

The Private Rented Sector: the Case for Regulation

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Introduction

In the past, those with good jobs and reasonable incomes in Ireland might have aspired to purchase a home. However, after a short few years of house price falls subsequent to the economic crash in 2008, the purchase price of houses has been escalating again, meaning that owning a home may now be impossible even for households that are relatively well-off. Therefore, they have no option but to rely on accommodation provided by private landlords.

At the same time, the dramatic increase in the numbers on social housing waiting lists (89,872 households in 2013¹), and the significant decline in local authority and voluntary housing association provision, mean that many poorer households are now entirely dependent on the private rented sector for accommodation. To support these households, the State paid out €372.9 million in Rent Supplement to private landlords in 2013 and €339.3 million in 2014.²

The result of the changes in tenure structure in Ireland is that the number of households living in private rented accommodation has increased significantly since 2006. The private rented sector now houses almost 305,400 households and 770,400 persons. There are about 182,800 landlords in the sector but 41,000 of these have not yet registered with the Private Residential Tenancies Board.

But even as private renting has come to play an increasingly significant role in providing housing, there is growing concern regarding many features of the sector. In a survey carried out in late 2014 by DKM Economic Consultants, only 17 per cent of respondents who were living in private rented accommodation stated that they were happy in the sector. The vast majority of tenants questioned (73 per cent) hoped to cease renting within the next two years, if at all possible. Some landlords also have significant difficulties. In particular, many buy-to-let landlords who purchased over-priced properties during the 'boom' are in mortgage arrears.³

From the point of view of tenants, three main

problems can be identified in the private rented sector. These are: increasing rents, insecurity of tenure and poor standards. These problems have persisted for many years and it is now essential that they be tackled as a matter of urgency.

Increasing Rents and International Investors

Significant increases in rent are now common, especially in the Dublin area. Those on high incomes are prepared to pay such rents, at least for a period but vulnerable families unable to afford large increases are being evicted on a regular basis. The available evidence also suggests that many single persons have to spend over 40 per cent of net income to secure even modest accommodation. This situation is unsustainable for both families and individuals.

The crash in 2008, the subsequent fall in property prices, and the establishment of NAMA whose functions involve the sale of a large number of residential investment properties, attracted a range of international property investors, sometimes called 'vulture funds', to Ireland. These have purchased and now control an increasing proportion of private residential accommodation. One international landlord, a real estate investment trust, having recently purchased about 2,000 apartments from NAMA at knockdown prices, expects to procure a further 5,000 in the foreseeable future.⁴

In the current context, where demand outstrips supply, some large-scale property investors, as well as private landlords with smaller numbers of properties, have been able to command rent increases of 20 per cent and more. Companies whose sole objective is income and profit maximisation cannot be relied on to provide affordable and secure homes for our people.

A Monopolistic Market

The private rental sector is regularly presented as if it were a 'free' or 'perfect' market with a large number of competing landlords offering accommodation and a similarly large number of tenants seeking it; one recent study seems to

suggest that this is the case in Ireland.⁵ If this were the case, the market forces of demand and supply would in due course determine the rent tenants would pay – ‘the market price’. Therefore, it is argued that no intervention by government is necessary. Elementary economics textbooks invariably illustrate the idea of a ‘perfect market’ with ‘perfect competition’ and the notion that a market price is determined by a large number of buyers and sellers in this way.

However, this theoretical situation is far removed from reality and the private rented sector is certainly not a ‘perfect market’. Rather, it is a good example of an ‘imperfect’ or ‘monopolistic-type’ market where there are large numbers of tenants seeking accommodation and a much smaller number of landlords offering accommodation. Tenants have little influence over rents, and landlords can dictate what rents will apply. Therefore, landlords can demand and secure rents well above what a theoretical ‘market price’ might be. This must be obvious to every tenant who ever waited in a queue to negotiate with a landlord.

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The Case for Rent Regulation

Government intervention and regulation is now widely accepted as essential in monopoly-type markets, and regulation and legislation are the norm throughout the world. In the case of the private rented sector, action has been taken in many countries to regulate rents.

Such ‘rent regulation’ should not be confused with ‘rent control’. The latter was a rigid form of first generation ‘rent ceiling’ or ‘rent freeze’ which existed in Ireland, Europe and the United States for the period from the first World War up to the 1970s. The persistently low rents inevitably led landlords to neglect their rented properties and if they managed to achieve vacant possession of properties they owned they would tend to dispose of them, thus reducing the supply of rented accommodation.⁶

A rent freeze of this kind was unreasonable and in 1981 was found to be unconstitutional in Ireland. However, this type of rent control is

now non-existent in Europe. Instead, second and third generation ‘rent regulation’ is the norm in countries such as Germany, France, Belgium, the Netherlands, Denmark and Sweden. While there are slight variations, this more modern rent regulation is much more flexible, allowing, for example, rent increases in line with inflation and taking into account additional costs involved in improving the quality of rented accommodation. Therefore, index-linked rent regulation need not be unfair to landlords or result in their exit from the sector, as is sometimes claimed. There is no good reason to delay further in introducing a fair system of rent regulation similar to that throughout Europe and Scandinavia.

Security of Tenure and Standards

The Private Residential Tenancies Act 2004, still in force, provided a modest improvement in leases for tenants. The Act specifies that a landlord can terminate a tenancy without giving a reason during the first six months but after that a tenancy would normally be secure for a further three and a half years. However, a landlord can terminate a tenancy during this latter period on the basis of a range of specified grounds, such as failure by the tenant to comply with his/her obligations under the tenancy, the proposed sale of the dwelling, the need for the landlord or a member of his/her family to occupy the dwelling, or the need for substantial refurbishment.

While the Act represents an improvement on the previous situation, these provisions would seem to provide relatively easy routes to securing an eviction where a landlord so wishes, such that the security of tenure afforded some tenants may be still notional. Moreover, at the end of each tenancy the occupant is once again subject to a six-month probationary period and therefore may be evicted relatively easily.

Security of tenure is thus a serious problem for tenants. While landlords must be protected against anti-social tenants as well as those who damage property or fail to pay due rents, it seems clear that the 2004 Private Residential Tenancies Act offers little security to tenants in comparison with the practice in other European countries.

The standard of private rented accommodation is also a cause of concern. Official regulations specify minimum standards in relation to structural repair, the provision of basic facilities such as sanitary facilities, heating, ventilation, light and

the safety of gas and electrical supply.⁷ Inspection of these standards is the responsibility of the local authorities, but there are variations in the extent to which local authorities carry out such inspections.⁸

The inspections that are undertaken show that considerable numbers of rented dwellings do not comply with specified minimum standards. Of a total of 17,849 dwellings inspected in 2013, almost half (47 per cent) did not meet these standards. In some local authority areas there were particularly high rates of failure to meet minimum requirements – in the case of Fingal, Galway, Cork and Sligo the proportions in breach of regulations were 84 per cent, 83 per cent, 77 per cent and 76 per cent respectively. Limerick and Cork cities likewise gave cause for concern – 74 per cent and 60 per cent respectively not meeting standards. These sorts of breaches are unacceptable and suggest that the private rented sector is in need of significant reform.

It should not be concluded from the above that landlords are always to blame for the difficulties in the private rented sector. This is not the case and there are many responsible and decent landlords who treat tenants with courtesy and respect. On the other hand, there is abundant evidence to suggest that some tenants fail to pay agreed rents over extended periods and plead inability to pay even when the Private Residential Tenancies Board becomes involved. Some tenants also do significant damage to properties and landlords have difficulty in being compensated, even after a Court hearing. The problem is not all one-sided.

Conclusion

The private rented sector can play a key role in providing accommodation for those who do not aspire to own their homes or who cannot obtain a local authority home. Well-off tenants can afford to secure good accommodation in the private rented sector but poorer tenants are at a considerable disadvantage. Due to the decline in local authority provision, successive Irish governments have placed considerable reliance on this sector to provide social housing and have spent more than €5.6 billion for this purpose over the past sixteen years.⁹ In the light of the problems outlined above, this reliance is unwise and costly and needs to be revisited urgently.

The commitment in the Social Housing Strategy (November 2014) to re-invigorate the direct provision of public housing by local authorities,

with the building of 35,000 units over the next five years, is to be warmly welcomed.¹⁰ However, reliance on the private rented sector to provide a further 75,000 homes for households qualifying for social housing should be reviewed. The key question all of us must ask and answer is whether the private rented sector is ‘fit for purpose’. Without adequate regulation applicable to both landlords and tenants this is most unlikely.

The private rented sector on its own will not resolve the significant housing problems the country faces. However, this sector, properly regulated, could act as a good substitute for home-ownership. If the sector had regulated rents, good standards and medium to long-term security of tenure, many could postpone home-ownership for a time, or indefinitely. This would have the effect of dampening down prices for owner-occupied homes.



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Similarly, we need a good public rental housing system which gives priority to vulnerable tenants, but also provides for a broader category of relatively well-off renters who could pay an economic but regulated rent. I would call this ‘community housing’. With a long-term mortgage taken out by an existing government agency and thus off the State’s balance sheet, ‘community housing’, properly managed, could be financially viable and self-sustaining. Together with a good private rental sector, it would again postpone the struggle to purchase a home and even provide an alternative to home-ownership.

These linkages between the different housing sectors are critical. If we simply tinker about with individual parts of the system without recognising the implications for other sectors, we will continue to have a housing crisis for many years to come.

Notes

1. Housing Agency, *Summary of Social Housing Assessments 2013, Key Findings*, Dublin: The Housing Agency, December 2013, Table A1.1: Net Household Need 1993–2013, p. 7. (<http://www.environ.ie/en/PublicationsDocuments/FileDownload,34857,en.pdf>)
2. Department of Social Protection, *Maximum Rent Limit Analysis and Findings*, Report, February 2015, Appendix 3, p. 45. <http://www.welfare.ie/en/downloads/Maximum%20Rent%20Limit%20Analysis%20and%20Findings%20Report%20February%202015.pdf>
3. Data from the Central Bank show that, in the final quarter of 2014, there were 35,583 mortgages on buy-to-let properties in arrears (25.2 per cent of all such mortgages). Of these accounts, 22,201 were in arrears for 361 days or more (62 per cent of all buy-to-let accounts in arrears) and 15,386 were in arrears for over 720 days (43 per cent). See: Central Bank of Ireland, *Residential Mortgage Arrears and Repossessions Statistics: Q4 2014*, Statistical Release, Dublin, 6 March 2015, pp 8–10.
4. 'How the Canadians became the State's Biggest Landlords', *The Sunday Business Post*, 29 March 2015.
5. DKM Economic Consultants, *Rent Stability in the Private Rented Sector*, Final Report, Prepared for the Housing Agency on behalf of the Private Residential Tenancies Board, Dublin, 2014.
6. P.J. Drudy and Michael Punch, *Out of Reach: Inequalities in the Irish Housing System*, Dublin: TASC at New Island, 2005.
7. The Statutory Instruments, *Housing (Standards for Rented Houses) Regulations 2008* (S.I. 534/2008), and *Housing (Standards for Rented Houses) Regulations 2009* (S.I. 462/2009), specify requirements in relation to a range of matters in rented accommodation, such as structural repair, sanitary facilities, heating, ventilation, light and the safety of gas and electricity supply. See: website of Department of the Environment, Community and Local Government, 'Minimum Standards in Rented Housing', (<http://www.environ.ie/en/DevelopmentHousing/Housing/PrivateRentedHousing/#Rented>).
8. *Threshold Pre-Budget Submission 2015 to Department of Finance*, Dublin, June 2014. (http://www.threshold.ie/download/pdf/threshold_prebudget_submission_2015_to_dept_of_finance_june_2014.pdf)
9. Department of Social Protection, *Maximum Rent Limit Analysis and Findings*, Report, February 2015, Appendix 3, p. 45
10. Department of the Environment, Community and Local Government, *Social Housing Strategy 2020: Support, Supply and Reform*, Dublin, November 2014. (<http://www.environ.ie/en/Publications/DevelopmentandHousing/Housing/FileDownload,39622,en.pdf>)

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