

SEANAD ÉIREANN

AN BILL SRIANTA CIOSA, 1944.

RENT RESTRICTIONS BILL, 1944.

Tuarascáil.

Report.

Leasaithe.

Amendments.



* * Government amendments are distinguished by an asterisk.

1. In page 5, section 2, subsection (1), lines 43 and 44, to delete the words "and which are or would but for any Act be chargeable" and to insert in lieu thereof the following words "and which by any Act are, or but for any Act would be, chargeable."—Senator Kingsmill Moore.

* * 2. In page 5, section 2, subsection (1), to delete lines 50 and 51, and insert in lieu thereof the following :—

"the expression 'statutory tenant' means a person being either—

(a) a person who retains possession of any controlled premises after his contractual tenancy therein (not being a tenancy to which section 45 of this Act applies) has terminated, or

(b) a person who retains possession of any controlled premises under subsection (2) or subsection (3) of section 39 of this Act, or

(c) a person who retains possession of any controlled premises under section 58 of this Act;".

3. In page 5, section 2, subsection (1), to delete lines 50 and 51, and substitute therefor the following words :—

"the expression 'statutory tenant' means a tenant against whom an ejectment for recovery of possession of the premises was issued by the landlord and on the hearing thereof an order for possession was refused by the court on the ground that he was entitled to retain possession of the premises by virtue of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, or of any Act thereby repealed, the Increase of Rent and Mortgage Interest (Restrictions) Decree, 1921, the Increase of Rent and Mortgage Interest (Restrictions) Act, 1923, and in respect of whom a similar order shall be made under section 39 of this Act and also a subtenant retaining possession after the interest of the tenant shall be terminated by the court".—Senator O'Dea.

4. In page 5, section 2, subsection (1), after line 55 to insert the following words :—

"the word 'lawfully' means—

(a) in relation to the subletting of any premises let in accordance with the terms of a written contract or agreement which includes clauses governing the subletting of the whole or any part of such premises that such subletting is or has been made in accordance with the relevant clauses of the contract or agreement;

(b) in relation to a subletting made under a parole agreement that such subletting is or has been made on

notice in writing to the landlord of not less than twenty-eight days and the landlord has either—

- (i) given his consent in writing to the proposed subletting on or prior to the expiration of the notice of subletting, or
- (ii) not taken any action in relation to the notice of subletting given by the tenant:

Provided that nothing contained in the foregoing definition shall affect the right of any tenant or sub-tenant to retain possession of a tenement held by him on the operative date."

—Senator Patrick J. O'Reilly.

* * * 5. In page 6, section 3, subsection (2), lines 17 to 20, to delete paragraph (c).

* * * 6. In page 6, section 3, subsection (2), to delete line 30, and insert in lieu thereof the words " (otherwise than for breach of a term of the tenancy) must ".

7. In page 6, section 3, subsection (2), paragraph (f), to delete lines 30 and 31, and insert in lieu thereof the following:—

" must be a notice of not less than three months ".

—Senator Kingsmill Moore.

* * * 8. In page 8, section 9, to delete subsections (2) and (3) and insert in lieu thereof the following subsections:—

" (2) The basic rent of premises to which this section applies shall be determined by the Court and shall be a rent of such amount as the Court considers reasonable, under any given contract of tenancy not being for more than a term of five years, having regard to the basic rents of other controlled premises and, in case evidence is forthcoming of both the following facts,—

- (i) that the premises the basic rent whereof is to be determined were on the 3rd day of August, 1914, held by an occupying tenant thereof under a contract of tenancy not being for more than a term of five years, or that they were not so held but were last so held on a date not being more than three years before the 3rd day of August, 1914, and

(ii) the rent at which they were so held,

then, having regard also to the amount of the said rent.

(3) For the purpose of the determination by the Court of the basic rent under this section the tenant shall be deemed to be responsible for the rates."

Amendments to Amendment No. 8.

In the proposed new subsection (2), after the word "controlled" to insert the words, figures and brackets " (1923 Act) ".—Senator Duffy.

In the proposed new subsection (2), paragraph (i), after the word "before" to insert "or three years after".
—Senator Duffy.

* * * 9. In page 8, section 10, to add to the section a new subsection as follows:—

" (2) Subsection (1) of this section shall not apply to premises the increase in the rateable valuation whereof arises from improvements or structural alterations carried out by the landlord while in possession of the whole of the premises."

10. In page 8, to delete lines 35 to 40, inclusive, (section 10).
—Senator Patrick J. O'Reilly.

* * * 11. In page 9, section 11, subsection (2), to delete lines 23 to 28, inclusive, (paragraph (e)) and insert in lieu thereof the following paragraph:—

“(e) in the case of premises to which *section 8* of this Act applies, if the landlord has, in the year 1922, expended an amount in excess of one-third of the standard rent, or has, during a period comprising the two years 1923 and 1924, or 1925 and 1926, or 1927 and 1928, expended an amount in excess of two-thirds of the standard rent, on putting the premises into a reasonable state of repair, a sum equal to fifteen per cent. per annum of such excess or excesses of expenditure.”

* * * 12. In page 9, section 11, subsection (2), to insert after paragraph (f) a new paragraph as follows:—

“(g) in case the landlord, during a period comprising the two years 1945 and 1946, or 1946 and 1947, or 1947 and 1948, or 1948 and 1949, or 1949 and 1950, expends an amount in excess of two-thirds of the basic rent of the premises on putting the premises into a reasonable state of repair, a sum equal to fifteen per cent. per annum of such excess or excesses of expenditure.”

* * * 13. In page 11, section 15, to insert at the end of the section a new subsection as follows:—

“(3) If, on an application to the Court under this subsection by the landlord or tenant of premises to which *section 14* of this Act applies, the Court is satisfied that the basic rent of the premises either exceeds, or falls short of by an amount exceeding one-fifth of the basic rent, the rent (in this subsection referred to as the notional rent) which, if the premises were premises to which *section 16* of this Act applies, would be determined by the Court as the basic rent thereof, the basic rent of the premises shall be determined by the Court and shall be the amount which, in the opinion of the Court, represents the notional rent, and thenceforth the premises shall, without prejudice to the previous application thereto of paragraph (a) of *section 23* of this Act, become premises to which *section 16* of this Act applies as if such determination had been made under that section.”

* * * 14. In page 11, section 16, to delete subsection (2), and insert in lieu thereof the following subsection:—

“(2) The basic rent of premises to which this section applies shall be determined by the Court as follows:—

(a) in the case of premises consisting of a separate and self-contained flat or tenement forming part of any buildings which, after the 7th day of May, 1941, are or which at that date were being *bona fide* reconstructed by way of conversion into two or more such flats or tenements, the basic rent of the premises shall be the rent which, in the opinion of the Court, the immediate landlord of an occupying tenant of the premises might, if the premises, as reconstructed, had been in existence in the year ending on the 7th day of May, 1941, reasonably have expected in that year under any given contract of tenancy not being for more than a term of five years;

(b) in any other case, the basic rent shall be the rent which, in the opinion of the Court, the immediate landlord of the premises might, in the year ending on the 7th day of May, 1941, reasonably have expected under any given contract of tenancy not being for more than a term of five years.”

15. In page 12, section 17, subsection (2), paragraph (b), line 10, to delete the words “the critical date, expends” and

insert instead the words and figures " 7th day of May, 1941,
shall have expended or shall expend ".—Senator O'Dea.

* * * 16. In page 12, section 17, subsection (2) to insert after paragraph (d) a new paragraph as follows:—

" (e) In case the landlord, during a period comprising the two years 1945 and 1946, or 1946 and 1947, or 1947 and 1948, or 1948 and 1949, or 1949 and 1950, expends ~~an~~ amount in excess of two-thirds of the basic rent of the premises on putting the premises into a reasonable state of repair, a sum equal to fifteen per cent. per annum of such excess or excesses of expenditure;".

* * * 17. In page 12, section 17, subsection (2) to insert at the end of the subsection a new paragraph as follows:—

" (f) in the case of premises to which *paragraph (a)* of *subsection (2)* of *section 16* of this Act applies, a sum equal to eight per cent. per annum of such amount as bears to the total cost of the reconstruction of the buildings referred to in that paragraph the same proportion as the rateable valuation of the premises bears to the rateable valuation (or the total of the rateable valuations) of the said buildings as reconstructed."

* * * 18. In page 13, section 19, to add to the section two new subsections as follows:—

" (2) There shall be implied in every contract, made on or after the operative date, for the sale of any interest in controlled premises (if not already expressly included) a provision binding the vendor to give to the purchaser any information in the vendor's possession or procurement requisite to enable the purchaser to determine the basic rent of the premises or any part thereof.

(3) Every stipulation in a contract for the sale of controlled premises, whereby the purchaser is precluded from making requisitions as to the matters mentioned in *subsection (2)* of this section, shall be void."

* * * 19. In page 14, section 20, subsection (5), line 31, to delete " or (f) " and insert in lieu thereof the following: " (f) or (g) "; and in line 32 to delete " or (d) " and insert in lieu thereof the following " (d) or (e) ".

* * * 20. In page 15, section 22, subsection (2), lines 2 and 3, to delete the words " by the production of a certificate of the sanitary authority or other evidence ".

* * * 21. In page 15, section 22, after subsection (2) to insert a new subsection as follows:—

" (3) In any application under this section, a certificate of the sanitary authority that the premises to which the application relates are not in all respects in good and tenantable repair shall be *prima facie* evidence of the facts so certified."

* * * 22. In page 15, section 22, subsection (4), lines 31 and 32, to delete the words " if the authority as the result of such application issues a certificate " and insert in lieu thereof the words " on an application made to the Court under this section the Court may order that ".

* * * 23. In page 17, section 28, subsection (4), to insert after the word " reward " in line 8 the words " or is remunerated directly or indirectly out of the funds of any body corporate or unincorporated body of persons of which the tenant is or was a member or to the funds of which he has been a subscriber ".

* * * 24. In page 17, section 30, subsection (1), line 56, to delete the words "without prejudice to any other manner of service" and at the end of the subsection to add the words "under the rules of the District Court for the time being".

25. In page 20, section 37, to delete line 45 and insert the following :—

- " (e) in the case of a dwelling the occupier of which has been in occupation for not less than twenty years—
 - (i) the dwelling is reasonably required by the landlord for occupation as a residence for himself or for any person *bona fide* residing with him and
 - (I) in the opinion of the court greater hardship would, owing to the special circumstances of the case, be caused by refusing the order for possession than by granting it, and
 - (II) the court is satisfied that alternative accommodation, reasonably equivalent as regards rent and suitability in all respects, is available, or
 - (f) in the case of any other dwelling—".

—Senator Duffy.

26. In page 21, section 37, to delete subsection (2), lines 17 to 25, inclusive.—Senator O'Dea.

27. In page 21, section 37, to add to subsection (2) a new paragraph as follows :—

- " (c) any tenant of controlled premises who may be entitled to a new tenancy under the Landlord and Tenant Act, 1931 (No. 55 of 1931) may at any time apply to the landlord for a new tenancy under that Act and on the refusal or neglect of the landlord to give such new tenancy may apply to the court for such new tenancy under that Act in the same manner as if he had been served with a notice to quit within the previous month."

—Senator O'Dea.

* * * 28. In page 21, section 39, subsection (2), to delete line 46, and insert in lieu thereof the words "entitled to retain possession of the premises and to hold from the landlord on the".

29. In page 22, section 40, to delete subsection (3), lines 22 to 33, inclusive.—Senator O'Dea.

30. In page 22, section 40, subsection (3), in the new paragraph (a) (*inserted in Committee of the Seanad*) to delete the words "assignment or" and also the words "or any part thereof" and to add to that paragraph the following words :—

" unless for an assignment made with the consent of the landlord or made without such consent when the court shall have determined or shall determine that the withholding of such consent was unreasonable. On the lawful assignment of a statutory tenancy for valuable consideration the assignee shall be deemed to be a contractual and non-statutory tenant."

—Senator O'Dea.

* * * 31. In page 22, section 40, subsection (3), to insert at the end of the subsection a new paragraph as follows :—

- " (d) Paragraph (a) of this subsection shall not apply to premises lawfully used wholly or in part for the purposes of any business, trade or profession."

32. In page 22, section 40, after subsection (3) to insert a new subsection as follows:—

“(4) Subsection (3) of this section shall not apply to any premises part of which is used for the purposes of any business, trade or profession.”

—Senator O'Dea.

33. In page 22, section 40, subsection (4), paragraph (b), line 43, to delete the words “which consent shall not be unreasonably withheld”.—Senator Patrick J. O'Reilly.

34. In page 22, section 40 (4), paragraph (b), line 43, to delete the words “shall not be unreasonably withheld” and insert in lieu thereof the words “may be withheld only if greater hardship would, owing to the special circumstances of the case, be caused by granting the consent than by withholding it;”.—Senator Sweetman.

* * * 35. In page 22, section 40, to insert at the end of the section a new subsection as follows:—

“(5) Where, on or after the operative date, controlled premises are lawfully assigned by the statutory tenant, then, in the absence of any express agreement between the landlord and the assignee, the following provisions shall have effect:—

(a) in case the premises are, at the date of the assignment, being lawfully used wholly or in part for the purpose of any business, trade or profession, the assignee shall, from the date of the assignment, be deemed to hold the premises from the landlord under a tenancy from year to year, terminable, on or after the expiration of the first year thereof, by either party by three months' notice expiring on any gale day and, subject thereto, on the same terms and conditions as the said statutory tenant;

(b) in any other case, the assignee shall be entitled to retain possession of the premises on the same terms and conditions as the said statutory tenant.”

Amendment to Amendment No. 35.

To delete all the words from and including the words “the following provisions” in line 4 of the proposed amendment to and including the word “case” in line 15.—Senator Sweetman.

* * * 36. In page 25, section 51, subsection (1), line 8, to delete the word “pecuniary” and insert in lieu thereof the word “valuable”.

* * * 37. In page 26, section 54, to add at the end of the section a new subsection as follows:—

“(4) Every regulation made by the Minister under subsection (1) of this section shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution is passed by either House of the Oireachtas within the next subsequent twenty-one days on which that House has sat after the regulation is laid before it annulling the regulation, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under the regulation.”