatment of the sector including generous depreciation allowances and fiscal benefits. Whitehead (2012) reported that tax was often more important than subsidies in promoting investment in the sector. Such tax practices are considerably more favourable than practices in Ireland, as has been discussed in more detail in the Taxation Section of this report, and go a considerable way toward making rental dwellings a good investment.

It is also important to note that the investment motive of landlords can have an important role in influencing the supply of housing in the private rented sector. Kemp and Kofner¹⁸⁸ (2010) point out that in Germany the main motivations for investing in the private rented sector are pension provision, security of investment and to a lesser extent tax reasons. Interestingly, yield prospects and resale intentions play virtually no role in investment decisions. German landlords are also characterised by very long investment horizons, which Kemp and Kofner indicate is in contrast to the situation in the UK, where landlords are concerned with the short to medium term. Kemp and Kofner also noted that the most common motive for acquisition of rented property in the UK was investment, with a third of these landlords concerned with rental income, another third with capital gains and the final third equally concerned with both sources of return.

Interestingly in an Irish context, the RedC survey indicates that only 18 per cent of landlords here bought a property to rent out as a pension or as a source of savings for when they retired, while 39 per cent indicated it was because they considered property to be a good investment. These findings would suggest that the majority of landlords in Ireland are more medium term investment oriented similar to the market in the UK. This would suggest that capital gains played an

¹⁸⁶ Section 23 relief is a tax relief that applies to rented residential property in a tax incentive area.

¹⁸⁷ Oxley *et al.* Promoting investment in private rented housing supply. International policy comparisons (2010). Department for Communities and Local Government.

¹⁸⁸ Kemp, P and Kofner, S (2010) 'Contrasting varieties of private renting: England and Germany' International Journal of Housing Policy

important role in buy to let investments, particularly during the Celtic Tiger era.

More recently, the financial crash has had an impact on the overall supply of units to the private rented sector. It is evident that there was a significant decline in the number of BTL mortgages in Ireland since 2008, while in other countries such as the UK the lack of credit caused many construction projects to come to a halt. Scanlon *et al* (2011) noted that some governments sought to implement schemes to address the lack of credit. In Finland, the rental housing construction subsidy in the 2008-2010 period offered a government-guaranteed loan that included an interest subsidy for the first 10 years.

Finally, in reviewing policies elsewhere it is important to recognise that due to differing housing markets as well as differing taxation and regulatory systems, these policies are not readily transferrable. The inability to simply apply policy from other jurisdictions has been documented in the UK where an attempt to apply the low income housing tax credits was unsuccessful due to an inability to assess the differences in the economic, political and social systems (Oxley *et al* 2014)¹⁸⁹.

It is evident from the international review that the Irish private rented sector differs significantly from many of its counterparts elsewhere, perhaps with the exception of the UK. In fact some of the key issues identified for the English rented market from a 2011 review of international policies to support investment in the private rented sector are equally applicable in an Irish context. These include:

- A high reliance by landlords on capital growth rather than a significant return from income;
- No significant policies to encourage the private sector to invest in the rented sector comparable to those in other countries;
- A lack of depreciation allowances and an inability to transfer current rental income losses to other income for tax purposes;
- A CGT policy which does not encourage long term holdings of rented stock; and
- The physical structure and location of the rental stock not being attractive to institutional investors.

¹⁸⁹ Boosting the supply of affordable rented housing- learning from other countries Michael Oxley, Tim Brown, Jo Richardson & Ros Lishman. Centre for Comparative Housing Research De Montfort University, Leicester, UK & Places for People, London, UK

Finally, it is also important to recognise that while investment incentives such as taxation treatment, subsidies and regulation have an important role in the overall performance of the private rented sector, fundamental issues such as the relative importance of urban areas and the history of tenure also have a role to play (Scanlon *et al*, 2011). Moreover, it has also been documented that other issues including land use planning can have a significant impact on investment levels.

9.5 CONCLUSIONS

Investment in housing represents a decision based on expected rates of return on housing relative to other investments, which in the private rented sector are rents and capital appreciation.

Recent trends in the rented sector in Ireland and some other jurisdictions indicate that the lack of supply of rented accommodation is increasing rent burden for tenants and creating a shortage of affordable housing.

Policy options available to increase the supply of affordable accommodation include demand side subsidies to households or supply side subsidies to developers or landlords. Some economists have argued that the shift to demand- side subsidies is a positive development, from the perspective of both efficiency and equity, however others suggest that in many cases the supply of rented accommodation is not sufficient to meet demand and so subsidies are required.

Supply side incentives to promote the supply of private rental accommodation vary widely across international jurisdictions from soft loans and tax incentives to grants and building funds. Some incentives are focused on increasing affordable rented accommodation while others are more general supply side subsidies.

The greatest impact from supply incentives appears to have occurred in France, Germany and the US where incentives for the provision of rental accommodation have achieved successful outcomes. However, it is also noted that the taxation treatment in these regions are also significant factors.

Other countries such as the UK and Australia have been less successful in incentivising the supply of private rental properties, as respectively unsuitable developer business models and abuse

of the system have caused serious issues. This would suggest the need for strong controls and clearly defined guidelines to ensure the objectives of the scheme are met and policies that are in line with developers' business models.

It is also important to note that any incentive to support a sector can have the potential for crowding out effects to occur. Thus, incentives to support the private rented sector may have a negative impact on owner occupation or social housing. Furthermore, despite success in other countries, it must be noted that any such measures would need to be assessed and likely altered to suit Irish economic, political and social systems.

Nevertheless, in an Irish context it is interesting to note that compared to other jurisdictions the tax treatment of the sector does not encourage investment or long term holdings of stock, there is a high reliance on capital growth by landlords and the fragmented structure of the stock is not attractive to institutional investors, albeit large scale investors do not dominate any one market internationally.

10. REGULATION OF THE PRIVATE RENTED SECTOR INTERNATIONALLY

10.1 OVERVIEW

The international review of regulation in the private rented sector raised a number of common themes which can be aggregated under the following headings:

1. Lease length and security of tenure
2. Rent review process
3. Standards
4. Registration process
5. Dispute resolution process
6. Termination process

This section set out the findings and lessons learned from research surrounding the above topics in the private rented sectors in five European countries, namely France, the Netherlands, Sweden, England and Germany.

10.2 SECURITY OF TENURE AND LEASE LENGTH

Standard lease lengths vary across the countries studied. In some cases, open-ended contracts are the norm, while standard contracts may be for one year or less in other cases. In all cases, the landlord may not take the accommodation back from the tenant during the period of the lease unless certain criteria are met or the tenant breaks the terms of the contract.

In the Netherlands, Germany and Sweden open ended contracts are the norm. Under Dutch law there are no temporary tenancy agreements; the basic rental agreement is unlimited in duration with a minimum term of one year existing in most contracts. Even if limited periods are agreed upon, the contract will transfer into an unlimited version upon completion of that period. Security of tenure is particularly strong in Germany and the average length of tenancies is nine years. In Sweden, if there is no duration specified in the tenancy contract it is considered an open-ended contract. If the duration is specified, the tenant has the option of prolonging the agreement when it lapses.

10.3 RENT REVIEWS

Rent regulations across Europe were studied in some detail in the previously published Rent Stability report. Regulations relating to rents including initial rent setting and rent increases.

Initial rent ceilings are in effect in a number of jurisdictions. In the Netherlands, initial rents are set based on a points system, while in France, rent levels are set according to a median benchmark of rent per sq.m, per geographic area and per type of accommodation. In Sweden rent levels can be set in accordance with comparable apartments in the area. Germany recently introduced regulations whereby initial rents will be capped at 10% above the current market rents. Of the jurisdictions reviewed only England allows initial rents to be set by the market.

The policies in relation to rent increases tend to vary among the jurisdictions. In the majority of jurisdictions rent regulations stipulate that rent increases are only allowable once every 12 months. In England, rent increases are set to be allowable in line with market rents every 12 months. Germany also sets out that rent increases must be in line with market rents; however it sets out that for rental units whose rent is significantly below the average market rate, rent increases must not be greater than 20 per cent over a three year period and in areas of housing shortages this limit has been reduced to 15 per cent. Other jurisdictions such as the Netherlands have rent adjustments set by the Government, in Sweden rent changes are determined by negotiation between landlords, tenant associations and public housing bodies, while in France rent increases are in line with a benchmark index for rent.

10.4 STANDARDS

It is a standard requirement across all of the countries studied that rental accommodation must be fit for purpose and all facilities must be in working order. The regulations in many of the countries reviewed generally state that buildings should not impinge on the safety of dwellings, using language like, landlords are obliged to provide 'decent housing' (France), dwellings must be 'habitable' (Netherlands), the right in every tenancy contract to 'fully serviceable' accommodation (Sweden), with some countries specifying minimum floorspaces and facilities (France).

The relevant Länder (State) in Germany set out some basic minimum requirements in order for a dwelling to be called housing. However, since tenancy law is characterized by freedom of contract, even dwellings not fulfilling the minimum standard are considered contract-compliant if these conditions were explicitly agreed on by the tenant¹⁹⁰. However, both private and professional landlords are known to keep the housing stock in good shape, with small private landlords considered to do the best job in this regard¹⁹¹.

Developments with respect to energy standards of dwellings are beginning to creep into regulations. As per European Directive¹⁹², all residential buildings are required to have an energy performance certificate. This certificate assesses a building according to its energy requirements/consumption. France, Sweden, England and Germany have all introduced this requirement. The Directive has not yet been implemented in Dutch law. England is expected to introduce regulations that will require landlords to ensure their properties reach a minimum standard energy efficiency rating and from 2018 it will be unlawful for landlords to rent out properties that do not reach a minimum energy efficient standard.

The issue of furnished versus non-furnished accommodation furnished accommodation appears to be solely at the discretion of the landlord in some countries (France, Germany, England). In England, if furnished, there are certain standards set by the Furniture and Furnishings (Fire) (Safety) Regulations 1988¹⁹³.

In terms of responsibility for maintaining standards throughout the term of a tenancy, landlords are generally responsible and are required to repair damages resulting from normal wear and tear. It is common, however, in Germany, for landlord's to insert a clause in contracts obligating renters to conduct decorative repairs during the course of the tenancy. It is obligatory for landlords to inform new tenants of the energy consumption of the building.

¹⁹⁰ http://www.tenlaw.uni-bremen.de/reports/GermanyReport_09052014.pdf

¹⁹¹ Scanlon, K. and Kochan, B (2011). Towards A Sustainable Private Rented Sector The Lessons From Other Countries. London School of Economics London 2011.

¹⁹² Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings.

¹⁹³ <http://www.legislation.gov.uk/ukxi/1988/1324/contents/made>

10.5 REGISTRATION REQUIREMENTS

It is not obligatory for landlords to register a tenancy agreement in any of the countries studied, although, in England, the landlord must register the tenant for local council tax, while in Germany, landlords must register property rights in the land register. In this regard Ireland stands out in having a statutory body, like the PRTB, which includes amongst its functions, the operation of a national registration system for all private residential tenancies. Under the forthcoming legislation this responsibility will be extended to incorporate approved housing bodies.

10.6 DISPUTES RESOLUTION PROCESS

Each country studied has a disputes resolution process in place to deal with disputes between tenants and landlords. Disputes range from disputes relating to rent increases, rent arrears, unfair eviction or the perceived breaking of the terms of the tenancy contract by either party. Some countries offer mediation services away from the courts with an appeal mechanism to the courts. In the Netherlands, where mediation services are available, they are not commonly used. Conversely some areas in Germany have set up mediation centres in an effort to avoid involving the courts.

Generally, disputes between tenants and landlords, are adjudicated on by a Commission (France) or a Tribunal (Sweden, England) or a Rental Committee (Netherlands), although minor issues can be resolved by a Housing Ombudsmen in England. These mediation bodies are usually composed of representatives of landlords and tenants.

From what could be ascertained for the countries reviewed, the average length of time to a determination of disputes can vary considerably, from 2 months in France to 3 months in Sweden, 4-6 months in the Netherlands and 4-8 months in Germany. The length of time it takes for a dispute in England to be resolved varies by the type of dispute in question.

Where no agreement is reached between the parties, the Courts are the next port of call, although in France the parties can opt to go straight to court. Cases can be further appealed to a higher court, depending on the sums of money involved. Other countries such as Germany and the Netherlands rely more heavily on the court

system to settle disputes. The average length of Civil Case Procedures is 7 months in Sweden.

10.7 TERMINATION PROCESS

It is generally the case that tenants are protected from unfair eviction during the period of their tenancies but processes are in place to enable landlords recover their properties if tenants are in breach of the contract or they need to renovate the property or need it for their own or family use. Tenants may also end a tenancy agreement before the contract period has elapsed. Rules governing contract termination by tenants are generally less severe than those in force for landlords. Regardless of who wishes to terminate the contract, notice periods of varying lengths are required across the board.

In regard to tenants, a rental contract, irrespective of whether it is open-ended or not, may be terminated in most countries reviewed, subject to specific requirements. The system in France is that they may terminate a rental contract in writing at any time, but three months' notice is usually a necessity, (although a one month notice period can apply in certain circumstances). Similarly in the Netherlands, open ended contracts can be terminated at anytime subject to a notice period equivalent to one rent period, but fixed-term contracts can only be terminated in certain circumstances. In Sweden the notice period must be three months unless a shorter period is stipulated in the contract. In England a tenant must serve a written notice of at least four weeks. The corresponding notice period in Germany is three months' notice, although shorter notice periods may be agreed upon. The tenant does not need to supply a reason.

If the landlord wishes to terminate a tenancy, they can, in France, for example, only terminate the contract if they need it for their own or a relative's use, if they want to sell the dwelling or if there is a breach of contract terms by the tenant. The tenant must be served with a six month notice.

The corresponding notice period in the Netherlands is between three and six months depending on how long the tenant has been in residence. The landlord may only seek a termination in certain circumstances, including if they need it for their own or a family member's use, if the wish to sell the property or if the tenant has broken the terms of the contract. In some

cases, landlords may have to cover some of the tenant's moving costs.

Conversely, in Sweden, it is very difficult for a landlord to terminate a lease in Sweden even when strong grounds are cited. In some cases where the landlord wishes to renovate the premises, they may have to provide alternative accommodation. Eligible reasons for termination by landlords in England must be cited by landlords for example, breach of contract terms or rent arrears. Landlords in Germany must serve a notice period of between three and 12 months or longer if the tenant is in residence for longer than five years. As in most cases, the landlord may only seek to terminate the contract under certain circumstances relating to a change in the use of the property or a breach of contract terms. In England at least two months' notice must be given to the tenant in writing, stating that possession of the dwelling is required.

Table 10.1: Summary of Regulations in Selected Countries

	Lease Length	Rent Regulations		Registration Requirements	Dispute Resolution		Landlord Notice	Termination		Additional Requirements on Landlord after Termination
		Initial Rent Regulated	Rent Increases Regulated		Method	Average Case Length		Tenant Notice	Capacity of Landlord to get back Property	
France	Furnished: 1 year; Unfurnished: 3 years (individual landlord) 6 years (institution landlord)	Yes	Yes	No	Mediation and Courts	Commission départementale de conciliation aims to issue recommendation within 2 months	Unfurnished: 6 month; Furnished: 3 months before lease term ends	Unfurnished: 3 month; Furnished: 1 months	Only under certain defined conditions	May need to offer alternative residence if tenant is over 70 years of age
The Netherlands	Usually indefinite, sometimes 1 year	Yes	Yes	No	Courts	4 - 6 months	3 - 6 months depending on how long tenant has been in property	1 month	Only under certain defined conditions	May be required to cover some of the tenant's moving expenses
Sweden	Indefinite	Yes	Yes	No	Mediation and Courts	Civil Case Procedures: 7 months; Rent Tribunal: 3 months	3 months	3 months	Only under certain defined conditions	n/a
England and Wales	Normally 6 months but longer possible	No	No	No*	Mediation and Courts	Varies by type of dispute	2 months after first 6 months of tenancy	Fixed Term: end of tenancy or by agreement; Not Fixed Term: 4 weeks	Only under certain defined conditions	n/a

Germany	Unlimited. Average Tenancy: 9 years	Yes (Introduced September 2014)	Partial	No	Courts	4 - 8 months	Depends on how long tenant has been in property: If < 5 years then 3 months; if 5 - 8 years then 6 months; if longer 9 months	3 months	Only under certain defined conditions	If tenant is of advanced age or is ill they may apply for postponement of termination of 3 years.
Ireland	Tenant entitled to 3.5 year tenancy after 6 months	No	No	Yes	Mediation and Courts	5 months	28 days during first 6 months then increases as per Table 5.1	28 days during first 6 months then increases as per Table 5.1	Only under certain defined conditions	n/a

*Wales to introduce compulsory registration of landlords and letting agents
(Housing (Wales) Bill 2014)¹⁹⁴

¹⁹⁴ [http://www.assemblywales.org/Research%20Documents/Housing%20\(Wales\)%20Bill-17012014-253021/14-004-English.pdf](http://www.assemblywales.org/Research%20Documents/Housing%20(Wales)%20Bill-17012014-253021/14-004-English.pdf)

BOX 6: FRANCE

The *loi Mermaz* Act of 1989¹⁹⁵ regulates for security of tenure, the rights and responsibilities of landlords and tenants and contract terminations in France.

Security of Tenure and Lease Length

There is strong security of tenure in France where the standard contract for individual landlords is three years. The standard contract is six years in length for other landlords. During the term of the lease, the owner may not take the accommodation back. Evictions are possible only if there are serious or legitimate reasons such as rent arrears, deterioration of the property, or if the tenant is causing a nuisance. A lawsuit is necessary to evict the tenant. The standard contract for furnished dwellings is one year. As explained by the DCLG (2010), if a landlord wishes to sell the dwelling, the sitting tenant has first right of refusal¹⁹⁶.

Rent Setting

Rent controls were introduced in France in 2012 to slow the pace of rent increase. These controls limit the rate of increase in a number of French cities. The initial decree (from 2012) regulated the rate of increase on renewals and re-letting. The ALUR law (Sept 2013) regulates the level of rents in high pressure areas. To regulate the rent levels, a median benchmark rent per sq.m, per geographic area (neighbourhood, district, etc.) and per type of accommodation (one-bedroom flat, two-bedroom, etc.) is determined once a year.

Rent reviews are only permissible if stated in the contract. If there is no reference to rent reviews in the contract, the rent must remain unchanged for its duration. If such a provision exists, rent may only be increased once a year and the increase must be based on the *Indice de reference des loyers*¹⁹⁷ (IRL), a benchmark index for rent.

Standards

French landlords are obliged to provide “decent housing” to tenants. This broad definition implies that the building will in no way impinge upon the health and safety of its inhabitants, while dwellings must be of a minimum floorspace with suitable facilities for residential use. The furnishing of dwellings is solely at the discretion of the landlord. The energy performance of a building must be assessed before it is rented or sold unless it is inhabited for less than four months of the year. Local authorities can oblige landlords to ensure safety and prevent health hazards to tenants.

Registration Requirements

There is no requirement nor is there a process or body with which to register tenancy agreements in France.

Disputes Resolution Process

When disputes arise between tenants and landlords, the first port of call is generally the Commission départementale de conciliation. The commission is composed of representatives of landlords and tenants. It seeks to establish a dialogue between the parties involved in the dispute to reconcile the points of view and avoid going to court¹⁹⁸. Disputes over rent, repairs, deposits, service charges etc. can be dealt with by the Commission. A hearing in front of the Commission is free and a recommendation is made within 2 months. If no agreement is made between the parties, the case may be referred to court (Tribunal d’Instance). Using the Commission system is not mandatory and disputing parties may opt to go straight to court if they wish.

The court charged with hearing matters relating to lease agreements is the Tribunal d’Instance¹⁹⁹. This court’s decision cannot be appealed if the claim relates to a sum of less than €4,000 but cases involving sums greater than €4,000 can be appealed to the Cour d’appel. Decisions here can subsequently be appealed to the Cour de cassation.

Termination Process

¹⁹⁵ http://cjoint.com/14in/DFqsl0L1bzh_dfm02a0ubij_loi_n_89-462_du_6_juillet_1989_version_consolidee_au_20140612.pdf

¹⁹⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6359/1759530.pdf

¹⁹⁷ <http://www.insee.fr/fr/themes/indicateur.asp?id=35>

¹⁹⁸ <http://www.drihl.ile-de-france.developpement-durable.gouv.fr/la-commission-departementale-de-a2528.html>

¹⁹⁹ <http://www.justice.gouv.fr/organisation-de-la-justice-10031/lordre-judiciaire-10033/tribunal-dinstance-12035.html>

The termination process in France is described in detail by Hoekstra and Cornette in their National Report for France produced for the TENLAW project funded by the European Union²⁰⁰ in 2014.

A tenant may terminate a rental contract in writing at any time, subject to specific requirements. Three months' notice is usually a necessity, but a one month notice period can apply in the following instances:

- 1) If the tenant finds their first job, gets a job transfer, loses their job, or obtains new employment having lost their previous job.
- 2) If the tenant is over 60 years of age and moving is justified on health grounds.
- 3) If the tenant benefits from social allowance.

The landlord can only serve notice six months before the end of a lease agreement if:

- 1) The landlord or a relative intends to use the dwelling as their primary residence.
- 2) The landlord intends to sell or has sold the dwelling.
- 3) There is a breach of contract terms i.e. rent arrears, disturbance of the peace, etc.

When a tenant is over 70 years of age and has an income below a certain threshold, the landlord may be required to either automatically renew a tenancy agreement or offer an alternative residence. This does not apply if the landlord is over 60 years of age and has an income below the designated threshold.

BOX 7: THE NETHERLANDS

The private rented sector in the Netherlands is regulated by Book 7 of the Dutch Civil Code²⁰¹.

Security of Tenure and Lease Length

Under Dutch law there are no temporary tenancy agreements; the basic rental agreement is unlimited in duration with a minimum term of one year existing in most contracts. Even if limited periods are agreed upon, the contract will transfer into an unlimited version upon completion of that period. Haffner *et al* in their National Report for the Netherlands produced for the TENLAW project funded by the European Union²⁰² explain that should a dwelling be sold, the lease is binding on the new landlord.

Rent Setting

Maximum rent permitted is based around a points system, whereby the maximum rent is determined based on the number of points a property is awarded. Points are on the basis of the quality of the dwelling (size, facilities, type of heating etc.) and the facilities of the surrounding area (availability of shops, schools, public transport etc.). Since 2011 additional points have been awarded to properties in areas of supply shortage, with a view to increasing supply through a higher initial rent for new rental contracts. Properties scoring points above a set maximum are in the deregulated section of the market.

The maximum rent increase permitted is calculated by the government, taking account of the cost of living, wages and building costs. Since 2007 the maximum rent increase has been set by government based on the consumer price index.

Standards

Regulations of minimum quality standards for buildings are detailed in the Building Decree 2012²⁰³. A building must pose no danger to residents, users or to the environment. Dwellings must be 'habitable'. A decision on whether a property is fit for habitation is based on a combination of factors of which risks for health and safety are the most important. Dwellings can be declared unfit for habitation by the mayor of a municipality. The Netherlands has not yet incorporated into its law a European Directive requiring the energy performance of all dwellings be assessed.

Registration Requirements

²⁰⁰ http://www.tenlaw.uni-bremen.de/reports/FranceReport_09052014.pdf

²⁰¹ <http://www.dutchcivillaw.com/civilcodebook077.htm>

²⁰² http://www.tenlaw.uni-bremen.de/reports/NetherlandsReport_09052014.pdf

²⁰³ <http://www.buildup.eu/publications/39032>

There is no requirement to register lease contracts.

Disputes Resolution Process

Disputes in tenancy agreements can be adjudicated by the Rental Committee if the rent in question is regulated. Cases heard by the Rental Committee can be appealed to the District Court. Disputes relating to unregulated rents are adjudicated by the District Court. Appeals from this court are heard by the Supreme Court. Although not compulsory, mediation services are available. However, they are not commonly used. The average case length is 4 – 6 months.

Termination Process

The termination process in the Netherlands is described in detail by Haffner *et al.*

For a tenant to terminate an open-ended contract, they must serve the landlord with a notice. The notice period must be equal to one period of rent payment. Fixed-term contracts cannot be terminated by the tenant except in cases of extraordinary circumstances or if agreed with the landlord. Extraordinary circumstances would involve the residence becoming uninhabitable or serious defects in the dwelling impacting upon the living conditions of the tenant.

For landlords to terminate open-ended contracts, a notice period between three and six months based on how long the tenant has been in occupation must be adhered to. The landlord may only terminate the contract under certain conditions. Examples are below:

- 1) The tenant has behaved in an inappropriate manner.
- 2) The landlord requires the dwelling urgently for self- use, in which case an alternative must be provided.
- 3) The terms of the contract were breached.
- 4) The dwelling can no longer be used in the agreed manner.

An eviction needs to be approved by a court for immediate terminations. The rejection of reasonable rent increases can also enable a landlord to serve notice to vacate the property. Further, the landlord can terminate a tenancy contract when they intend to use the building for different uses or demolish it altogether. This can prove costly though as the landlord is required to make a minimum payment for the tenant's moving and refurnishing expenses – the Minister for Housing decides upon this fee annually (in 2013 it was set at €5,658).

BOX 8: SWEDEN

The Swedish Land Code²⁰⁴ specifies regulations in the private rented sector in relation to the rights and responsibilities of landlords and tenants, contract terminations and security of tenure.

The 2014 National report for Sweden by Bååth for the TENLAW project and funded by the European Union²⁰⁵ also contains detailed information on security of tenure, rent increases, standards and other private rented sector regulations as summarised below.

Security of Tenure and Lease Length

In Sweden, if there is no duration specified in the tenancy contract it is considered an open-ended contract. If the duration is specified, the tenant has the option of prolonging the agreement when it lapses. Such a prolongation request can be denied by the landlord but strong reasoning must be provided. Possible reasons are outlined under the heading "Termination Process" below.

Rent Reviews

Following a complaint to the European Commission, the 1978 Rent Negotiation Act was amended in January 2011 and now stipulates that rent levels can be set in accordance with comparable apartments in the area.

²⁰⁴ http://www.kth.se/polopoly_fs/1.476821!/Land_Code.pdf

²⁰⁵ http://www.tenlaw.uni-bremen.de/reports/SwedenReport_09052014.pdf

This is in contrast to previous legislation that only allowed comparison to semi-public housing properties. Thus, negotiations now take place between public housing bodies, the Swedish Union of Tenants and the Swedish Property Federation.

Rent increases are determined by a rent valuation model which is based on a set of characteristics defined as the so called utility value of any given dwelling, including factors such as the level of standard, services offered and the condition of the dwelling²⁰⁶.

In addition a new rent adjustment model was developed for Stockholm with the aim of adjusting the utility model to focus on the location of the building and thus tenants' real preferences. The model has been contentious between the negotiating parties with landlords looking for rent increases in the region of 10-15 per cent. The Rent Tribunal is currently assessing landlords' requests for roughly 10-15 per cent rent increases for a number of pilot properties.

Standards

By law every tenancy contract contains a right to "fully serviceable" accommodation for tenants. This broad theme encompasses the basic amenities of electricity, water and sanitation facilities but also includes access to amenities such as a washing machine. Every landlord is expected to maintain this standard throughout the term of a tenancy, and is required to repair damages which occur through the normal use of the property. If these requirements are not being met, the tenant can make an application to the Rent Tribunal and require the landlord to make changes where necessary. Landlords face penalties if they do not comply with the injunction. All new buildings in Sweden should have an energy performance certificate. The rules require that the energy performance of a dwelling is clearly indicated in the advertisements when a dwelling is sold or leased. The Swedish National Board of Housing, Building and Planning is charged with ensuring that an energy performance certificate has been prepared, shown and handed over and also that the certificate is included in the advertisement.

Registration Requirements

There is no requirement to register a tenancy agreement in Sweden.

Disputes Resolution Process

If there is a dispute relating to a tenancy, the case can be brought to the Regional Rent Tribunal, which acts as a mediator. The following issues can be dealt with at by the Tribunal²⁰⁷:

1. Extension of the tenancy agreement after the tenant has received a notice of termination with a period of notice of according to the contract (security of tenure).
2. Determination of rent and other tenancy conditions.
3. Transfer of tenancy to cohabitee.
4. Exchange of apartment.
5. Subletting of tenancies and tenant-owner apartments.
6. Approval of waiver of security of tenure.
7. Liability of the landlord to repair a domesticated apartment.
8. A liability of the tenant to pay damages in the event that he/she implements a maintenance measure improperly.
9. Membership of a tenant-owner association.
10. Reconstitution of tenancy to tenant-owner property.
11. Permission for or prohibition against improvement work that involves an increase in rent.

The decision of the rent tribunal can be appealed to the Svea Court of Appeal if the appeal request is received within three weeks of the original decision. A decision by the Svea Court of Appeal relating to a case that was appealed from the Regional Rent Tribunal is final. The average length of cases before the Rent Tribunal is three months while the average length of Civil Case Procedures is 7 months.

²⁰⁶ European Commission In-depth review for Sweden in accordance with Article 5 of Regulation (EU) No 1176/2011 on the prevention and correction of macroeconomic imbalances.

²⁰⁷ <http://www.domstol.se/Funktioner/English/Matters/Land/Tenancy/>

Termination Process

If a tenant wishes to terminate a contract, they must provide the landlord with a notice period of three months unless a shorter notice period is specified in the contract. This notice can be served at any time, regardless of the term of the tenancy.

If a landlord wishes to terminate a tenancy, a notice must always be issued in writing. If the tenant refuses to adhere to the three month notice period, the landlord may resort to a rent tribunal or district court to pursue an eviction. Generally speaking it is difficult for a landlord to terminate a contract. Even when strong grounds are cited (for instance the intention to conduct extensive renovations) the landlord may be required to provide alternative accommodation. The only ground upon which a landlord may terminate a contract before the end of the rental term is when a tenant is guilty of misconduct under Section 42 of the Swedish Tenancy Act²⁰⁸.

BOX 9: ENGLAND

The information relating to England was obtained from the respective legislation was reviewed in conjunction with the 2014 National report for England and Wales by Orji and Sparkes for the TENLAW project²⁰⁹.

Security of Tenure and Lease Length

Lease contracts in England can be of any duration. Leases can be for a matter of days to an open-ended term. An 'assured shorthold tenancy' applies to all contracts regardless of duration implying tenants have security of tenure for at least six months. When the six month period elapses, the landlord needs to serve the tenant two months' notice if they wish to terminate the tenancy.

Rent Reviews

For tenancies that commenced after 1989, rent increases depend on the type of tenancy. Rent increases are limited to once every 12 months for periodic tenancies, while for fixed term tenancies, rent increases can only occur if agreed with by the tenant or else at the end of the fixed term. In all cases the rent must be fair and realistic and thus in line with local rents. If tenants deem the rent to be unfair, they can refer it to the rent assessment committee. Landlords are obliged to give a minimum of one month's notice of any rent increase if rent is paid weekly or monthly or 6 months' notice if the tenancy is a yearly tenancy. In cases where repairs or improvements to a controlled property merit at least a 15 per cent increase over the existing registered rent, then landlords will charge that amount.

Standards

The Housing Act 2004²¹⁰ contains the framework for the Housing Health and Safety Rating System. This Rating System enables authorities to address a wide range of housing defects. In general, dwellings should:

- Be free from health and safety hazards.
- Be in a reasonable state of repair.
- Have reasonably modern kitchens, bathrooms and boilers.
- Be reasonably well insulated.

If a dwelling is furnished by the landlord, all furnishings must meet standards set by the Furniture and Furnishings (Fire) (Safety) Regulations 1988²¹¹.

Landlords are required to provide an energy performance certificate to tenants, however new legislation is proposing stricter standards in this regard. The Energy Act²¹² allows for regulations so that, from 2016, reasonable requests by tenants are not refused, and from 2018, it would be unlawful for landlords to rent out properties that do not reach a minimum standard energy efficiency rating. Landlords would be required to reach the minimum standard, or to carry out the maximum package of measures under the Green Deal and Energy Company Obligation. Use of these regulation-making powers are conditional on there being no net or

²⁰⁸ http://www.kth.se/polopoly_fs/1.4768211/Land_Code.pdf

²⁰⁹ http://www.tenlaw.uni-bremen.de/reports/England&WalesReport_09052014.pdf

²¹⁰ <http://www.legislation.gov.uk/ukpga/2004/34>

²¹¹ <http://www.legislation.gov.uk/uksi/1988/1324/contents/made>

²¹² <https://www.gov.uk/government/collections/energy-act>

upfront costs to landlords, and the regulations themselves would be subject to caveats setting out exemptions.

If a tenant has informed the landlord of a breach in health and safety regulations and nothing has been done to remedy the problem, they can contact the environmental health department of the local authority to arrange an inspection. The Health and Safety Rating System under Part 1 of the Housing Act 2004 allows for inspectors to look at health and safety areas and score each hazard as either category 1 (the most hazardous) or category 2. Landlords must fix category 1 hazards but in certain circumstances, the local council can make repairs and reclaim the cost from the landlord.

Registration Requirements

When a tenant takes occupation of a property, it is the landlord's responsibility to notify the council tax authorities. There is no further requirement to register the tenancy with a particular body. There is currently no requirement to register a tenancy agreement in England, however, the Welsh Housing Bill²¹³ will make it compulsory for landlords and letting agents to register if it is passed.

Disputes Resolution Process

The Property Chamber of the First-tier Tribunal generally hears dispute cases between landlords and tenants. Minor issues can also be resolved by the Housing Ombudsman. The length of time it takes for a dispute to be resolved varies by the type of dispute in question.

Termination Process

If a landlord wishes to terminate a tenancy, he/she must give the tenant at least two months' notice. The notice must be in writing and state that possession of the dwelling is required. Should a tenant wish to leave a rented property, they must serve the landlord with written notice of at least four weeks.

Issues which justify the early termination of a lease include:

- Substantial rent arrears.
- Breach of contractual obligation.
- Deterioration of dwelling/furniture.
- Annoyance to neighbours, convictions for antisocial behaviour or domestic violence.
- Misrepresentation prior to signing the lease.

BOX 10: GERMANY

A working paper on the German Private Rented Sector, published in March 2014²¹⁴ contains useful information on aspects of the German rental sector such as security of tenure, rent reviews, standards and the dispute resolution process as per the below.

Security of Tenure and Lease Length

There is strong security of tenure in Germany. The length of tenancy contracts is indefinite. The principle of succession means that the tenancy continues when there is a change of ownership, or to a sub-tenant upon the removal of the main tenant. It is also possible for the rental contract to pass to the tenant's heir(s) on their death. However, the landlords are entitled to serve notice and cancel the lease if the heir did not already live in. In the event that a landlord ends the contract, they may have to find the tenant alternative housing to assure the continuity of housing. It is also possible for the municipality to delay a pending eviction to prevent the household from homelessness when there is no publically owned accommodation.

Rent Reviews

New rent control measures (*Mietpreisbremsen-Regelung*) were part of the Programme for Government in 2013 and came into effect in September 2014. The legislation sets down that rents for new leases in certain areas can only be set at a maximum of 10% above the average local rents. This is aimed at keeping the local average rates low, which are reflected in the Mietspiegel.

²¹³ [http://www.assemblywales.org/Research%20Documents/Housing%20\(Wales\)%20Bill-17012014-253021/14-004-English.pdf](http://www.assemblywales.org/Research%20Documents/Housing%20(Wales)%20Bill-17012014-253021/14-004-English.pdf)

²¹⁴ http://www.bvc.dk/SiteCollectionDocuments/Analyser/The_German_Private_Rented_Sector_web.pdf

At least 12 months after the tenant moves into the property (after signing of the lease) or at least 12 months after the last rent increase, the landlord can indicate to the tenant that he/she intends to increase rent. This is usually done by reference to the average market rent in the locality. Since 2001, official “*Mietspiegel*” (Tables Reflecting Local Rents), have been compiled by the local authorities. They include information on the basic rent spread and average rent for rented properties by location, age of building and facilities in rented property.

If such a local Table is available, the landlord has to utilise the figures contained in it. If the landlord for some reason uses other local comparators, he/she must at least reference the Tables if they are available for the locality. Other comparators allowable are three comparable rental units which pay as much as the increased rent or an expert evaluation. The increase only becomes valid when the tenant has agreed to the rent increase voluntarily or is ordered by a court to comply. The tenant is granted three months to examine the rationale behind the proposed increase and can get help from the local and national tenant associations. Landlords cannot increase rents which are considerably lower than the local market rate by more than 20 per cent over three years. From 1st May 2013, local authorities with areas of housing shortages have been allowed to cap this increase to 15 per cent in an effort to keep housing affordable.

Standards

Building Regulations within the relevant Länder set out some basic minimum requirements in order for a dwelling to be called housing including the need for a room where a kitchen or a kitchenette can be set up, which requires a water connection, and that it is possible to set up a toilet or a bathroom, however these do not necessarily have to be placed within the dwelling itself. There is no prescribed requirements relation to tiles, floor covering or fitted kitchen. Regardless of these requirements, since tenancy law is characterized by freedom of contract even dwellings not fulfilling the minimum standard are considered contract-compliant if these conditions were explicitly agreed on by the tenant²¹⁵. However, both private and professional landlords are known to keep the housing stock in good shape, with small private landlords considered to do the best job in this regard²¹⁶.

In terms of the condition of rental properties, landlords are required to ensure that dwellings are fit for purpose and that all facilities are operational. Tenancy agreements outline what condition the apartment should be kept in and it is the landlord’s duty to repair any defects caused by wear and tear. It is common, however, for landlord’s to insert a clause in contracts obligating renters to conduct decorative repairs during the course of the tenancy. It is obligatory for landlords to inform new tenants of the energy consumption of the building. Landlords are obligated to provide a prospective ten-ants or purchasers with an energy assessment of the property.

Registration Requirements

There is no requirement to register lease agreements in Germany as no public register exists. However, a property right of residence has to be registered in the land registry.

Disputes Resolution Process

Rental disputes are usually settled through the courts in Germany but some areas have set up mediation centres in an effort to avoid involving the courts. The lower courts are used most often with the higher courts only involved in cases of large financial sums. The average length of dispute cases is 4 – 8 months.

Termination Process

The termination process in Germany is described in detail by Cornelius and Rzeznik in their National Report for Germany produced for the TENLAW project funded by the European Union²¹⁷ in 2014.

In order to terminate an open-ended contract, a tenant must give three months’ notice but shorter periods may be agreed upon with the landlord. No justification for termination is needed. A fixed-term contract may

²¹⁵ http://www.tenlaw.uni-bremen.de/reports/GermanyReport_09052014.pdf

²¹⁶ Scanlon, K. and Kochan, B (2011). Towards A Sustainable Private Rented Sector The Lessons From Other Countries. London School of Economics London 2011

²¹⁷ http://www.tenlaw.uni-bremen.de/reports/GermanyReport_09052014.pdf

be terminated with immediate effect by the tenant if a compelling reason can be provided. Such reasons include unhealthy living conditions and disturbance of the peace by the landlord.

In an open-ended contract the landlord may serve 'ordinary' notice of between three to twelve months to terminate a contract. Longer notice periods apply if a tenant has been living in the dwelling for more than five years and / or the landlord lives in the same building. Landlords can legitimately terminate contracts on the following grounds:

- 1) The tenant has violated the contractual terms—rent arrears/ delays and disturbances to neighbours are included. No prior warning is necessary.
- 2) The landlord or family members require use of the dwelling—this must be unforeseen, and the tenant must be offered any available dwelling owned by the landlord in the same housing complex if applicable.
- 3) The tenancy contract prevents the landlord from making commercial use of the property. The landlord must have the intention to use the premises for other purposes in order to terminate the contract, for example by selling the house or the dwelling, by demolishing the residential building in order to use the plot of land in another way, by dividing a larger dwelling into smaller ones or by executing fundamental refurbishment measures.

The tenant may have grounds to oppose the termination of an open-ended tenancy when ordinary reasons are cited. If the tenants are of an advanced age or suffer from severe diseases they may object to a termination and appear before a judge to postpone it by up to three years. This postponement can also be extended for reasons of hardship, i.e. if the tenant is incapable of moving out because of diseases that pose a risk to his/her life. In general, impending homelessness does not qualify as a 'hardship' as public authorities are obliged to house homeless persons in public accommodation.

According to Fitzsimons (2014), landlords have complained about the length of time the legal proceedings take. In some cases, the time between non-payment of rent and the eviction being enforced can take at least a year. An eviction claim can be given after 2 months of non-payment of rent but the practical effect of a dispute could result in the landlord not receiving rental income for a year due to the legal system being unable to evict the tenant.

10.8 LESSONS FROM THE INTERNATIONAL REVIEW

Government intervention in the housing market in the form of regulation normally arises out of market failures. The private rented sector is particularly vulnerable to market failures due to information asymmetry between landlords and tenants and due to the inability of the supply of housing to respond as quickly as demand.

Regulation in the Private Rented sector is generally concerned with rent setting, security of tenure, evictions, housing standards and the extent to which regulations are enforced and effective. The impact and lessons from regulation relating to rent setting and rent increases has been examined in detail in the Rent Stability report and so this section focuses on the issues of security of tenure, evictions and housing standards.

At the outset it is important to reiterate that the private rented sector is a function of a range of factors in the housing market. Thus, there is no

easily identifiable relationship between regulation and the size of the sector; rather a range of issues including taxation and housing policy all have a role to play. In addition, it is also noteworthy that there is no one way to effectively regulate a sector as this is also a function of the economic climate, legislative frameworks and government policy across jurisdictions.

A review of regulation in the private rented sector across a range of European countries concluded that there are *very few* clear relationships between regulation and scale.²¹⁸ It was also noted since the 1990's regulation of the private rented sector in most European countries has remained relatively stable, albeit there has been some additional regulation in relation to security of tenure.

Security of Tenure

While rent regulations were examined in detail in the Rent Stability report, it is important to note

²¹⁸ Whitehead (2012) The Private Rented Sector In The New Century. A Comparative Approach.

that security of tenure tends to be combined with rent regulations, in order to prevent economic evictions. As a result jurisdictions with rent regulations also tend to have stronger security of tenure.

Security of tenure is concerned with the rights of the tenant to remain in their rented property. Generally, security of tenure deals with a number of issues including:

- Duration of a standard contract;
- Termination rights and notice periods;
- Compulsory renewal clauses; and,
- Landlords ability to regain possession of the property;

Lease lengths are a particularly important factor in security of tenure. As noted previously, leases can vary in duration across jurisdictions from fixed term contracts, which dominate in Ireland, to indefinite leases as is the case in Germany and the Netherlands. A 2012 review of regulations in Europe notes that security of tenure tends to be high during the period of the contract, as it contains specific conditions on notice periods and rights to terminate the contract prematurely. Thus, the standard duration of the contract/lease is an important aspect in security of tenure.

While many jurisdictions offer indefinite leases, which may appear more satisfactory from a tenant perspective, Whitehead (2012) notes that long-term fixed-term contracts may provide a higher degree of security for tenants. This argument is based on the premise that the landlord's right to terminate a tenancy may be well regulated under the terms of the contract, while under indefinite leases, security of tenure is determined by notice periods and the landlord's right to terminate. Nevertheless, Whitehead does suggest that security of tenure can be high for indefinite leases where there are long notice periods or restricted rights to end a tenancy.

In general, notice periods tend to vary depending on how long the tenant has been in the property and in some cases on the type of property. This is the case in Ireland where notice periods can extend up to 112 days and in Germany where notice periods of 9 months apply for long tenancies. In many cases, landlords must observe longer notice periods than tenants, with the exception of Sweden where the same notice periods apply to both landlords and tenants.

Security of tenure can also be influenced by renewal clauses whereby tenants are entitled to automatic renewal of leases. As has been noted previously, in Ireland one year fixed term leases tend to dominate the market. However, the Irish legislation does provide that a four year tenancy applies after the first six months, regardless of contract length. Such regulations aim to provide improved security of tenure for tenants, however, it is interesting that in Ireland average tenancies are for eighteen months even though the majority of tenants are in the rented sector for over four years. Similar provisions apply in Belgium although in this instance it is primarily related to rent regulations²¹⁹ and in Germany where fixed term leases are often deemed extended for an unlimited time.

Landlords' ability to repossess their property also impact on security of tenure. Generally across all the jurisdictions reviewed landlords' capacity to get the property back has been subject to a number of conditions including:

- They wish to use the unit themselves or for a close relative;
- They wish to sell it; or
- They wish to undertake major renovation.

Of course even in situations where such conditions are met, notice periods still apply to the termination of the tenancy. Furthermore, additional requirements maybe levied on landlords as is the case in Germany and the Netherlands.

Security of tenure can benefit both landlords and tenants. Long term tenancies offer the prospect of a stable revenue stream which can be very attractive for landlords, provided it does not impact on the ability to adjust rent levels. Equally, from the tenant perspective, security of tenure provides an element of certainty of long term residence which is likely to be particularly relevant for families with children. However, it must be borne in mind that security of tenure alone will not eliminate economic evictions and in situations where tenants are unable to afford rent increases, security of tenure may be of limited use.

However, where security of tenure constrains the use and transfer of the property or the efficiency of contract enforcement, it can have negative impacts for both landlords and tenants. From a tenant perspective, the inability to terminate a fixed term lease contracts can impact on mobility and thus in many jurisdictions, such as Sweden,

²¹⁹ Rent Stability report,(Section 3)

there is the possibility of sub letting. From the landlord perspective the main concern is likely to be the ability to repossess the property in order to sell it and the impact of this on capital values.

The impact on capital values is related to the ability of the landlord to repossess the property and whether sitting tenants are protected in the event of a sale. In the event that tenants are protected and the lease is passed on to the new owners this may act as a disincentive to investment particularly in cases where units are not tenure specific, such as the case in Ireland. It has been pointed out as part of the consultation process for this study that properties with a sitting tenant will not be as highly valued as a vacant unit. In some jurisdictions sitting tenants are not affected by the sale of the property which in some cases reflects the fixed tenure of rented buildings such as in the Netherlands.

Fitzsimons (2014) argues that security of tenure has been a key factor in the demand of the private rented market in Germany. Furthermore, it is argued that the stability of the large private rental market contributed to the stability of the whole German housing market, whereby tenure choice was substitutional and thus when home-ownership prices increased then the tenure choice would be the rental market.

However, it is also important to note that longer tenancies such as those in Germany and the Netherlands are a function of additional factors, including the type of accommodation, the range of tenants, the investment horizon as well as security of tenure. In both Germany the majority of rental units are unfurnished while in the Netherlands 88 per cent of privately rented homes are rented unfurnished with some 8 per cent are let semi-furnished - with curtains and carpets. This clearly provides an incentive for tenants to rent long term.

Equally Kemp and Kofner (2010) note that the long term investment horizons of German landlords make long term tenancy attractive in contrast to landlords in England who may be more concerned with capital gains and therefore prefer short term tenancies to ensure a more liquid asset. Similarly the range of tenant are also a factor where markets such as those in England are dominated by those looking for a short term housing option such as the young and people we are waiting to enter owner occupation.

More generally, the attractiveness of security of tenure will be very dependent on the ability of landlords to evict problematic tenants for issues such as overholding. Lengthy evictions processes can have serious negative impacts for the landlord. This would suggest that any security of tenure provisions must be balanced with an efficient and timely dispute resolution processes.

Dispute Resolution Processes

While dispute resolution covers a multitude of issues, one of the key concerns of landlords is the ability to deal with problematic tenants in a speedy manner, particularly in relation to issues such as such as overholding and rent arrears. From the tenants perspective key concerns are likely to relate to deposit retention, however as set out previously this has been dealt with extensive in Feasibility of a Tenancy Deposit Protection Scheme in Ireland²²⁰.

As mentioned, the potential attractiveness of security of tenure is related to ability of landlords to resolve disputes and evict problematic tenants for issues. It is important to recognise that security of tenure and evictions are two separate issues. Eviction of tenants refers to the rights of the landlord to remove a tenant due to violation of the terms of their contract or due to specific conditions such as those set out above. It has been noted previously that eviction processes in many jurisdictions are referred to the court system and so in some cases the efficiencies of evictions are a reflection of the efficiencies of legal system in place.

Whitehead (2012) notes that some countries where tenure security is high there are relatively cheap and transparent mechanisms for ensuring repossession. This is important from a landlord perspective to ensure that the overholding of properties does not occur. In Ireland, it has been noted that eviction processes can take up to 18 months which can put significant financial strain on the landlord, particularly in the case of overholding. Similarly as reported by Fitzsimons (2014) eviction proceedings in Germany are time consuming, with some landlords noting that the entire process can take up to 1 year.

Generally, it has also be noted that in many countries eviction processes are seen to be more efficient than enforcement action against

²²⁰ <http://www.environ.ie/en/Publications/DevelopmentandHousing/Housing/FileDownload,31535,en.pdf>

landlords who violate the rules, reflecting the more general issue of relative power between landlord and tenant Whitehead (2012). This would suggest that there is a need for balance within the regulatory environment.

Housing Standards and Quality

Regulations relating to the standard and quality of housing seek to ensure that dwellings must not impinge on the health and safety of tenants; that the accommodation is fit for purpose and all facilities are in working order. Housing standards have evolved over time in line with changes in economic growth and general standards of living.

Recent trends have seen an increased emphasis on energy efficiency and sustainability of buildings. This is particular evident in England where proposed regulations will implement minimum standard energy efficiency ratings for rented properties. The emphasis on energy efficiency has resulted in a number of subsidies available for landlords. The subsidies available to landlords include grants for part payment of works as in Ireland, England and Germany or low interest loans as in France. In some jurisdictions, such as the Netherlands, grants are restricted to landlords in the social rented sector.

Regulations on minimum standards can act as an incentive for landlords to invest in their property. This is evident in jurisdictions, such as the Netherlands, where the standard of accommodation is used in setting rent levels, and in Germany, where landlords who invest in the energy efficiency of the units are exempt from rent regulations. It would appear from the review that regulations in Ireland are quite strenuous with landlords required to provide white goods even in the case of unfurnished units. This would appear to be more onerous than regulations set down in Germany and the Netherlands where tenants often provide such equipment themselves

In addition, many jurisdictions also support landlords investing in the maintenance of their property, through refurbishment subsidies and tax breaks. It is noted in Section 9.3 that in France soft loans are available for the refurbishment of properties to let in the private rented sector. In addition, private landlords are also eligible for home refurbishment and improvement subsidies and loans through the Agence Nationale pour

l'Amélioration de l'Habitat (ANAH)²²¹, while general property renovation work is eligible for a lower VAT rate of 10 percent²²². It is noteworthy that in Ireland there are no specific schemes aimed at landlords and while expenditure on maintenance of property is allowable for tax purposes, improvements are not.

The benefits arising from increasing standards of housing for both landlords and tenants are subject to the degree to which costs can be passed on to tenants. In some jurisdictions this will be determined by the rent regulations that operate there. Moreover, a high quality rented housing sector is likely to be seen as an attractive and viable tenure choice and appeals to broad range of the population.

Summary

It is evident that the strong security of tenure can have an impact in terms of making the private rented sector a viable long-term housing option. This is evident from jurisdictions such as Germany where 40 per cent of households are occupied in the private rented sector. It is also interesting to note that many jurisdictions with strong security to tenure also have indefinite leases although it has been noted that unless there is strong regulation indefinite leases may not have the same benefit of long term fixed leases.

It is noteworthy that regulation on the standard and quality of housing has been increasing in recent times, particularly those in regulation to energy efficiency. While rising standards obviously contribute to the costs faced by landlords it is important to note that many jurisdictions offer assistance to landlords to improve the quality of the rented stock.

Nevertheless it is worth noting that longer-term tenancies with stable conditions may benefit both landlords and tenants. However, it is also important to note that longer tenancies such as those in Germany and the Netherlands are also a function of the type of accommodation, the range of tenants and the investment horizons of landlords.

²²¹ These grants normally cover 15 percent of refurbishment costs, although larger grants are available for landlords willing to charge lower rents. <http://www.anah.fr/les-aides/vous-etes-propretaire-bailleur/>

²²² <http://www.frenchproperty.com/guides/france/building/renovation/VAT-relief/>

10.9 CONCLUSIONS

Across the countries studied in this section, there are regulations in place that protect both tenants and landlords in the private rented sector. All countries regulate for security of tenure and tenants are protected from unfair eviction. Should tenants breach the terms of their contract or the landlord require the dwelling for his own use, the use of a family member or refurbishment, there are legitimate processes in place to regain the dwelling. Some countries, such as the Netherlands and Sweden, provide greater protection for tenants in such situations. In the Netherlands, the landlords may be required to contribute to the tenant's moving costs.

There is no requirement in any of the countries studied for the landlord to register the tenancy agreement. However, in England, the landlord must register the tenant for local council tax, while in Germany; landlords must register property rights in the land register.

All countries have a dispute resolution process in place be it through mediation services or directly through the courts. Appeals processes are also available in all countries.

Different procedures exist for rent increases in the different countries, for example, France requires a specification in the contract allowing for increases. However, all countries allow only one rent review per year and notice periods are required. Generally, if tenants feel a particular rent increase is unfair they have the right to take a dispute case to the relevant body in each country.

Regulation in the Private Rented sector generally arises out of market failures, which the private rented sector is particularly prone to. However, it is recognised that there is no one way to effectively regulate a sector as this is also a function of the economic climate, legislative frameworks and government policy across jurisdictions. It is also recognised that there is no easily identifiable relationship between regulation and the size of the sector; rather a range of issues including taxation and housing policy all have a role to play.

Options for the Future of the Private Rented Sector



11. OPTIONS FOR SUSTAINING THE PRIVATE RENTED SECTOR IN THE FUTURE

11.1 INTRODUCTION

This review of the future of the private rented sector comprises the second of two reports²²³ which set out to explore how the vision for the private rented sector articulated in the 2011 Housing Policy Statement could be achieved. While home ownership will continue to be the tenure of choice for the majority of the population, the policy statement recognises that a balanced housing system needs a strong and well regulated rented sector and provides a commitment to making the rented sector a stable and attractive housing option for all who wish to rent in the short and long term. It is acknowledged in this report that a positive image needs to be promoted for the sector which should no longer view renting as just a transition to home ownership. The key policy challenge is to create a sufficient supply of high quality rented accommodation for long term renters at an affordable price, with the appropriate level of regulation for the main providers and increased security of tenure for current and prospective tenants.

Both studies are intended to set out short and medium to long term policy options which can serve as a roadmap towards delivering this vision. While the focus is on the next five years during which considerable progress should be made towards realising the vision, it is recognised that some options may not be possible in this time period given the current economic climate.

Options cover five key areas

For the purposes of this report, the policy options to ensure a sustainable private rented sector over the long term are set out under the following five headings:

- Rent Stability and Affordability
- Regulation
- Improving Quality of the Rented Stock
- Protecting the Existing Stock
- Promoting Investment and Supply

Considerable analysis has been done in the first report on rent stability and affordability. This included a review of rent regulations in other jurisdictions, how they are administered and their impacts. A range of options was set out to achieve greater rent stability and certainty in an Irish context. These also included measures to improve the quality of and protect the existing stock as well as longer term housing supply options. For completeness, these options are reiterated below (Part A of this section) as they are equally important to the delivery of a sustainable private rented sector in the future.

In this second report, there is a range of issues which have emerged from the review of Irish and international experience that need to be addressed. While some have been examined since the 2011 Housing Policy Statement, notably the feasibility of a tenancy Deposit Protection Scheme (and is to be addressed in the forthcoming legislation), a number of issues remain to be addressed such as security of tenure and dispute resolution, the significant volume of rental properties in mortgage distress, improving accommodation standards in the sector, and whether some form of tax incentives are required to encourage more and larger scale investment in the sector. The options arising from this report are grouped under four of the five headings (excluding Rent Stability and Affordability) and are separately set out below (under Part B of this section).

Actions in Construction 2020 to be prioritised

Firstly, the *Construction 2020* Strategy published in May, which set out the Government's existing programme of action to deliver a strong, sustainable well financed and competitive construction and housebuilding sector, is welcomed. While the full implementation of the Strategy is supported, the specific objectives in regard to the private rented sector should be prioritised:

- The DECLG and the Housing Agency are to develop a national policy towards professionalising the private rented sector, to include issues such as investment, standards and regulation (Action 5).
- The DECLG is to legislate for a fair and transparent tenancy Deposit Protection Scheme (Action 7).
- The DECLG, DCENR and the SEAI are to establish a working group on the feasibility and

²²³ The first report covers Rent Stability in the Private Rented Sector (September, 2014).

impact of setting minimum thermal efficiency performance standards in properties offered for rent or lease in the residential and commercial sectors (Action 7).

Checklist for policymakers

A useful checklist for policymakers was provided by Oxley²²⁴ who reviewed evidence from other countries on what is required in order to increase investment in the PRS and the share of the PRS in the overall stock. He suggested the following:

1. The role of the sector should be determined. Is there to be a larger 'modern PRS' offering high quality accommodation on a flexible basis or is the sector to have another role?
2. A positive image for the private rented sector should be promoted.
3. The taxation advantages for individual investors should be increased.
4. The rate of return for institutional investors should be increased through improved taxation advantages.
5. Soft loans should be provided for investment.
6. A favourable regulatory environment – for landlords and tenants – should be promoted.
7. Conditional taxation and subsidy support for affordable rental housing from private landlords should be provided.
8. Housing associations should be encouraged to supply more market rent properties.

However, Oxley also stressed that the correct balance needs to be struck by policy makers to ensure there is no crowding out by the private rented sector with respect to other tenures.

11.2 PART A: OPTIONS FOR RENT STABILITY AND CERTAINTY²²⁵

11.2.1 Rent Stability and Affordability

The key current issue in the private rented sector is the escalation in rents, particularly for low income households in the Dublin area. The analysis of affordability highlighted the differences for persons renting in Dublin and outside Dublin as well as for single persons and couples.

The options to address rent stability focused on the following:

- ✓ Providing better information to ensure the sector is more informed,
- ✓ Improving the situation with respect to the review of rents and the determination of Rent Supplement limits,
- ✓ Enforcing what legislation is in place under the Residential Tenancies Act 2004,
- ✓ Protecting the existing stock,
- ✓ Increasing the supply of rental properties, and
- ✓ Providing targeted tax incentives.

The main options to address rent stability are set out below.

Option 1: Review of Rents

Under existing legislation, Part 3 of the Residential Tenancies Act 2004 states that rents may not be greater than the open market rate and may be reviewed (upward or downward) once a year only, unless there has been a substantial change [not defined in the legislation] in the nature of the accommodation that warrants a review. Tenants are to be given 28 days notice of new rents. The 'market rent' is defined as the rent which a willing tenant not already in occupation would give and a willing landlord would take for the dwelling, in each case on the basis of vacant possession, having regard to the other terms of the tenancy and the letting values of dwellings of a similar type, size and character to the dwelling and situated in a comparable area to that which it is situated (Part 3, Section 24).

The main options for dealing with the review of rents are as follows:

- a) Notice of a rent increase should be extended to three months with the tenant's acceptance/rejection of the increase advised one month in advance of the rent adjustment. The tenant may seek a review at any stage in the 3 month period.
- b) The landlord should provide details of a minimum of three comparable properties in the area to justify rent increases, where possible, or alternatively, evidence should be sufficient and appropriate to the property in question.
- c) Tenants should be afforded the option to provide similar data if they wish to do so in their negotiations and in a dispute situation.
- d) Due weight should be given to the PRTB rent data in dispute resolutions in the absence of other information. Thus the PRTB rent data will be the primary source of market rent increases but the determination in a dispute will be

²²⁴ Oxley, M., Lishman, R., Brown, T., Promoting Investment in Private Rented Housing Supply – International policy comparisons, UK Department of Communities and Local Government, November 2010.

²²⁵ This section (Part A) reiterates the options set out in the separate Rent Stability report for completeness.

based on other evidence and subjective factors in the case.

- e) The current provisions in the Residential Tenancies Act 2004 in regard to rent being reviewed no more than once in twelve months should be publicised and enforced.

The 3 months notice period will allow the tenant more time to assess the market and determine if they are happy with the level of rent increase. More time will allow the tenant to assemble more information and data if they wish to see a review of the proposed increase.

The rationale for a minimum sample of three comparable properties is based on a similar obligation on landlords in Germany. This requirement will also seek to ensure that landlords do not attempt to increase rents based purely on trends in the market but also on the quality of the accommodation which they offer. Currently the PRTB data provides location, property types and number of rooms. Given that new lettings are determined by the free market, there may be the potential for landlords to seek short term tenancies.

The provision of three comparable properties may not always be possible, particularly in rural areas. Similarly the PRTB database may not have adequate coverage in these locations. In these instances, any other evidence presented and subjective factors should determine the outcome of any dispute.

The expectation is that these measures will dampen rent increases as inevitably some landlords may seek to capitalise on the general trend in the local market without taking the quality of accommodation into account. Moreover the use of PRTB rent data as the primary source of market rent increases should dampen rent increases as other sources, notably Daft.ie are based on asking prices, which in Dublin are on average around €200 above PRTB registered rents.

Option 2: Provision of Market Information.

The PRTB should:

- a) Increase the data gathered from the PRTB registration process to allow greater profiling of rents in the sector.
- b) Increase the information available on market rents through publication of a quarterly report, supplemented with an online mapping tool, detailing average market rents each quarter across property types and locations and ensure

that they are easily accessible for landlords and tenants.

- c) Increase awareness of the PRTB, rents, rights and obligations for landlords and tenants in a cost effective manner, such as, for example, the use of modern social media and an ongoing publicity and education campaign.

The more detailed data provided by the PRTB might include information on BER ratings, facilities and the age of the property. In terms of the PRTB publication there would be an opportunity to provide detailed regional and local data and other relevant information around other issues, e.g. affordability. While more detailed information is provided within the PRTB website, this is not published widely.

The provision of more information is expected to ensure that tenants are more informed as currently many do not appear to be informed. It appears that while the Residential Tenancies Act 2004 has been in place for the past ten years, tenants are not overly aware of their rights.

The RED C survey of tenants reported that 32 per cent of tenants had not heard of the PRTB. Young adults aged 18-24 and older persons over 55 years of age were less familiar with the PRTB than other age groups. Furthermore, 40 per cent did not know if their property was registered while around two-thirds had received no information from the PRTB. In terms of renters' rights, 33 per cent of tenants agreed with the statement that they are not fully aware of their rights as a tenant.

These findings would suggest that more needs to be done to make tenants aware of their rights and obligations. Armed with the appropriate information, tenants will be better placed to argue their case in disputes.

Option 3: Introduce a Rent Certainty Lease Product.

One option to address the issue of rent stabilisation would be to introduce a Rent Certainty lease which landlords and tenants may voluntarily be willing to sign up to under certain conditions. While there is currently no impediment to creating long term leases under the Residential Tenancies Act 2004, there appears to be a low awareness of them. Some tenants want longer term tenancies, are keen to remain long term renters, and want to know the rents they will be paying over the duration of their tenancies. Close to 30 per cent of tenants responding to the RED C

survey indicated they would be happy to rent if there was the possibility of a long lease. Some landlords may be content to forego market rents in return for less tenant turnover, less void periods and a rent linked to some published index (e.g. CPI inflation or earnings). In this context, there may be a market for a specific long term lease product, where the lease would extend in excess of the existing four year term and the rent would be indexed on an annual basis during the lease term. The key requirement of such a lease would be the voluntary nature of the scheme as landlords and tenants would have to agree to sign up for it.

As there is no impediment to landlords and tenants voluntarily entering into such a lease at present, it may be necessary to provide some form of incentive to increase take-up. Two potential incentive options are set out below, both of which exist under current tax law in relation to certain sectors.

Incentive 1: Provide 100 per cent interest relief on all borrowings to the landlord. This would proceed as follows:

- A lease would be categorised as a qualifying lease and would be a lease in writing or evidenced in writing for definite term of 5 years or more and made on an arm's length basis between a landlord and a tenant, neither of whom could be connected for tax purposes.
- The lease could be terminated by the tenant utilising the standard notice periods that exist under the Residential Tenancies Act, as amended, however in such circumstances the landlord would not be penalised.
- The Landlord would not be permitted to terminate the qualifying lease.
- In the case of a qualifying lease, it would be suggested that 100 per cent interest relief would be available on all borrowings.

Incentive 2: Disregarding of certain income for tax purposes. This would proceed as follows:

- A lease would be categorised as a qualifying lease and would be a lease in writing or evidenced in writing for definite term of 5 years or more and made on an arm's length basis between a landlord and a tenant, neither of whom could be connected for tax purposes.
- The lease could be terminated by the tenant utilising the standard notice periods that exist under the Residential Tenancies Act, as amended, however in such circumstances the landlord would not be penalised.
- The Landlord would not be permitted to terminate the qualifying lease.

- In common with the situation that applies under Section 664 for certain income from leasing a farm land, the income arising under a qualifying lease would be disregarded to the extent of say 20 per cent of the rental income. In the case of a qualifying lease accordingly, where the rental income on a residential property is say €14,000 per annum, this would provide a tax free benefit of €2,800 per annum.

There is an issue with the first option in that it is estimated in the RED C survey that 70 per cent of landlords have an outstanding debt on their property, which would imply that 30 per cent of landlords would not be eligible for this incentive. In contrast all landlords would be eligible for the second incentive.

The potential take-up is difficult to estimate. But the RED C survey reported that only 18 per cent of tenants lived at their current property for more than four years. However 65 per cent of tenants surveyed are renting for more than four years, but not in the same property. This suggests that there may be a significant group who may be willing to remain in the same property for more than four years if the terms and conditions can be agreed voluntarily with the landlord and tenant.

The disadvantage of such a lease product is that it may reduce turnover within the private rented sector. For this reason, it would be essential that new supply is brought on stream. Otherwise there is a risk that the rents for the units that become available would be higher in a supply constrained environment than they would be in a more stable housing market. Without incentives to encourage new supply (see below), the onus would be put back on Government to address the housing shortage which in turn reduces their capacity to deliver other services.

This lease product can be summarised as follows:

A rent certainty lease product should be introduced which would benefit both landlords and tenants and would involve

- ✓ A voluntary agreement between the landlord and the tenant
- ✓ A lease which would extend to in excess of four years, and
- ✓ The indexation of rent on an annual basis during the lease which would revert to market rent at the end of the lease.

The terms of such a lease could be drawn up by the PRTB who would publish information regarding

the conditions of the lease, which should include the possibility of a break clause after four years, and any incentives. The benefit of such a lease product would be that it would provide certain security of tenure to families and other individuals wishing to rent on the long term basis.

Option 4: Rent Supplement limits

The issue of Rent Supplement was dealt with in the first report where it was noted that the maximum rent limits have been reduced in line with the decline in the overall market since 2009. There were some increases in the 2013 Review, reflecting recent increase in rents in the country, and particularly in Dublin. Rent Supplement maximum rates are generally set at the 35th percentile of the available market rent to ensure that 35 per cent of the relevant market is available for Rent Supplement tenants. A review of rent limits in other jurisdictions revealed broadly similar practices.

The options in regard to Rent Supplement are as follows:

- a) There should be no indexation of Rent Supplements as it may not reflect the market.
- b) Rent Supplement limits should be reviewed in line with market rents based on market share.
- c) Current rent limits may not be appropriate in certain rented markets, most notably Dublin, and should be adjusted in the short term, until supply issues can be addressed.
- d) Rent limits should be reviewed every 12 months.
- e) The existing Interim Tenancy Sustainment Protocol should be extended for an additional 26 weeks to allow reviews on a case by case basis.

The increase in rent limits, assuming they move in line with the market, will, by implication, increase the average market rent. However, this does not imply that rents will increase in the non-Rent Supplement market *per se*. Market rents will be determined by supply and demand.

It is estimated that a policy decision to increase Rent Supplement in line with market rents would see the cost increase by 10 per cent in Dublin and 2 per cent across the rest of the country²²⁶,

²²⁶ The PRTB index for Q1 2014 showed rents year on year increasing by 8.4 per cent in Dublin and 0.8 per cent outside Dublin. Average rents in 2014 are assumed to increase by 10 per cent in Dublin and 2 per cent outside Dublin (4.8 per cent overall) in 2014 for the purpose of ascertaining the impact on Rent Supplement.

resulting in a 4.8 per cent increase overall. This would be equivalent to an increase of €16.5m on the current Rent Supplement cost of €344m.

The review of Rent Supplement every twelve months will align the review of rent limits with the review of market rents in the Residential Tenancies Act 2004. The review may move rent limits downwards or upwards, which would imply either a saving or a cost for the Exchequer.

An Interim Tenancy Sustainment Protocol (ITS) has only been in place since 16th June 2014. It was introduced as a quick fix short-term temporary solution for the Dublin market where the problem is most acute. Given that the protocol is consistent with Article 38 of the Social Welfare Regulations 2007²²⁷, which allows payments to be made in exceptional cases to Rent Supplement claimants across all household types, it should be extended for the full twelve month period and should remain focused on family households in Dublin.

Option 5: Incentivise Landlords to accept Rent Supplement/HAP tenants for a minimum of 5 years in exchange for 100 per cent interest relief on borrowings.

It is not considered that there should be an increase in interest relief on borrowing generally for landlords in the short to medium term – this due only to Exchequer budgetary constraints - but landlords letting to Rent Supplement/HAP tenants should receive 100 per cent interest relief where the following conditions are met:

- ✓ The units are let to tenants in receipt of Rent Supplement/HAP;
- ✓ The rent is set at the maximum rent assistance limit and no top-ups are taken;
- ✓ The tenancy complies with the requirements of the Residential Tenancies Act 2004 (registration, rent reviews, Part 4 protections).

The restoration of 100 per cent interest relief, which would apply for the period in which the property is let under the above conditions, should be kept under review. It has the potential of discriminating in favour of the social sector and against other tenants. However, the latter may be viewed as being in a more favourable economic position to withstand the disadvantage.

²²⁷ S.I. No. 412/2007 - Social Welfare (Consolidated Supplementary Welfare Allowance) Regulations 2007.

Option 6: Introduce Capital Gains Tax Relief for Landlords letting to Rent Supplement tenants.

Consideration should be given to introducing changes to the regime for principal private residence relief (PPRR). An option would be to provide that any period in which a property is let to Rent Supplement/HAP tenants would be included as part of the period in which PPRR is available, provided this is for a period of 5 years during the ownership period, all of which is to be in the future. This would be subject to the following conditions being met:

- The units are let to tenants in receipt of Rent Supplement/HAP.
- The rent is set at the maximum rent assistance limit and no top-ups are taken.
- The tenancy complies with the requirements of the Residential Tenancies Act 2004 (registration, rent reviews, Part 4 protections).

This measure is intended to assist in permitting such tenants compete with other tenants in the tight market. It would not discriminate between owner occupiers who already enjoy this relief.

Option 7: Freeze the removal of Tenants' Tax Relief for Low Income Tenants at 2013 level to 2017.

The relief for tenants operated by allowing tenants paying rent to claim a deduction against tax of an amount equal to the standard rate of tax multiplied by the level of rent paid up to certain limits. This relief was essentially a relief introduced in order to bring certain landlords operating in the black economy into the spotlight from a Revenue perspective in that the landlord's details had to be included in relation to any claim made to Revenue. The relief has been abolished in respect of rent paid on new tenancies on or after 8 December 2010. In respect of existing tenancies, the relief is being tapered off before finally expiring at the end of the tax year 2017.

The rationale for the elimination of the relief for tenants was to achieve parity with the owner occupier sector as mortgage interest relief had been eliminated and is to be phased out by December 2017. It is also the case that, in general, the rental sector is considerably more compliant than it was at the time of introduction of the relief and the original rationale for introducing the relief may not be so significant today.

However, in light of the fact that tenants, particularly lower paid tenants, in the private rental sector are competing for accommodation

with higher paid individuals as well as owner occupiers where properties are exiting the rental sector, there is a clear financial rationale for considering a limited freezing of the removal of the relief until supply comes on stream.

In considering any freezing of the removal of the relief, we are conscious of the need to avoid any distortion with the owner occupier market²²⁸ and any measures which will serve to increase market rents. In this regard, consideration should be given to the limited reintroduction of the relief on the following basis:

- That the freezing of relief would be restricted to individuals with earnings below a certain threshold to be set based on a percentage of the average industrial wage.
- The freeze should only apply for a limited period of time until supply within the residential sector increases. A period of 3 years is suggested in this regard with the relief being removed in 2017 as planned.

11.2.2 Protecting the Existing Stock

Option 8: A Code of Conduct for buy to let mortgage arrears should be developed.

- a) A code of conduct for buy to let mortgage arrears should be established which will safeguard the security of tenants. It should:
 - Set out the rules of engagement between the lender and the landlord and tenant, and
 - Fully adhere to the requirements of the Residential Tenancies Act 2004.
- a) BTL mortgages which are unsustainable should be prioritised as a matter of urgency if there is to be a sustainable and fully functioning rented sector in the medium-term.

11.2.3 Promoting Investment and Supply

The escalation in rents and house prices has been attributed to the lack of new supply which has transpired over the last six years since the economy crashed and residential construction activity plummeted to all time low levels. In the period 2009-2013 the number of commencements totalled 28,105 of which 75 per cent were single units. This compares with 302,000 commencements in the previous five years 2004-2008, of which 27 per cent were single units. The key solution to the excessive growth in rents is the provision of further supply in those areas with limited supply and increasing demand. There is an

²²⁸ Mortgage interest relief is due to expire in 2017 although there are no tapering provisions in that legislation.

immediate requirement in Dublin in particular, but also in other urban areas, notably in Cork, Galway and Limerick. A number of options are set out below to promote investment and supply in the private rented sector.

Option 9: Improve awareness in regard to the Rent a Room scheme.

Rent a room relief has been in place for a number of years. According to the Revenue Commissioners there are 4,073 claimants of relief based on a review of Forms 11 and 12. This figure is likely to be understated. The total cost is estimated at €5.9m. It only applies to home owners who occupy a property as a sole or main residence and who let one or more rooms in their houses. The relief operates to exempt any income of up to €10,000 per annum. This form of relief can encourage the take-up of free space in dwellings by single tenants rather than having single tenants taking complete units.

The low take up may reflect a lack of awareness of the scheme. Thus the following should be considered:

- The scheme should be publicised via an advertising campaign by either the Department of the Environment, Community and Local Government or by the Housing Agency.
- The income exemption should remain €10,000 per annum.

This measure would incentivise the use of space in existing properties in the short term until the supply side is addressed.

Persons renting under the rent a room scheme would not be subject to the requirements of the Residential Tenancies Act 2004 as they are classified as ‘licensees’ instead of tenants.

Option 10: Extend the Living City Initiative to Investors.

The Living City Initiative is a targeted pilot tax incentive which aims to:

- Encourage people back to the centre of Irish cities to live in historic buildings; and
- Encourage the regeneration of the retail heartland of central business districts.

This scheme was introduced in the Finance Act 2013 on a pilot basis in two main cities. The Initiative provides tax incentives for works performed to refurbish residential and retail buildings either to bring them up to a habitable standard or even to make improvements to

buildings which are currently inhabited. The incentives are targeted at owner/occupiers rather than investors. The participating local authorities have been asked to identify areas in the main cities which might fall within the scope of the scheme. The scheme was extended to other cities in Finance (No.2) Act 2013.

It is understood that an application for EU State Aid approval was submitted on 27th March 2014 and the outcome of this application is awaited. The areas to be designated will not be announced until approval has been received.

Consideration should be given to extending this scheme to investors to encourage people to rent in city centres. There are many locations in cities which tenants would willingly reside in, being close to their place of employment and amenities and which would increase footfall for existing businesses. Moreover such an initiative would support sustainable development encouraging residential occupancy in areas which heretofore have been neglected.

Under the initiative as it is currently set out, residents will be able to claim tax relief for the cost of the refurbishment works in the relevant properties. This relief can be claimed at the rate of 10 per cent per year for 10 years against their income, but only for the years in which the house is the principal private residence of the person. If the property is sold within the 10 year period, entitlement to the relief stops and the new owner will not be entitled to claim any relief.

According to information on the initiative, where the size of some houses is regarded as being too big for the average family, the approach to be adopted is to divide larger houses into smaller units. There will be minimum sizes placed on these units to ensure that an acceptable living space is provided. In such instances, these properties would be suitable for rented accommodation.

This incentive is limited to cities, being the areas where letting supply is limited, and the extension to landlords should allow for both increased investment in the sector and should also assist in improvement of quality and standards.

Thus it is envisaged that this measure would

- Focus on the same five cities as the LCI for owner occupiers, and where rising rents are most prevalent.

- Focus on the existing rental stock in those five cities and also enable more stock to be converted into rental use.
- Allow for the conversion into dwellings from other uses.
- Be time limited to a five year qualifying period.
- A claw back period of 10 years might apply where the property is sold or taken out of private rental use.

It is considered that the extension of this incentive scheme on a time limited and targeted basis should not create distortions in the property market and would not amount to the reintroduction of property incentives on a general basis.

Option 11: Reduce commercial rates for residential units above commercial premises.

A related measure, intended to ensure an efficient use of vacant stock, is the recommendation in *Construction 2020*²²⁹ to consider removing incentives that existing arrangements for commercial rates may offer to owners to keep or render properties empty.

As set out in *Construction 2020*, an occupied commercial property is subject to commercial rates, and a habitable unoccupied property is subject to 50% of commercial rates. However, an uninhabitable unoccupied property is not liable for rates at all, which may incentivise a developer or owner to render a property uninhabitable - for example by removing a stairs or lift - rather than developing it.

Consideration should also be given to extending this consideration to residential units over a commercial property. This would see the owner paying lower rates if the unit is habitable or higher rates if the unit is uninhabitable. Unfortunately, there is no data on the number of vacant properties above commercial units, but Option 22 below should provide the opportunity to carry out an audit of the amount of such space in premises in urban areas, notably in Dublin.

Option 12: Reduce VAT on New Housing Construction from 13.5 per cent to 9 per cent for a limited period of 2 years.

The current debate around development viability concerns the lack of an appropriate rate of return to developers in delivering residential development projects. While this has to do with the cost of construction excluding the VAT payable by the end user, one solution would be to reduce the rate of VAT on new housing construction (as opposed to sale) from the current 13.5 per cent to 9 per cent for a limited period of time to generate lower house prices and thus encourage new residential development. EU rules may need to be considered in regard to this issue.

The expectation would be that the lower VAT rate of 9 per cent would generate a higher level of housebuilding as the lower house price would increase demand. However it is difficult to ascertain what the supply side impact would be. There is also the risk that the lower VAT rate might not be passed on by the housebuilder, thus increasing his profit margin. However, if the lower VAT rate was to apply for only a limited period, say two years, the impact is more likely to be that house prices would be lower than they would otherwise be, thus boosting demand. In this instance the response is likely to be an increased level of housebuilding.

The core benefit is the positive signal the measure sends to house builders and house buyers. The impact in terms of encouraging a higher level of housebuilding than would otherwise materialise is difficult to predict. But any additional units provided as a result of the reduced VAT rate would generate additional VAT plus there would be the additional income generated in terms of development levies and employment taxes by the increase in the construction workforce. There would also be further indirect and induced impacts through multiplier effects which would result in other economic benefits across the economy as a whole.

The next section deals with options arising from the review undertaken in this report of the regulatory environment and supply side initiatives in other jurisdictions.

11.3 PART B: REGULATION IN THE RENTED SECTOR

The review of the experiences in a number of other countries has been an important exercise for establishing the optimum solution for Ireland's private rented sector into the future.

²²⁹ Recommendation 22. <http://www.merriestreet.ie/wp-content/uploads/2014/05/Construction-Strategy-14-May-20141.pdf>

The key issues focus on:

- Security of tenure provisions and tenancy disputes;
- The financial crisis and the impact on the Buy-to-Let' sector;
- The widespread lack of awareness amongst both tenants and landlords about their respective rights and responsibilities;
- The standards of property and management in some parts of the sector;
- The increase in the number of families living in the sector for a range of reasons and the need to consider long term leases;
- The use of the private rented sector for those in need of social housing;
- Measures to promote an adequate supply of affordable rented accommodation;
- The role of letting agents in meeting the objectives for the sector.

Option 13: All professionals involved in the management and letting of rented residential property should be required to pass an online certificate examination in the residential rented sector.

The Residential Tenancies Act is acknowledged as being complex and difficult to understand. This raises issues for compliance, particularly when one considers that 84 per cent of landlords own only one or two properties. For example, consultations have suggested that landlords find it difficult to understand the legislation around issues such as the lawful termination of tenancies, tenants' entitlement to security of tenure for up to four years and the circumstances in which rent may be increased.

The complexity of the legislation is also an issue for Estate Agents, Letting Agents, Property Management Agents and other professionals involved in the management and letting of rented property. It was brought to our attention, during the consultation process, that some of these players are not fully aware of their obligations under the Residential Tenancies Act, 2004. The RED C survey reported that 27 per cent of all landlords use property letting or property management agents. This figure increases to 38 per cent for landlords with more than one property. Thus such property services' providers have a very important role to play in the private rented sector. Consideration should therefore be given to making it compulsorily for such parties to be appropriately trained in the relevant legislation. Over say, a three to five year period, such persons should have to pass an online certification

examination in the RTA 2004 and any subsequent amendments to the legislation before offering such services to the public. This role could be assumed by the Property Services Regulatory Authority.

Option 14: Efforts to increase landlords' compliance with the registration process should be supported by greater communications between the main Government departments and agencies involved.

Comprehensive data on PRTB registrations is essential to ensure the sector can be adequately regulated and is fully compliant. Improved communications between all of the major stakeholders involved, notably the PRTB, Revenue and the Department of Social Protection, should result in increased compliance.

Registration and full compliance with the RTA 2004 should be a pre-condition for landlords benefitting from exchequer supported social renting schemes or from other tax breaks/incentives.

The registration and payment process on registration should be simplified to ensure greater compliance.

Option 15: Security of Tenure for further Part 4 tenancies

Security of tenure is concerned with the rights of the tenant to remain in their rented property and is a key factor in encouraging demand and the stability of the private rented sector. Equally important for security of tenure are lease lengths and the right to terminate the contract prematurely by either party. The review of other jurisdictions showed that many have indefinite leases while, in others, fixed term contracts tend to dominate, as is the case in Ireland.

Security of tenure can benefit both landlords and tenants. For the landlord there is the prospect of a stable revenue stream with long term tenancies plus there is the ability to adjust rent levels on an annual basis, in line with the RTA 2004. For tenants, a long term tenancy provides an element of certainty of long term residence which is likely to be particularly relevant for families with children. If the rented sector is to provide a viable and stable tenure choice for renters in the long term, security of tenure would appear to be one important mechanism for achieving this outcome. It is stressed, however, that any security of tenure provisions must also be balanced with other

elements, notably a timely and efficient dispute resolution process.

Thus consideration should be given to extending the security of tenure for further Part 4 tenancies such that it continues to apply in the first six months of the further Part 4 tenancy. This would result in a move from the arbitrary 4 year tenancy (or less) towards an indefinite tenancy arrangement which would be subject to the normal rent reviews. The landlord's ability to recover the property would remain subject to the conditions for termination of agreements (Section 6.1.3) as set out in the RTA 2004. Concerns were raised during the consultations that this extension of security of tenure indefinitely may discourage new investors coming into the market and limit supply. However, others maintained that such a measure would provide greater security of tenure for tenants and fit better with the ethos of long term tenancies in the not-for profit sector, which will come under the remit of the new RTB. The international literature also suggests that a stable rented sector can contribute to the overall stability of the housing market as a whole.

It must also be borne in mind that security of tenure alone will not eliminate economic evictions and in situations where tenants are unable to afford rent increases, security of tenure may be of limited use. For this reason it is essential that parallel measures are considered to bring new supply on stream to address the escalation in rents.

Option 16: Termination notice periods in further Part 4 tenancies should be increased on a pro rate basis.

The existing termination notice periods are set out in Table 6.1 and vary depending on the duration of the tenancy. Currently a landlord's notice period is capped at 112 days while a tenant must give a maximum of 56 days, unless there is a breach of obligations under the RTA by either party. From the review of other jurisdictions, the notice period ranges from 3 months to 9 months for landlords and from 1 month to 3 months for tenants, and in the majority of cases are linked to the duration of the tenancy.

Consideration should be given to increasing the notice of termination in excess of those currently set out for tenancies exceeding four years. The increase would be on a pro-rata basis for both landlords and tenants in line with the length of the tenancy and subject to caps of 224 days for

landlords and 112 days for tenants. For example, the notice period in any tenancy in excess of 8 years would be subject to 224 days for landlords and 112 days for tenants. Consideration should be given to allowing shorter notice periods for tenants, under certain circumstances.

This would be positive for families and long term renters who require stability in relation to their accommodation.

In regard to notice periods, concern was expressed over the lack of parity for landlords and tenants. Based on the review of the jurisdictions covered in this study, there was only one case, notably Sweden, which had parity of notice periods of 3 months. In all other jurisdictions studies the notice period for tenants was less than for landlords. In some cases, notably France, shorter notice period apply in certain circumstances for the tenants, such as job transfer or on age related health grounds.

Option 17: Increase resources of the PRTB to ensure a timely dispute resolution process and regulate more effectively.

As noted, disputes between tenants and landlords can arise over many different issues including lease agreements, tenant/landlord rights, and responsibility for repairs to the property, rent, unlawful termination (illegal eviction) and more. During the consultation process, it was noted that the dispute resolution process operated by the PRTB can take an excessively long time. For instance, in the event of a tenant not paying rent, the landlord is required to give a 14 day warning notice for failure to pay rent, following which, a 28 day notice of termination must be given. The tenant may then opt to enter into dispute resolution with the PRTB which can take up to 3 months. Following the dispute resolution process the tenant is allowed 21 days to appeal after which it may go to a Tribunal often up to 3 months later. This can amount to an 8 month period during which the tenant is not paying rent. Moreover, in the event that an eviction is the outcome, a court order must be obtained which can extend the process further. Such a long process can have serious consequences for landlords particularly in cases of disputes which relate to rent arrears. In general, the processing time tends to be slower if the applicant does not have up to date contact details like the PPS number for the respondent party.

The legislation requires tribunal hearings to be in

public as a default position. There is also existing power to invite the parties to mediation (Section 93). However, the PRTB's new telephone mediation service for handling disputes can address them more quickly and effectively and tends to be highly successful in achieving mutually agreeable resolutions. Although processing times have come down considerably to 5 months in 2014 from 18 months in 2008, the adjudication process can take considerably longer, as set out above. Thus the options to address the issue are as follows:

- The resources of the PRTB are increased in order to ensure a timely dispute resolution process.
- Telephone mediation should be promoted with consideration of an online dispute negotiation /resolution process, as exists in other jurisdictions.
- Consideration should be given to the introduction of prescribed processing times (e.g. by Ministerial Order), although enabling legislation in the RTA may be required for this to be facilitated.

Arising from the consultations, further information should also be sought in disputes to assess if there is any evidence of discrimination.

Option 18: Consideration should be given to the enforcement of PRTB Determination Orders.

The courts are responsible for enforcing determination orders. Any debt collection arising is determined by the courts on a case by case basis. This has been noted as a time consuming exercise. In assisting with a more efficient debt collection process, consideration should be given to the use of compulsory deductions from wages or social welfare benefits, or to engaging the services of the Public Sector Debt Collection Working Group established by Minister Howlin in July 2014.

11.4 PART B: IMPROVING QUALITY OF THE RENTED STOCK

The issue of the quality of the rental housing stock was a common theme across the international literature reviewed for the purposes of this study. A number of options arise here to ensure the quality of the rented stock is improved in time.

Option 19: Enforce the responsibility of local authorities to carry out high quality inspections of rented properties.

As already noted, all landlords have a legal obligation to ensure that their rented properties comply with the Housing (Standards for Rented Houses) Regulations 2008 which were up-dated by the Housing (Standards for Rented Houses) Regulations 2009 and responsibility for the enforcement of the regulations rests with each local authority. The review of data on inspections by local authorities shows the total number has increased each year, with around 145,000 properties inspected since 2005²³⁰, of which an increasing proportion each year were found to be in breach of the regulatory standards. The average proportion across the State in 2013 was 46.9 per cent. However, 100 per cent of the 17 inspections carried out in Louth, for example, were in breach of the standards.

Accordingly two different options are considered to improve enforcement standards:

- i. Sufficient resources should be made available in local authorities to speed up the pace and quality of inspections by local authorities, prioritising those properties more likely to be in breach of the required standards. In this regard and acknowledging that the quality of inspections is also important, best practice for inspection regimes should be rolled out. A Working Group should be established in the short term to look at these issues in regard to inspections.
- ii. In time, consideration should be given to moving to a model where there is a responsibility on the landlord to produce a certificate of compliance every three years for a rented property to ensure a sustained improvement in the quality of the rented stock. As the onus is on the landlord to obtain the certificate, they may wish to do so more often such as at the start and end of a tenancy, thereby providing them with additional information in the event of a dispute, particularly relating to deposit retention. The certificate of compliance should incorporate a scoring system which scores the full list of items covered in the housing regulations and generates a standards rating similar to the NCT system for car-owners at present. Such a system would comprise valuable information for landlords and tenants in the setting of rents. It is interesting to note that in the Netherlands a points system is used to set rents which takes account of, amongst other things, the quality of the dwelling (size, facilities, type of heating etc.). The landlord would pay the charge to a qualified inspector.

²³⁰ Data from the DECLG for period 2005-2013.

Option 20: Extend the Home Renovation Scheme to the private rented sector

The Finance (No 2) Act 2013 provided for a Home Renovation Incentive (HRI) Scheme, which is effective from 25 October 2013 to 31 December 2015. The Incentive provides for tax relief for homeowners only, by way of an income tax credit at 13.5 per cent of qualifying expenditure on repair, renovation or improvement works carried out on a main home by qualifying contractors. Qualifying expenditure is expenditure subject to the 13.5 per cent VAT rate. The works must cost a minimum of €4,405 (before VAT), which will attract a credit of €595, up to a maximum of €30,000 (before VAT), where a maximum credit of €4,050 applies. The credit is payable over the two years following the year in which the work is carried out and paid for. HRI tax credits commence in 2015.

Under the existing HRI scheme, homeowners must be Local Property Tax and Household Charge compliant in order to qualify under the Incentive. Contractors must be VAT and RCT registered and tax compliant in order to qualify to carry out works under the HRI. The Incentive is administered through Revenue HRI online.

The RED C Survey reported that the main issue experienced by estate agents in their dealings with tenants is that tenants want landlords to make improvements to their properties. A total of 80 per cent of all estate agents (and over 80 per cent of respondents in Dublin) agreed with this statement. Thus consideration should be given to extending the HRI scheme to the rented sector for a fixed time period of two years subject to

- ✓ The same qualifying levels of expenditure as for the existing HRI scheme for homeowners.
- ✓ The relief would not be taxable but would be disregarded in relation to any claims for relief for capital expenditure (capital allowances/CGT relief).
- ✓ Landlords must be registered with the PRTB and be fully tax compliant (for income tax and LPT purposes).

The extension of the scheme should assist to improve the quality of the private rented stock, which should improve the number of dwellings meeting the minimum standards for inspections.

Option 21: Enforce the legal requirement for a property to have a BER rating in order to be advertised for rent.

Part 3 Section 12 of the European Union (Energy Performance of Buildings) Regulations 2012²³¹ states that a person who offers a new or existing dwelling for sale or rent by an agent acting on behalf of such person in connection with such offering shall ensure that the energy performance indicator of the current BER certificate for the dwelling is stated in any advertisements relating to the sale or letting of the building. It is evident from a review of a number of online renting websites that currently a large proportion of properties advertised for rent do not have a BER. The regulations set out the powers of authorised officers to enforce these regulations and the associated penalties for any breach of the regulations. In an effort to improve the quality of the housing stock and increase the information for tenants in their search for rented property, enforcement of this requirement should be stepped up.

Option 22: Undertake a House Condition Survey every two years.

The quality of the housing stock, irrespective of tenure, is an issue which is becoming increasingly important for housing planners, government departments, agencies and a range of private sector interests. The growing emphasis on the energy efficiency of homes, building standards and building regulations as well as on the policy objective to achieve a more balance housing sector requires some mechanism to monitor progress in relation to the condition of the housing stock.

In the past local authorities conducted national house conditions surveys which were based on judgements of survey staff regarding the general condition of the accommodation. Two such surveys were undertaken in 1981 and 1991. A subsequent centralised survey was undertaken by the ESRI for the DECLG in 2001-2002 which obtained detailed information from a sample of over 40,000 householders on characteristics and problems of the dwelling and on the household members. No survey has been undertaken since.

A house condition survey can provide a wealth of information on all tenures and types of housing, including owner occupied, private and social rented housing as well as vacant dwellings, and urban and rural properties. It can provide an

²³¹ S.I. No 243 of 2012
<http://www.irishstatutebook.ie/pdf/2012/en.si.2012.0243.pdf>

opportunity to ascertain other information from residents about their dwellings, such as satisfaction with aspects of their dwelling, accessibility to amenities, any major/minor works carried out on improvements of their dwellings as well as other issues, such as, for example, affordability, in terms of rent and mortgage payments.

In the RED C survey 48 per cent of tenants stated that they were happy with the condition of their property but the figure was significantly lower at 36 per cent for lower socio-economic occupational groups. Also in regard to the most common issues that estate agents deal with for tenants, 80 per cent stated that tenants want the landlord to make improvements to the property.

It is proposed that the Housing Agency in conjunction with the DECLG undertake a house conditions survey every two years to provide up to date information on the quality of the housing stock across different forms of tenure and property types. Such a survey would provide an opportunity to undertake an audit of the amount of vacant buildings over commercial premises in urban areas, notably in Dublin. This, if available, would go a considerable way towards addressing the supply problem in the short term, particularly if used in conjunction with Option 11.

Option 23: Provide low cost funding to Investors to build rented housing for low income tenants not in receipt of income support schemes, in return for which they charge a lower rent for the period during which they pay back the loan.

This option is similar to the system which prevails in France whereby the building of housing for social purposes is supported by the State by providing low cost finance to private developers towards the cost of building these units²³². In return, the investor must agree to provide the accommodation to lower earning tenants at a rent which is below the market rent for the period of the loan. At the end of the period, the units can be let by the private investor at market rates.

The option here would envisage government/ local authorities providing funding to developers to build rented housing for low income tenants not in receipt of income support schemes, in return for which they charge a lower rent to the tenant.

Option 24: Consideration should be given to reviewing the development plan standards for the provision of student accommodation to ensure they are suited for that specific accommodation type.

The difficulty of sourcing accommodation for students is an annual problem which reflects the lack of suitable and affordable accommodation for student in the right locations within easy distances from third-level institutions. Students end up taking accommodation that would otherwise be available to other tenants and the result is increased competition and rents for suitable accommodation.

Addressing this issue was the rationale for the introduction of 'section 50' relief. This relief was removed in 2008 (following changes to the Finance Act 2006). This relief was effective in delivering student accommodation to the university sector primarily, particularly where units were built under public/ private arrangements with the involvement of the university sector, but the structure of the incentive scheme led to significant investment by individual investors in off-campus developments, that were not in many cases well managed, for tax shelter purposes. The scheme in this regard permitted student accommodation to be located 8km off-campus and this resulted in accommodation being located in unsuitable locations. The management requirements were such that the standards of management of such developments varied greatly. As such, whilst the motivation behind the scheme was good, the structure led to the scheme being viewed as a tax driven product and has resulted in some instances of badly situated and managed properties. This could possibly have been avoided if specialist student accommodation providers had been charged with the building and management of this stock on-campus or at locations immediately off-campus.

The reintroduction of such an incentive scheme is not being reconsidered here. However, consultations suggest that two issues are constraining the supply of new student accommodation. Firstly, it is not recognised as a specific property type in itself and as such it must meet the development plan standards for residential accommodation which may not be suited to student accommodation (e.g. car parking requirements). The second issue concerns that inability to reclaim VAT for student accommodation projects which adds to the cost of development.

²³² WoBindG legislation – this is federal legislation but the Länder have flexibility in administration of the scheme.

Consideration should thus be given to reviewing the development plan standards for the provision of student accommodation. This should be capable of being achieved without lowering standards and would meet a specific market niche (e.g. apartments for single persons). This would assist with incentivising investment in the sector by specialist providers of student accommodation, in the same way as is prevalent in England.

Option 25: Ensure a level playing field for landlords with respect to tax treatment.

As can be seen from the taxation section of this report, differences in the tax treatment of landlords in the residential and commercial property sectors have opened up through legislative changes since 2008.

The main changes are in the interest relief restriction for residential properties and the introduction of LPT and the lack of tax deduction. These changes have opened up a considerable disadvantage for investment in the residential investment sector when compared with the commercial property sector. The latter is much more attractive from a fiscal perspective for investment.

Whilst cash buyers and REITs will assist with supply, international comparisons indicate that these two classes of investor can only fill a minority of the supply needs for the sector. Leveraged investment in the sector will be required to assist with the introduction of meaningful supply.

Based on the RED C survey, 29 per cent of current investors in the sector wish to exit the sector as soon as circumstances permit. It is possible that certain of the investors may be basing this decision on fiscal changes. Irrespective, if the survey results hold, there is a risk to current supply if such exits occur and do not result in the properties being returned to the rental sector.

To assist therefore with the maintenance of existing stock and the bringing forward of new supply, consideration should be given to removing the distortions that have opened up between the commercial and rented sectors as soon as budgetary constraints permit. Specifically the reference is to the restoration of 100 per cent interest relief on borrowings and the deduction of LPT for tax purposes.

Option 26: Professionalise the Sector

Almost 83 per cent of landlords in the private rented sector have two or less dwellings for rent. Thus most of the stock is owned by individual investors who do not see themselves as landlords but are employed in other occupations. This can create a number of problems, including access to funding for maintenance and refurbishment, a build up of buy to let mortgage arrears (as exists currently), quality problems, a lack of market knowledge and limited commitment to the sector. There has been some progress towards professionalising the sector, with the emergence of large scale institutional investors, including REITs, in the residential rented sector.

Whilst REITs cannot fill the supply shortage themselves, consultations indicate that the shortage of suitable accommodation for purchase is a practical limitation on supply being increased by investment from REITs.

At present, REITs can only obtain exemption from property related income.

To assist with supply, it is felt that the tax exemption for REITs should be extended to income arising from the financing of investment by third parties in the residential sector to build and construct units that will be held by the REIT or third parties for rental purposes. This extension of the exemption would be limited to income from finance for these purposes and would not extend to finance advanced for the purchase of existing stock.

Option 27: Introduce an incentivised multi-annual housing development programme for the not for profit sector over three to five years.

The crisis in social housing also reflect the lack of new building due to fiscal consolidation measures just under 6,000 new social housing units were provided by local authorities in the period 2009-2013. Adding the further 4,400 units provided by approved housing bodies, generates a total of around 10,000 new public sector units in the five year period compared with almost 30,000 in the preceding five year period. With an estimated 98,318 household on the social housing lists (although actual need is closer to 40,000) and some 32 families becoming homeless each month, there is need for a strong and well developed social housing sector to cater for those who are unable to meet their own housing needs. While the recent initiatives in Budget 2015 are welcomed, it is hoped that the soon to be

published Social Housing Strategy will provide for a sustainable and strong social housing sector which is adequately financed to meet the needs of those who are not in a position to cater for their own housing needs.

Consideration should be given to putting in place a defined multi-annual housing development programme for not for profit housing associations over a 3-5 year period which would provide certainty as to their funding allocations under CAS and CALF and set specific housing targets. This programme should be co-ordinated centrally through a dedicated unit. A clear funding strategy for the non-profit sector should explore all options using CAS and CALF to ensure it can play its role in addressing the shortage of social housing supply.

Option 28: The potential role for cost rental should be evaluated.

The development of cost rental is more likely to be a longer term solution for the lower end of the market and could potentially facilitate a wider role for AHBs. Such a system should be fully examined and the potential role for and impact of cost rental in developing mixed tenure communities should be evaluated in an Irish context.

Summary

The 2011 Housing Policy Statement provides a commitment to making the private rented sector a stable and attractive housing option for all who wish to rent in the short and long terms. This report, together with the Rent Stability report, sets out options to promote a positive image for the sector in the next five years and beyond. This must involve changing the perception that renting is only seen as a transition to home ownership. The options cover a range of regulatory and taxation issues which the authors feel strongly should be taken on board to address the sustainability of the private rented sector in the long term. In time an appropriately regulated private rented sector providing good quality affordable accommodation should become firmly embedded alongside the other channels of housing provision, notably local authorities, the not for profit voluntary sector and the private owner occupied sector.

OPTIONS	SUMMARY OF OPTIONS	TIMELINE
RENT AFFORDABILITY		
<p>REVIEW OF RENTS</p> <p>d) Extend notice period for rent increase to 3 months</p> <p>e) Landlord should provide details of three comparable properties to justify rent increase where possible</p> <p>f) Due weight to PRTB data in disputes</p>	<ul style="list-style-type: none"> ▪ Allows the tenant more time to assess the market. ▪ Allows the tenant more time to collate information and data if they wish to seek a review. ▪ Potential destabilising effect on security of tenure of facing notice of a rent review after 9 months rather than 11 months. ▪ Seeks to ensure that landlords do not attempt to increase rent based purely on trends in the market. ▪ Allows consideration of the quality of accommodation on offer. ▪ Useful in rural areas, where there is likely to be a lack of suitable information available from the PRTB. ▪ May dampen rent increases as other sources, notably, asking rents are higher than the average market rent. ▪ May not be possible in certain locations. ▪ No impact on the level of rent sought. 	Short Term
<p>PROVISION OF MARKET INFORMATION</p> <p>d) Increase data gathered from PRTB registration process</p> <p>e) Quarterly rental publication plus online mapping tool.</p> <p>f) Increase awareness of PRTB, rents, rights and obligations.</p>	<ul style="list-style-type: none"> ▪ Greater awareness of rents and quality of accommodation (BER ratings, age of building) may allow tenants to successfully challenge rent increases. ▪ Greater awareness of rents may allow tenants to successfully challenge rent increases if they are excessive. ▪ Greater awareness of rights may allow tenants to successfully challenge rent increases. ▪ A more educated tenant which may result in more disputes ruling in favour of the tenant. ▪ Increased awareness may lead to more rent review disputes by tenants. 	Short Term
<p>INTRODUCE RENT CERTAINTY LEASE</p>	<ul style="list-style-type: none"> ▪ Rent certainty. ▪ Voluntary arrangement between tenant and landlord. ▪ Less voids for landlord. ▪ Security of tenure - assists long term renters. ▪ Information needs to be publicised. ▪ May reduce mobility in the sector. ▪ Two potential incentive options: <ul style="list-style-type: none"> ○ Provide 100 per cent interest relief on borrowings for landlords; ○ Disregard 20 per cent of rental income for tax purposes. 	Short/Medium Term
<p>RENT SUPPLEMENT</p> <p>d) Review Rent Supplement limits in line with market rents based on market share.</p> <p>e) Review Rent Supplement rent limits every 12 months</p>	<ul style="list-style-type: none"> ▪ Aims to provide a market share of properties. ▪ Reduces risk of homelessness. ▪ RS generally seen as a pricing floor by landlords. ▪ Will increase the overall average market rent. ▪ Aims to ensure rents move in line with the market. ▪ Consistent with the Residential Tenancies Act 2004. 	Short Term

f) Extend the Interim Tenancy Sustainment Protocol (ITSP)	<ul style="list-style-type: none"> ▪ Increases security of tenure for tenants. ▪ Will reduce homelessness. ▪ Aligned with Section 38 of the DSP Social Welfare Regulations 2007. 	
INTEREST RELIEF FOR RENT SUPPLEMENT/HAP TENANCIES	<ul style="list-style-type: none"> ▪ 100% Interest Relief on borrowings for landlords letting for minimum of 5 years to Rent Supplement/HAP tenant. ▪ Unavailable to landlords who have no borrowings. ▪ May distort market in favour of HAP tenants. 	Short Term
CGT TAX RELIEF FOR RENT SUPPLEMENT/HAP TENANCIES	<ul style="list-style-type: none"> ▪ CGT relief for landlords where letting for minimum of 5 years to Rent Supplement/HAP tenants – Relief will be for time of letting to tenant – not absolute exemption. ▪ Provides incentive to let to HAP tenants. ▪ May not have perceived benefit for landlords who bought since 2004 due to property price deflation. 	Short Term
TENANT'S TAX RELIEF FOR LOW INCOME TENANTS	<ul style="list-style-type: none"> ▪ Freeze removal of tenant's tax relief for low income tenants at 2013 levels to 2017. ▪ Provides small measure of relief to low income tenants who are suffering rent increases. ▪ May have little real impact on affordability as worth €200 to €400 per annum – higher for individuals over 55. 	Short Term
REGULATION IN THE PRIVATE RENTED SECTOR		
INCREASE KNOWLEDGE OF RESIDENTIAL TENANCY ACT- ONLINE CERTIFICATION FOR PROFESSIONALS	<ul style="list-style-type: none"> ▪ Professionals involved in the management and letting of residential property should be required to pass an online certificate examination in the rented sector. ▪ Increases understanding and thus compliance with the RTA. ▪ Will professionalise the sector. ▪ Could potentially reduce disputes. ▪ Requirement would introduce a need to have objective and reviewable procedures. ▪ There is likely to be a cost associated with implementing such a measure. ▪ Failure, if linked to licensing of the agent, may impact on his or her livelihood. 	Short Term
INCREASE COMPLIANCE WITH THE PRTB REGISTRATION PROCESS	<ul style="list-style-type: none"> ▪ Increased communication between PRTB, Revenue and DSP to assist compliance. 	Short Term
EXTEND SECURITY OF TENURE FOR FURTHER PART 4 TENANCIES	<ul style="list-style-type: none"> ▪ Extend security of tenure to the first six months of the further Part 4 Tenancy. ▪ Moves from arbitrary 4 year tenancy to an indefinite tenancy arrangement. ▪ Increases security of tenure for long term renters. ▪ Stable revenue stream for landlords. 	
INCREASE TERMINATION NOTICE PERIODS FOR FURTHER PART 4 TENANCIES ON A PRO RATA BASIS	<ul style="list-style-type: none"> ▪ Extend notice period on a pro-rata basis in line with the length of the tenancy. ▪ Subject to caps of 224 days for landlords and 112 days for tenants. ▪ Shorter notice period may apply in certain circumstances for tenants. 	Short Term

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INCREASE RESOURCES OF THE PRTB	<ul style="list-style-type: none"> ▪ To generate a more efficient dispute resolution process. ▪ Telephone mediation should be promoted with consideration of an online dispute negotiation /resolution process. ▪ Consideration should be given to the introduction of prescribed processing times although enabling legislation in the RTA may be required for prescribed processing times. ▪ Further information should also be sought in regard to the nationality of tenants bringing disputes to the PRTB. ▪ Assists other organisations in addressing issues of discrimination within the PRS and wider society. 	Short Term
ENFORCEMENT OF PRTB DETERMINATION ORDERS BY COURTS	<ul style="list-style-type: none"> ▪ In assisting with a more efficient debt collection process by the courts, consideration should be given to the use of compulsory deductions from wages or social welfare benefits, or to engaging the services of the Public Sector Debt Collection Working Group. 	Medium Term
IMPROVING QUALITY OF THE EXISTING STOCK		
ENFORCE THE RESPONSIBILITY OF LOCAL AUTHORITIES TO CARRY OUT HIGH QUALITY INSPECTIONS OF RENTED PROPERTIES	<ul style="list-style-type: none"> i. Speed up the pace and quality of inspections by local authorities, prioritising properties at risk. ii. Enforce the legal obligation on landlords in regard to minimum standards and issue a certificate of compliance with minimum standards every 3 years. <ul style="list-style-type: none"> ▪ Ensures compliance with the Housing (Standards for Rented Houses) Regulations 2008. ▪ Ensures a sustained improvement in the quality of the rented stock. 	Medium Term
EXTENDING THE HOME RENOVATION SCHEME TO THE RENTED SECTOR FOR A PERIOD OF TWO YEARS	<ul style="list-style-type: none"> ▪ Extend the scheme to the rented sector for a period of two years. ▪ Assists to improve the quality of the private rented stock. ▪ Improves the number of dwellings meeting the minimum standards for inspections. 	Medium Term
ENFORCE BER REQUIREMENT	<ul style="list-style-type: none"> ▪ Enforce the legal requirement for a property to have a BER rating in order to be advertised for rent. ▪ Improves the quality of the housing stock. ▪ Increases the information for tenants. 	Short Term
HOUSE CONDITION SURVEY	<ul style="list-style-type: none"> ▪ The Housing Agency in conjunction with the DECLG to undertake a house conditions survey every two years. ▪ Provides a wealth of information on all tenures and types of housing. ▪ Opportunity to ascertain other information from residents about their dwellings. 	Short Term
PROTECTING EXISTING STOCK		
CODE OF CONDUCT ON BUY TO LET MORTGAGE ARREARS:	<ul style="list-style-type: none"> ▪ Set out the rules of engagement between the lender and the landlord and tenant. ▪ Fully adhere to the requirement of the Residential Tenancies Act 2004. ▪ Ensures that the requirements of landlord and tenant law become an explicit consideration in the receivership and repossession processes. ▪ Safeguards the private rented sector from volatility arising from a higher scale of repossessions and receiverships. ▪ Legislative implications of option. 	Short Term

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IMPROVE AWARENESS OF THE RENT A ROOM SCHEME	<ul style="list-style-type: none"> ▪ The scheme should be publicised via an advertising campaign. ▪ Incentivises use of space in existing properties in the short term until the supply side is addressed. 	
PROMOTING INVESTMENT AND SUPPLY		
EXTENSION OF LIVING CITY INITIATIVE TO LANDLORDS	<ul style="list-style-type: none"> ▪ Areas covered by relief are perhaps very suitable for provision of rental residential accommodation. ▪ Extension of relief to investors into sector may allow for access to existing disused stock that is not compliant with housing regulations. ▪ Focus is on cities where there is a shortage of supply. ▪ Allows conversion of non-residential dwellings into residential uses. ▪ EU State aid approval required – this is ongoing for existing scheme. 	Medium Term
REDUCE COMMERCIAL RATES FOR RESIDENTIAL UNITS ABOVE COMMERCIAL PREMISES	<ul style="list-style-type: none"> ▪ Encourages use of overhead premises for residential purposes. ▪ Focus would be on cities where there is a shortage of supply. ▪ State Aid issues. 	Short Term
REDUCE VAT ON NEW HOUSING CONSTRUCTION	<ul style="list-style-type: none"> ▪ Reduce VAT on new housing construction as opposed to sale from 13.5% to 9% for a 2 year period. ▪ Time limitation to provide incentive to increase supply. ▪ This form of incentive has shown to be successful in hospitality sector. ▪ EU rules to be considered – may not be possible. ▪ Supply side measure like this may be undermined by lack of bank funding for investors/ lack of investor appetite. 	Short Term
FUNDING TO INVESTORS TO BUILD RENTED HOUSING FOR LOW INCOME TENANTS	<ul style="list-style-type: none"> ▪ Provide low cost funding to investors to build rented housing for low income tenants. ▪ Should promote new supply for low income households. 	Medium Term
REVIEW THE DEVELOPMENT PLAN STANDARDS FOR THE PROVISION OF STUDENT ACCOMMODATION	<ul style="list-style-type: none"> ▪ Assist with incentivising investment in the sector by specialist providers of student accommodation. ▪ Student Accommodation should be recognised as a specific property type. 	Medium Term
TAX TREATMENT OF LANDLORDS	<ul style="list-style-type: none"> ▪ Ensure a level playing field for landlords with respect to tax treatment; specifically restoration of 100 per cent interest relief on borrowings and deduction of LPT for tax purposes. 	Long Term
PROFESSIONALISE THE SECTOR	<ul style="list-style-type: none"> ▪ Tax exemption for REITs should be extended to income arising from the financing of investment by third parties in the residential sector, to build and construct units that will be held by the REIT or third parties for rental purposes. 	Long Term
MULTI-ANNUAL HOUSING DEVELOPMENT PROGRAMME FOR THE NOT FOR PROFIT SECTOR	<ul style="list-style-type: none"> ▪ Incentivise multi-annual housing development programme for the not for profit sector. ▪ Should promote new supply. 	Long Term
POTENTIAL ROLE FOR COST RENTAL SHOULD BE EVALUATED.	<ul style="list-style-type: none"> ▪ The development of cost rental is more likely to be a longer term solution for the lower end of the market. 	Medium Term

APPENDICES



APPENDIX 1 SURVEY METHODOLOGY

Landlord Survey

The survey of landlords was conducted by RED C as a telephone Survey (CATI – Computer Aided Telephone Interviewing). Respondents were sourced using a database of registered landlords provided by the PRTB. Using the RED C CATI centre in Dundalk, landlords were called on the phone number provided. All interviews were conducted by fully trained and supervised RED C telephone interviewers. A random selection of respondents was selected to ensure a completely representative sample. In total, 400 interviews were completed over the period of the 4th to 21st June 2014.

Tenant Survey

This survey was conducted online. RED C has an online panel of over 30,000 consumers who have signed up to participate in online surveys. This panel encompasses a broad cross-section of the population in terms of gender, age, social class and region so is broadly representative of the general adult population aged 18+. Information on housing tenure is held on all panellists, so it was possible to confine survey invitations to those who were known to be living in private rented accommodation. This equated to approx 6,000 out of a total panel of 30,000. Online interviews were conducted with a sample of 500 tenants from this panel. Invitations were sent randomly to every nth tenant on the panel, which ensured a representative sample. The survey was undertaken between May 13th and 19th 2014.

Estate Agent Survey

The Estate Agent telephone survey was conducted by RED C, of 100 estate agents. The purpose of the survey is to develop an understanding of estate agents views on the private rental sector (private rented sector). Respondents were sourced by creating a master database of all estate agents in the country from a combination of daft.ie and myhome.ie. Using the RED C CATI centre in Dundalk, estate agent offices were called during office hours and the interview was conducted with the most senior member of staff in the office at that time. All interviews were conducted by fully trained and supervised RED C telephone interviewers. The survey was undertaken between May 19th and 26th May 2014.

Social Class Classification

Higher managerial/ professional/ administrative (e.g. Established doctor, Solicitor, Board Director in a large organisation (200+ employees, top level civil servant/public service employee)	A
Intermediate managerial/ professional/ administrative (e.g. Newly qualified (under 3 years) doctor, Solicitor, Board director small organisation, middle manager in large organisation, principle officer in civil service/local government)	B
Supervisory or clerical/ junior managerial/ professional/ administrative (e.g. Office worker, Student Doctor, Foreman with 25+ employees, salesperson, etc) OR Student	C
Skilled manual worker (e.g. Skilled Bricklayer, Carpenter, Plumber, Painter, Bus/ Ambulance Driver, HGV driver, AA patrolman, pub/bar worker, etc)	D
Semi or unskilled manual work (e.g. Manual workers, all apprentices to be skilled trades, Caretaker, Park keeper, non-HGV driver, shop assistant)	D
Casual worker – not in permanent employment OR Housewife/ Homemaker OR Retired and living on state pension OR	E
Unemployed or not working due to long-term sickness OR Full-time carer of other household member Farmer / Agricultural worker	F

APPENDIX 2: STANDARDS FOR RENTED HOUSES

Since 1 February 2009, properties for rent must meet minimum physical standards²³³.

For each apartment, flat or house being rented as a separate unit, the landlord must ensure that the rental property is in a proper state of structural repair. The Regulations require the landlord to maintain the property in a sound state, inside and out. They specify that roofs, roofing tiles, slates, windows, floors, ceilings, walls, stairs, doors, skirting boards, fascias, tiles on any floor, ceiling and wall, gutters, down pipes, fittings, furnishings, gardens and common areas must be maintained in good condition and repair. They must not be defective due to dampness or otherwise. In addition:

- The landlord must ensure that electricity or gas supplies are safe and in good repair.
- All habitable rooms must have adequate ventilation.
- All habitable rooms must have adequate natural lighting and all rooms (including halls, stairs and landings) must have suitable artificial lighting. Windows in bathrooms/toilets must be adequately screened to ensure privacy.
- Smoke alarms must be provided. In the case of multi-unit dwellings, a mains-wired smoke alarm, a fire blanket, emergency lighting in common areas and an evacuation plan must be provided. Stand alone rental units must have a fire blanket and either a mains-wired smoke alarm or at least two 10-year battery-operated smoke alarms.
- Tenants must have access to pest and vermin-proof refuse storage facilities.
- Electricity and gas supply installations must be maintained in good repair and be safe. If necessary, there must be provision for the safe removal of fumes to the external air.
- In relation to food preparation and laundry facilities, all accommodation must have the following:
 - 4 ring hob with oven and grill
 - Cooker hood or extractor fan to remove fumes to the external air.
 - Fridge and freezer
 - Microwave oven
 - Sink with drainage area
 - Adequate number of cupboards for food storage
 - Washing machine or access to a communal washing machine
 - A dryer must be provided if the accommodation does not include exclusive use of a garden or yard area.

Responsibility for the enforcement of the regulations rests with the relevant local authority and it is a matter for each individual local authority to decide the specific details of its enforcement strategy and inspection arrangements.

²³³ S.I. No. 534 of 2008 Housing (Standards for Rented Houses) Regulations 2008 and S.I. No. 462 of 2009 Housing (Standards for Rented Houses) (Amendment) Regulations 2009.

APPENDIX 3: LIST OF CONSULTEES

Clúid Housing Association
Construction Industry Federation
Department of Finance
Department of Social Protection
Department of the Environment, Community and Local Government
DNG Gillespie Lowe
Focus Ireland
Fr Peter McVerry Trust
Hogan Estates
Immigrant Council of Ireland
IRES REIT
Irish Association of Investment Managers
Irish Council for Social Housing
Irish Landlord.com
Irish Property Owners Association
Lorcan Sirr - Dublin Institute of Technology
National Asset Management Agency
Property Industry Ireland
PRTB Board Members
REITS Forum - Bill Nowlan
Residential Landlords Association of Ireland
Revenue Commissioners
Society of Chartered Surveyors Ireland
Threshold
Threshold
Tom Dunne - Dublin Institute of Technology
A number of Financial Institutions

Membership of the Advisory Group as follows:

- Chair of Research Committee, Private Residential Tenancies Board
- Department of Finance
- Department of Public Expenditure and Reform
- Department of Social Protection
- Department of the Environment, Community and Local Government
- Housing Agency.
- Irish Council for Social Housing
- irishlandlord.com
- Private Residential Tenancies Board
- Threshold

APPENDIX 4: KEY ISSUES FROM CONSULTATIONS AND SUBMISSIONS

This study benefitted from submissions from a number of industry stakeholders. It is recognised that this is a complex market that plays a number of roles, with a variety of landlord and tenant types. The issues raised in these submissions and consultations can be grouped under the headings:

- Regulation
- Housing supply
- Professionalising the sector
- Taxation
- Other

The main issues are summarised under these headings below.

Regulation

- The discussion on regulation revolved mainly around the possible introduction of rent controls. The issues raised can be summarised as follows:
 - It is generally felt that the introduction of rent controls would disincentivise investment in the rental sector, reduce the quality standards of the rental housing stock and lead to deterioration in liquidity in the market as tenants hold on the lower-priced rental accommodation.
 - Rent controls, like any kind of price controls, tend to distort markets. Due to the supply issue in Dublin at present, the introduction of rent controls would have a negative impact that may fall disproportionately hardest on the very people it is trying to assist.
 - The value of large buy to let portfolios would be vastly diminished by the introduction of rent controls and the interest of foreign investors actively bidding for these assets would be affected. The acquisition of such portfolios is critical to the Irish property recovery.
 - The removal of market forces in determination of residential rents is seen as counterproductive and will result in greater difficulties for the private rented sector. The determination of residential rents should be left to market forces.
 - Opposition to rent controls is evident in academic literature and reviews from the EC and ECB.
 - Uncertainty about future legislation in the area of rent controls is likely to undermine investment activity in the sector at a time when it is needed most.
 - It is accepted that recent rent increases are the result of a supply issue and that increasing supply is the best way to alleviate the pressure driving up rents. However, during consultations it was highlighted that it will take up to three years for new supply to come on stream and have an impact. There were some calls for some form of rent controls to be put in place in the short-term to provide greater stability and certainty to both tenants and landlords in the meantime.
- More generally, it is important that the regulatory framework surrounding the private rental sector is put in place for the long-term and that it is not subject to policy reform merely to mitigate temporary problems.
- Certain stakeholders feel increased regulation in standards of housing for rental accommodation has led to the closing down of many houses that had provided budget accommodation.
- The length of time involved in the dispute resolution process and the lack of enforcement in relation to determination orders were highlighted as concerns on more than one occasion.
- There were concerns that the adoption of a Deposit Protection Scheme may be unnecessarily complex. However, its planned introduction was welcomed among other submissions as it will generate revenue and operational efficiencies for the State.
- There were concerns that the adoption of a Deposit Protection Scheme may be unnecessarily complex.

- The Residential Tenancies Acts 2004 and 2009 were described as onerous and complex in submissions. Regulations governing the sector can be difficult to interpret for both landlords and tenants.
- Among the submissions and consultations, there were calls for more inspections of accommodation and tougher enforcement procedures for non-compliance with standards regulations and non-registration with the PRTB.
- On the issue of non-registration with the PRTB, it was suggested that more could be done in tracking down landlords that have not registered. At the same time it is acknowledged that a certain percentage non-registered landlords may not be aware of such an obligation such is the prevalence of amateur landlords who manage their properties themselves.
- While the standards regulation was generally praised for raising the standard of accommodation in the sector there were some concerns that some standards may be too prescriptive and may be causing rent increases due to the costs that must be borne by the landlord.
- In terms of security of tenure, it was suggested that there may be opportunities to provide greater security through longer term leases.

Housing Supply

It was acknowledged among the submissions and the consultations that there is currently a supply issue in the private rental sector, particularly in Dublin and that this is fuelling rent increases. It is also generally accepted that increasing the supply of rental properties will relieve some of the upward pressure on rents. The major issues around the area of housing supply are as follows:

- Investment in property for rental purposes will only happen when a reasonable rate of return is achievable in respect of the investment. In addition to low housing completions in the years subsequent to the housing market crash, the fall in investment in the sector has been attributed to a number of factors that reduce the return on investment:
 - Capital Acquisitions Tax has been increased from 20 per cent to 33 per cent in recent years. This has resulted in rental properties being sold by a beneficiary in order to pay the CAT liabilities. It has been suggested that the bulk of these have gone into private residences thus reducing the stock of rental accommodation.
 - Landlords are under pressure to repay large loans with increasing variable rates. Income tax bills on properties where rental income does not cover loan repayments are resulting in landlords becoming insolvent and unable to pay liabilities. As a result, properties are being repossessed which is adding to the shortages in rental accommodation.
 - It is felt that capping mortgage interest relief at 75 per cent of interest costs has made investment in the sector less attractive.
 - Uncertainty over landlords' liability for water charges is seen as a hindrance to investment.
- It was generally agreed that actions to increase the supply of accommodation should be urgently addressed. It is believed that as the supply of new properties increases, the current pressure on rents will begin to improve.
- Institutional investors are unlikely to build new supply as they will be deterred by risks associated with construction. Economies of scale are important for the institutional investor and this may well be limiting the number of opportunities for such investors to enter the market.
- Institutional investors may be concerned with reputational risks associated with the private rented sector such as bad landlords and bad management.
- A range of measures involving finance funds for developers, vacant site levies and Local Authority partnerships were mentioned as possible incentives to encourage construction of new builds.

- The misalignment of rent supplement and market rents is seen as causing a shortage of supply for those who depend on the scheme. It was noted that rent supplement limits are not moving in tandem with the increases in market rents in many areas this severely limiting the potential accommodation options for those in need of rent supplement.

Professionalising the Sector

Among the submissions and consultations there were calls for the development of a more professional sector.

- The dependency of the sector on non-professional landlords was highlighted as a concern. This situation arose because of previous tax treatments for private individuals and the availability of buy to let mortgages. The current number of buy to let mortgages in arrears is impacting both landlords and tenants and is resulting in disputes relating to deposits, rights and responsibilities.
- It is felt that encouraging more institutional investors such as pension funds would facilitate the development of a more professional sector. Improving security of tenure emerged as a key issue during the consultations and could play a role in professionalising the sector and encouraging institutional investment.
- The importance of retaining individual investors is also recognised however. In a sector which has only corporate investors, investment would only take place in selected urban centres.
- There were calls for changes to the tax treatment of the sector to bring it more in line with mainstream businesses and encourage more professional landlords to enter the market. These are detailed in the section below.
- There is a need to increase awareness amongst both landlords and tenants of their rights and responsibilities.
- To meet the needs of a more professional sector the resources of the PRTB need to be increased.

Taxation

Taxation policy was signalled out as having contributed to the crisis which now exists in the sector. Therefore, any future tax policy decisions need to be well thought out. Some of the main issues raised by stakeholders are as follows:

- From 2015, local authorities will set the level of Property Tax. This is effectively seen as a rate among some stakeholders. As such, it is felt that it should be tax deductible as any rates charged by local authorities are deductible.
- Stakeholders felt that it was unfair that PRSI must be paid on rental income by landlords while they do not qualify for the benefits of PRSI payments are supposed to be used for such as social welfare entitlements.
- Targeted tax incentives could be used to encourage new developments to be used for rental accommodation in both the private and social rental sectors.
- There were calls to extend the 12.5 per cent rate of Corporation Tax to the sector.
- In addition to calls for the extension of the Corporation Tax rate to the sector, there were calls for a review of the requirement of landlords to pay tax on losses and the obligation to pay USC on rental income.
- High construction costs are identified as a barrier to investment in the private rental sector. At the moment, VAT on the construction costs of new rental accommodation is non refundable. It has been suggested that some provisions could be made in this area to incentivise investment.

Other

- Capital allowances are designed to provide a deduction for the cost of capital items over their useful life. This is perceived to be eight years and allowed on a straight-line basis. The reality is that items such as carpets, beds, cookers, washing machines, etc. only last three to four years.
- The subject of longer-term leases as per European norms with set rent review periods was raised. This could improve security of tenure and supply and could be encouraged by favourable tax treatment.
- Under Part 4 of the Residential Tenancies Act 2004, tenants have security of tenure of up to four years during which time the landlord can only reclaim the property under certain circumstances and the tenants acquires the right to longer notice periods should the landlord wish to terminate the tenancy. Concern was raised over the fact that tenants who stay in the accommodation for longer than four years do not acquire any additional security of tenure than those who stay for the four year period. A longer security of tenure period would provide greater protection to families.
- Issues relating to tenants' security of tenure in cases where the property has been placed into receivership. Receivers have been accused of treating tenants as illegal occupiers, trying to remove tenants without giving the appropriate notice and stating they have no obligation to the tenant while still collecting rent. An amendment to the relevant legislation to force receivers to take on landlords' responsibilities would act to mitigate this problem. A code of conduct for buy-to-let mortgage arrears such as the one in place for residential mortgage arrears would also clarify the rights and responsibilities of all stakeholders in a situation where a property is placed in receivership or reposessed.
- Concern was raised over the delay in the roll out of the Housing Assistance Payment scheme considering the need for it given the negative conditions that prevail in the market at present.
- Attention was drawn to issues with the rent supplement scheme within the submissions. In about 80 per cent of cases, supplement payments are made to tenants instead of landlords. As a result there is no direct relationship between the payee and the ultimate recipient. This system facilitates fraud where payments can go missing and never reach the landlord or where deposits are never returned. There have also been cases of illegal top-up payments where the landlords insist on extra cash from the tenant on top of the supplement amount.
- Resolving the BTL crisis is seen as important for the sector across a number of themes. Dealing with BTL sector has a role in protecting the existing stock of rental accommodation. The crisis has had a negative impact on the quality of accommodation as landlords in arrears do now have the resources to fully maintain their property.

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