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*Number 17 of 2021*

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**Residential Tenancies (No. 2) Act 2021**

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**RESIDENTIAL TENANCIES (NO. 2) ACT 2021**

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[No. 17.]

*Residential Tenancies (No. 2) Act 2021.*

[2021.]

ACTS REFERRED TO

Planning and Development, and Residential Tenancies, Act 2020 (No. 27)

Residential Tenancies (Amendment) Act 2019 (No. 14)

Residential Tenancies Act 2004 (No. 27)



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*Number 17 of 2021*

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**RESIDENTIAL TENANCIES (NO. 2) ACT 2021**

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An Act to extend the emergency period specified in the Planning and Development, and Residential Tenancies, Act 2020; for that purpose to amend that Act; to provide for the giving of a minimum notice period by students; to restrict payments required to be made by tenants; to provide for changes to the manner of determining rent increase restrictions in rent pressure zones; for those purposes to amend the Residential Tenancies Act 2004; to extend the period during which areas shall stand prescribed as rent pressure zones; for that purpose to amend the Residential Tenancies (Amendment) Act 2019; and to provide for matters connected therewith. [9th July, 2021]

WHEREAS the disease known as Covid-19, and the emergence of variants of the disease, with evidence of increased transmissibility and the potential to evade immune response presents a serious risk to public health, and consequently it continues to be necessary for the State to adopt extraordinary measures and safeguards aimed at containing that disease and preventing, minimising and reducing the risk of infection of persons;

WHEREAS the rise in unemployment owing to the negative impacts of the public health emergency in the closing down of sectors of the economy has had an adverse impact on persons who reside in residential tenancy accommodation and, in particular, has adversely impacted on their ability to meet their rental obligations to pay rent due, thereby presenting a very serious risk that a significant number of residential tenancies will be terminated by landlords during the remainder of 2021;

WHEREAS any significant increase in termination of residential tenancies by landlords during the remainder of 2021 would cause acute aggravation of difficulties in the residential accommodation sector including difficulties relating to overcrowding, thereby presenting a substantial risk of increased spread of that disease;

WHEREAS measures are required to protect tenants, including students, from being required to pay excessive amounts of advance rent and to limit the period of notice that students are required to give;

WHEREAS the State has already taken significant measures to deal with the aforementioned crisis including measures to support the economy and persons and businesses which have required and continue to require substantial disbursement and expenditure of public moneys and where such measures have enabled persons to meet obligations including rental obligations that they might not otherwise have been in a position to discharge;

AND WHEREAS the Oireachtas has, with regard to *sections 2, 3, 5, 7, 11 to 15 and 17(b)* of this Act, taken account of the matters referred to in the forgoing recitals;

**Be it enacted by the Oireachtas as follows:**

**Definition**

1. In this Act, “Act of 2004” means the Residential Tenancies Act 2004.

**Amendment of Planning and Development, and Residential Tenancies, Act 2020**

2. The Planning and Development, and Residential Tenancies, Act 2020 is amended—
  - (a) in section 9, by the substitution of “12 January 2022” for “12 July 2021” in the definition of “emergency period” in subsection (1),
  - (b) in section 10, by the substitution of “12 January 2022” for “12 July 2021” in paragraph (b) of the definition of “relevant person” in subsection (6),
  - (c) in section 11, by the substitution of “12 January 2022” for “12 July 2021” in paragraph (b) of the definition of “relevant person” in subsection (6), and
  - (d) in section 12, by the substitution of “13 January 2022” for “13 July 2021” in:
    - (i) subparagraph (ii) of paragraph (a) of subsection (1);
    - (ii) paragraph (a) of subsection (1A);
    - (iii) subparagraph (i) of paragraph (c) of subsection (1A);
    - (iv) paragraph (a) of subsection (2).

**Amendment of section 3 of Act of 2004**

3. Section 3 of the Act of 2004 is amended, in subsection (7), by the substitution of “sections 60, 70,” for “sections 70” in paragraph (b).

**Amendment of section 12 of Act of 2004**

4. Section 12(1) of the Act of 2004 is amended in paragraph (i)(iii) by the deletion of “(4)”.

**Amendment of section 16 of Act of 2004**

5. Section 16 of the Act of 2004 is amended, in paragraph (a)—

- (a) by the substitution of “tenancy agreement” for “tenancy concerned” in subparagraph (i),
- (b) by the deletion of “and” between subparagraphs (i) and (ii),
- (c) by the substitution of “other enactment), and” for “other enactment),” in subparagraph (ii), and
- (d) by the insertion of the following after subparagraph (ii)—
  - “(iii) the deposit, if any, provided for under the tenancy agreement,”.

#### **Amendment of section 19 of Act of 2004**

**6.** Section 19 of the Act of 2004 is amended—

- (a) in subsection (4), by the substitution of “Subject to subsections (4A) and (5)” for “Subject to subsection (5)”,
- (b) by the insertion of the following subsections after subsection (4):
  - “(4A) Notwithstanding subsection (4), and subject to subsection (5), in setting the rent under a tenancy of a dwelling in a rent pressure zone in respect of which the landlord serves a notice under section 22 on or after the coming into operation of *section 6* of the *Residential Tenancies (No. 2) Act 2021*—
    - (a) an amount of rent shall not be provided for that increases the rent last set by more than any rent increase calculated in accordance with subsection (4B), or
    - (b) an amount of rent shall not be provided for that increases the rent last set where a calculation is made, in accordance with subsection (4B), that no increase in the rent last set has occurred.
  - (4B) Any increase in the rent last set shall be calculated by—
    - (a) calculating as a percentage any difference between the HICP value that applied on the date the rent was last set and the HICP value that applies on the new date, and
    - (b) applying the amount of the percentage calculated under paragraph (a) to the rent last set.
  - (4C) The Board shall—
    - (a) establish and maintain a rent pressure zone calculator to calculate any increase in rent in a rent pressure zone in accordance with the method set out in subsection (4B), and
    - (b) publish and keep up to date a table of HICP values published by the Central Statistics Office.
  - (4D) The Minister, for the purposes of subsections (4A) to (4C), may prescribe—

- (a) the means by which the rent pressure zone calculator referred to in subsection (4C)(a) shall operate to accurately calculate any increase in rent in a rent pressure zone by applying the HICP values to the rent,
- (b) the information to be furnished in the table referred to in subsection (4C)(b),
- (c) the form and manner of publication by the Board of that calculator and table, and
- (d) an index or indices, containing data corresponding to HICP values, as may be published by the Central Statistics Office to be used for the purposes of the calculation under subsection (4B).”,
- (c) in subsection (5), by the substitution of “Subsections (4) and (4A) do not apply—” for “Subsection (4) does not apply—”,
- (d) in subsection (6), by the substitution of “subsections (3), (4) and (4A)” for “subsections (3) and (4)”,
- (e) in subsection (6A), by the substitution of “subsection (4) or, as the case may be, (4A)” for “subsection (4)”,
- (f) in subsection (7), by the insertion of the following definitions:

“ ‘HICP values’ means the values contained in the most recent data available monthly in the All-Items Harmonised Index of Consumer Prices in relation to Ireland and published monthly by the Central Statistics Office in accordance with Regulation (EU) 2016/792<sup>1</sup> of the European Parliament and of the Council of 11 May 2016 on harmonised indices of consumer prices and the house price index, and repealing Council Regulation (EC) No. 2494/95;

‘new date’ shall be the date of publication by the Board under subsection (4C) of the table of HICP values that occurs most recently prior to the service of a notice under section 22 by the landlord on the tenant;”.

### **Restrictions on amounts payable**

7. The Act of 2004 is amended by the insertion of the following section after section 19A:

**“19B.(1)** A person shall not be required, for the purpose of securing a tenancy, to make any payment other than—

- (a) an advance payment of rent, which shall be no greater than the amount of rent payable under the tenancy agreement in respect of a period of one month, and
- (b) a deposit of an amount no greater than that payable under the tenancy agreement as rent in respect of a period of one month.

<sup>1</sup> OJ No. L135, 24.5.2016

- (2) A tenancy agreement shall not provide for an advance payment of rent, during the currency of the tenancy, which exceeds an amount that is payable under the tenancy as rent in respect of a period of one month and any payment made under paragraph (a) of subsection (1) shall be treated as an advance payment of rent for the purposes of this subsection.
- (3) Notwithstanding subsections (1)(a) and (2), a tenant of a dwelling referred to in subsection (1A) of section 3 may, if he or she so wishes, and with the agreement of his or her landlord, make an advance payment of rent which exceeds an amount that would be payable under the tenancy as rent in respect of a period of one month.
- (4) Nothing in this section shall prevent a landlord from requiring a tenant to pay to him or her any monies arising from any outstanding legal obligations, whether on foot of the tenancy agreement, any previous tenancy or otherwise.
- (5) This section shall apply to a tenancy created not earlier than one month after the passing of the *Residential Tenancies (No. 2) Act 2021.*”.

**Amendment of section 20 of Act of 2004**

8. Section 20 of the Act of 2004 is amended—

- (a) in subsection (3)(i), by the insertion of “(within the meaning of subsection (5A) of section 19)” after “substantial change”,
- (b) in subsection (5) by the substitution of “1 January 2025” for “1 January 2022”, and
- (c) in subsection (6) by the substitution of “31 December 2024” for “31 December 2021”.

**Amendment of section 22 of Act of 2004**

9. Section 22 (2A) of the Act of 2004 is amended—

- (a) in paragraph (e) by the deletion of “and”,
- (b) in paragraph (f) by the substitution of “not apply, and” for “not apply.”,
- (c) by the insertion of the following paragraph after paragraph (f):

“(g) where the dwelling is in a rent pressure zone (within the meaning given by section 19(7)) to which section 19(4A) applies, state how any increase in the rent last set under the tenancy of the dwelling was calculated or, where section 19(4A) does not apply, state why it does not apply.”.

**Amendment of section 24B of Act of 2004**

10. Section 24B of the Act of 2004 is amended by the substitution of “31 December 2024” for “31 December 2021”.

**Amendment of section 57 of Act of 2004**

11. Section 57 of the Act of 2004 is amended, in paragraph (a), by the substitution of “(by reason of the operation of sections 3(7)(c) or 25)” for “(by reason of the operation of section 25)”.

**Amendment of section 58 of Act of 2004**

12. Section 58 of the Act of 2004 is amended, in subsection (2)—

- (a) by the deletion of “or” between paragraphs (a) and (b),
- (b) by the substitution of “applies, or” for “applies” in paragraph (b), and
- (c) by the insertion of the following paragraph after paragraph (b):

“(c) a tenancy of a dwelling referred to in subsection (1A) of section 3.”.

**Amendment of section 65 of Act of 2004**

13. Section 65 of the Act of 2004 is amended by the insertion of the following subsection after subsection (4)—

“(5) In the case of a tenancy of a dwelling referred to in subsection (1A) of section 3 a period of notice of more than 28 days may be given by a tenant in accordance with subsection (2C) of section 66.”.

**Amendment of section 66 of Act of 2004**

14. Section 66 of the Act of 2004 is amended—

- (a) by the substitution of “by the landlord” for “by the landlord or tenant” in subsection (2B), and
- (b) by the insertion of the following subsection after subsection (2B):

“(2C) Where this section applies, the period of notice to be given in respect of a tenancy referred to in subsection (1A) of section 3 by the tenant and specified in the notice of termination shall be 28 days or such longer period as the tenant chooses.”.

**Amendment of section 78 of Act of 2004**

15. Section 78 of the Act of 2004 is amended by the insertion of the following paragraph after paragraph (a):

“(aa) any payment made to which section 19B applies.”.

**Amendment of section 115 of Act of 2004**

**16.** Section 115(2)(b) of the Act of 2004 is amended—

- (a) by the deletion of “subsection (1) or (4) of”, and
- (b) by the substitution of “with section 19” for “with either of those subsections”.

**Amendment to Schedule 2 to Act of 2004**

**17.** Schedule 2 to the Act of 2004 is amended—

- (a) in paragraph (a) by the substitution of “(4), (4A) or” for “(4) or”, and
- (b) by the insertion of the following paragraph after paragraph (b):
  - “(ba) the seeking by the landlord of a payment to him or her of an amount or amounts in contravention of section 19B.”.

**Amendment of Residential Tenancies (Amendment) Act 2019**

**18.** Section 8(2) of the Residential Tenancies (Amendment) Act 2019 is amended by the substitution of “31 December 2024” for “31 December 2021”.

**Short title, commencement and collective citation**

- 19.** (1) This Act may be cited as the Residential Tenancies (No. 2) Act 2021.
- (2) *Section 6* shall come into operation on such day or days as the Minister for Housing, Local Government and Heritage may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.
- (3) This Act shall be included in the collective citation “Residential Tenancies Acts 2004 to 2021”.