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**AN BILL SRIANTA CIOSA (Uimh. 2), 1960  
RENT RESTRICTIONS (No. 2) BILL, 1960**

**EXPLANATORY MEMORANDUM**

**Background of Rent Control**

1. Rent control, which was introduced as a temporary war-time measure by the British Government in 1915, was continued with modifications after the 1914/18 War, always as a temporary measure. In 1926 an attempt was made to decontrol all houses by progressive stages until by 1929 all control would have disappeared but this process of decontrol was arrested in 1928 at which time control applied, broadly speaking, to premises built before 1919 and having a rateable valuation not exceeding £30 in Dublin and £25 elsewhere. Control of these premises was continued by means of annual Acts until 1946 when the existing Acts were incorporated into the Rent Restrictions Act of that year. In the meantime, the emergency conditions caused by the 1939/45 War had necessitated the making of an Emergency Powers Order in 1944 providing not only for the reimposition of control on the pre-1919 houses which had been decontrolled between the Wars, but also for the imposition of control for the first time on houses built since 1919. The provisions of the 1944 Order were also incorporated in the 1946 Act, the operation of which has been extended by successive Acts to December 31st, 1960. The premises now subject to rent control are pre-1941 privately-owned unfurnished dwellings which have a rateable valuation not exceeding, in the Dublin area, £60 and, elsewhere, £40. Some business premises are also controlled.

2. The basis for controlling rents has always been to restrict the amount of rent lawfully chargeable to the level prevailing in the free letting market at a particular date, plus certain permitted increases. When rent control was first imposed in 1915, rents were restricted to the 1914 level. Premises brought under control by the 1944 Order had their rents restricted to the 1941 level. Accordingly, in 1944 there was a distinction in the method of assessing the controlled rent of the two classes of premises and the 1946 Act of necessity perpetuated the distinction. Under the 1946 Act therefore the rents of the pre-1919 premises which have always remained controlled are related to the 1914 level, and the rents of the premises affected by the 1944 Order are restricted to the 1941 level. Certain additions (called "lawful additions") are permitted in both cases in respect of rates, improvements, structural alterations or repairs. In particular, landlords who incur expenditure on putting their premises into a reasonable state of repair have since 1945 been entitled to a lawful addition consisting of a graduated percentage of the excess of the expenditure over two-thirds of the basic rent. This percentage is 15% of the first £100 of the excess, 8% of the second £100 of the excess and 6% of the remainder of the excess.

*Conroy Commission (1950)*

3. In 1950 a Commission under the chairmanship of His Honour Judge John C. Conroy was appointed by the then Minister for Justice to inquire, *inter alia*, into the working of the Rent Restrictions Acts and the question of extending control to furnished lettings. The Commission presented a Report\* on these aspects of

\* Pr. 1840.

their terms of reference in June, 1952. The main recommendations in the Report were :—

- (a) the present controls should be retained on dwellings and control should be extended so as to apply to all dwellings, whether let furnished or unfurnished and whether now in existence or to be built hereafter;
- (b) in order to meet the increase in the cost of repairs, landlords of existing controlled premises who are responsible for all repairs should be entitled to increase the present net rents by 25%—the increase to be 12½% where the landlord is responsible for only part repairs.

*Reports of Capital Investment Advisory Committee relating to housing (1957)*

4. The second report\* of this Committee was presented in November, 1957, and dealt with housing. The Majority Report, signed by the Chairman and six of the members, recommended, *inter alia*, the progressive repeal of the Rent Restrictions Acts over a period of ten years. A Minority Report by two members expressed general disagreement with the Majority Report.

#### Proposals in the Bill

##### Main changes proposed

5. The Bill, which is a comprehensive measure repealing and re-enacting the present law with amendments, proposes the following main changes :—

- (a) rent control is being removed from certain unoccupied property and from premises used solely for business purposes;
- (b) an up-to-date standard for determining controlled rents is being provided; and
- (c) having regard to the increased cost of repairs, an increase of 12½% in controlled rents being paid on 1st February, 1960 (less rates, where the landlord pays them) is, with some exceptions, being permitted where the landlord is liable for the whole or part of the repairs.

These main changes are summarised in the following paragraphs. The Bill contains a large number of other amendments of the present law, most of which are based on the recommendations of the Conroy Commission.

##### (a) Relaxations in scope of control

6. The Bill provides (*section 3 (2) (e), (f) and (g)*) for the removal of rent control from owner-occupied houses, from houses having a valuation exceeding £30 in the Dublin area (£25 elsewhere) of which the landlord gets vacant possession and from newly-constructed self-contained flats. No subsisting tenancies will be affected. Future unfurnished lettings of pre-1941 houses within the valuations mentioned and which are now tenanted will be subject to control unless they become owner-occupied in the meantime. Future unfurnished lettings of rooms or flats (other than newly-constructed self-contained flats) in pre-1941 houses will also be subject to control. The existing rights of the spouse and family of a deceased tenant to continue in occupation are being preserved and, in some respects (*see paragraph 19 (i) below*), strengthened.

7. The only purely business premises controlled by the Rent Restrictions Acts are those let on less than yearly tenancies (e.g., a lock-up shop let on a monthly tenancy). These business premises are being decontrolled but *section 54* of the Bill provides the decontrolled tenants with an immediate right to protection under Part III of the Landlord and Tenant Act, 1931. Under Part III of the 1931 Act the tenants will be entitled on the termination of

\* Pr. 4406.

of the tenancy to a new lease at the open-market rent. Business premises let with dwelling accommodation will continue to be subject to rent control in the same way as dwellings.

(b) *Provision of up-to-date standard for determining controlled rents*

8. In accordance with the recommendation of the Conroy Commission the Bill provides (*sections 7, 8 and 9*) that controlled rents will be determined by reference to the actual rents being paid on a current date. As in the 1946 Act, the lawful rent will consist of a basic element plus lawful additions, e.g., for rates paid by the landlord. The basic rent, in the sense in which it is used in the Bill, is normally the actual rent being paid on 1st February, 1960, less rates where the landlord pays them.

9. The effect of these provisions is that a basic rent will be automatically determined for all controlled property which is now let. Under the 1946 Act the basic rent is not known unless it has been fixed by the Court or unless, in the case of the dwellings brought under control in 1944, there was a letting on 7th May, 1941, or within five years before that date; and where the basic rent is not known, the landlord cannot increase the rent, e.g., when there is an increase in rates, unless the tenant agrees.

(c) *Increase in controlled rents*

10. *Section 10 (2) (b)* of the Bill provides that a landlord who is liable for repairs may increase the basic rent by 12½%. The basic rent, which is determined in accordance with the provisions of *sections 7, 8 or 9*, is normally the actual rent being paid on 1st February, 1960, less rates where the landlord pays them. No increase is being allowed where the landlord is not liable for any repairs and the increase does not apply to tenants of property which is not controlled, e.g., houses built after 1941 or local authority houses. The increase will be modified or not apply at all in cases where the landlord has already secured a return under the existing Acts on expenditure incurred by him in putting property into a reasonable state of repair. In such a case the 1946 Act entitled a landlord to a percentage of the excess of the expenditure over two-thirds of the basic rent. The percentage is 15% of the first £100 of the excess, 8% of the second £100 of the excess and 6% of the remainder, but for the purpose of calculating the increase in rent to which the landlord is entitled any grants under the Housing Acts which he has obtained are not reckonable as part of his expenditure. As the grants available under the Housing Acts are substantial, landlords who have not received these grants have been entitled to considerably greater increases in rent than those landlords who have received them. The Bill proposes that where a landlord has secured an addition under the present Acts by putting premises into a reasonable state of repair with the aid of grants under the Housing Acts, the 12½% increase will not be applied to the portion of the basic rent which is attributable to that addition and that where such a landlord did not avail himself of these grants he will not be entitled to the 12½% increase at all (*section 10 (3)*).

**Other amendments**

11. The other amendments of the law which are provided for in the Bill are indicated in the following paragraphs.

**PART I OF THE BILL**

12. Apart from the relaxations in control specified in paragraphs 6 and 7 above, the scope of control is being modified by the provision in *section 3 (2) (h)* that houses let with land are to be controlled only if the rateable valuation of the land does not exceed £10 (at present £15) in the Dublin area and £5 (at present £10) elsewhere, subject in either case to the existing proviso that the valuation of the land does not exceed one-half of the valuation of the house. *Section 3 (3)* provides that an increase in rateable valuation will not have the effect of decontrolling premises until

the landlord gets vacant possession. The remaining provisions of this Part are of a routine character and do not call for special comment.

## PART II OF THE BILL

### Chapter 1 (*Lawful Rent of Controlled Dwellings*)

13. Section 7 provides for fixing the basic rent of any controlled dwelling which was let on 1st February, 1960, or which was let within three years before that date. In such cases the basic rent will be the rent (less rates, where the landlord paid them) being paid on 1st February, 1960, or when the dwelling was last so let, as the case may be.

14. In all other cases, that is, where evidence is not forthcoming that the dwelling was let on 1st February, 1960, or within three years before that date, or of the rent at which it was let, the basic rent will be determined by the Court under section 9 at such amount as the Court considers reasonable having regard as far as possible to the basic rents of controlled dwellings to which Chapter 2 of Part II of the 1946 Act applies (i.e. dwellings brought under control for the first time, or recontrolled, in 1944 on the basis of the rents prevailing in 1941) which are comparable in regard to location, accommodation, amenities, state of repair and rateable valuation.

15. The provisions of section 7 will ensure that an up-to-date, easily ascertainable, basic rent will be provided for all dwellings which are now let. Almost all the tenants concerned are presumably paying rents which correspond or approximate to the lawful rents payable under the present law. It is proposed that these basic rents will not be capable of variation unless in the exceptional circumstances provided for in section 8, i.e. (a) where the Court is satisfied that the rent was either excessively low or excessively high [subsections (1) and (2)] or (b) where a basic rent had previously been determined for the dwelling under the 1946 Act [subsection (3)]. In cases coming within category (a), the revised rent will be determined on the basis set out in section 9, that is, having regard to the basic rents of comparable dwellings to which Chapter 2 of Part II of the 1946 Act applies. As stated, these are the dwellings which were brought under control for the first time, or recontrolled, in 1944 on the basis of the rents prevailing in 1941. However, the revised rent will be determined having regard to the basic rents of comparable dwellings to which Chapter I of Part II of the 1946 Act applies, i.e. the dwellings which have remained under control since 1915 and whose rents are related to 1914 levels, where the dwelling is in that category and where the application for revision of the rent is made by the landlord or by a tenant whose dwelling has a rateable valuation not exceeding £10. As regards category (b), subsection (3) of section 8 provides that a tenant whose rent at the relevant date (normally 1st February, 1960) was higher, even if only slightly higher, than the correct lawful rent as determined under section 8 of the 1946 Act or by the Court under that Act may have the basic rent which was automatically fixed under section 7 of the Bill reduced to the amount of the 1946 Act lawful rent.

16. The lawful additions to the basic rent are set out in section 10. The main additional provisions in this section are indicated in paragraph 10 above.

### Chapter 2 (*Determination of Rent and Recovery of Overpayments*)

17. These provisions (sections 12 to 18) re-enact the existing law with the following amendments:—

- (a) the Court is being empowered to demand from either the landlord or the tenant such information as is necessary for ascertaining the basic rent or lawful rent and the

landlord is being entitled to obtain similar information from his tenant (*section 12 (1) and (3)*);

- (b) the maximum penalty for failure to supply such information or for deliberately supplying false information is being increased from £10 to £50 (*section 12 (6)*);
- (c) where the basic rent has not been fixed by the Court and is not otherwise ascertainable, a notice by the landlord setting out the basic rent and lawful additions is being made binding unless varied by agreement or by the Court (*section 13 (2)*);
- (d) a landlord who pays the rates is being entitled, on serving one week's notice, to increase the rent, in the case of a non-statutory tenant who has availed himself of the Rent Acts to have his rent reduced, by the amount of any increase in the rates. When the rates are reduced tenants will have a corresponding right (*section 13 (4)*);
- (e) the existing powers of the Court are being extended so as to enable it to disallow or reduce an addition to rent which includes an amount attributable to expenditure by a landlord on improvements, structural alterations or repairs where it is satisfied that they have not been carried out satisfactorily (*section 13 (6)*);
- (f) where a basic rent has to be determined by the Court, it is proposed that no sum exceeding the lawful rent may be recovered by the landlord from the tenant as and from the date on which the proceedings to determine the basic rent are instituted (at present the date in question is the date on which the basic rent is determined)—*section 16 (b)*;
- (g) it is provided that the making of an entry in a rent book showing a tenant to be in arrear in respect of a sum declared to be irrecoverable will not be an offence if the entry was made in respect of a period during which proceedings in respect of the premises are pending (*section 17 (2)*);
- (h) the period of limitation for recovery of overpayments of rent is being reduced from six years to two years (*section 18 (1)*);
- (i) without prejudice to any proceedings instituted before the passing of the Act, it is proposed that no overpayments alleged to have been made before the passing of the Act may be recovered (*section 18 (2)*).

### PART III OF THE BILL

18. This Part re-enacts the provisions of Part III of the 1946 Act with certain modifications, some of which are consequential on the revised provisions for determining basic and lawful rents. The object of Part III of the 1946 Act was to provide the poorer class of tenants in the four county boroughs and the borough of Dún Laoghaire with a simple, cheap and expeditious method of provisionally determining lawful rents. Applications by tenants for provisional orders are dealt with privately by a District Justice. The main modifications proposed are those giving the landlord an opportunity of being heard by the District Justice before a provisional order is made and empowering the District Justice to list certain applications for provisional orders for hearing in open Court, i.e. where he is not satisfied that he has jurisdiction to make a provisional order or where he is not satisfied that a claim by the landlord for an addition in respect of moneys alleged to have been spent on improvements, structural alterations or repairs should be allowed without formal evidence and without giving the tenant an opportunity to contest the claim (*section 21 (1) (e)*).

PART IV OF THE BILL

19. The existing restrictions on the landlord's right to recover possession are being continued with the following amendments:—

- (a) nuisance or annoyance to a landlord or his agent, whether or not an "adjoining occupier", is being made a ground for recovering possession, and where the landlord alleges that a dwelling is being used for an illegal or immoral purpose he need not prove a conviction for such user (*section 29 (1) (b)*);
- (b) the definition of "alternative accommodation", is being altered from "alternative accommodation, reasonably equivalent as regards rent and suitability in all respects" to "alternative accommodation, reasonably suitable to the residential and other needs of the tenant and his family, in a controlled dwelling" (*section 29 (1) (e), (f) and (g), (4) and (5)*);
- (c) the provision enabling a landlord to recover possession of a dwelling for occupation as a residence by one of his tenant's employees is not being re-enacted;
- (d) a landlord is being entitled to interchange tenants subject to the reasonableness and *bona fides* of the proposed transfers being investigated by the Court (*section 29 (1) (g)*);
- (e) a landlord is being entitled to recover possession where he is suffering financial stringency which arose since he acquired the dwelling and which can be relieved only by recovering possession of the dwelling with a view to its sale, where he pays compensation to the tenant not exceeding three years' rent (including rates, whether or not payable by the tenant) and where the Court considers it reasonable to make the order for possession (*section 29 (1) (i)*);
- (f) the Court is being entitled to make an order for possession where it considers it would be reasonable to do so and where it is satisfied that possession is required in the interests of good estate management or for the erection of further dwellings or for the erection or extension of business premises: in such a case it is proposed that the tenant should be paid compensation of not less than three years' rent (including rates, whether or not payable by the tenant)—*section 29 (1) (j)*;
- (g) the Court is being empowered to make an order for possession of a "tied house" if it is satisfied that it is reasonable to do so and that the sales of the commodities produced or supplied by the landlord are, or are likely to be, prejudicially affected owing to the unsuitability of the tenant or the manner in which the business is being carried on (*section 29 (1) (k)*);
- (h) where a tenant appeals against an order for possession the appellate Court, if satisfied that the alternative accommodation which was available at the time of the first hearing was reasonably suitable to the residential and other needs of the tenant and his family, is being empowered to make an order for possession whether or not the alternative accommodation is still available, and where the landlord has kept the alternative accommodation available, the tenant may be required to compensate him for any expense or loss he has incurred in doing so (*section 29 (4)*);
- (i) the spouse and family of a deceased intestate non-statutory tenant are being placed in the same position,

so far as the right to remain in possession is concerned, as the spouse and family of a deceased statutory tenant (*section 31 (3)*);

(j) it is proposed that the spouse or family of a deceased tenant may not avail themselves of the provisions of the Bill for retaining possession unless they have been *bona fide* residing with the deceased tenant at the time of death (*sections 31 (3) and (4)*);

(k) "member of the family" in the context of succession to a deceased tenant is being extended to include an illegitimate child of the tenant or a child to whom the tenant was in *loco parentis*, provided in each case he has resided with the tenant for a period of not less than ten years before the tenant's death (*section 31 (5)*);

(l) the Court is being empowered to grant more than one stay of execution on an order for possession and in cases of urgency the tenant is being entitled to apply *ex parte* to vary the terms of the stay (*section 33 (2)*);

(m) warrants for delivery of possession of controlled premises are being made valid for six months, not three months as at present (*section 34 (1)*);

(n) the summary ejectment procedure under section 15 of the Summary Jurisdiction (Ireland) Act, 1851, in the case of premises with a rateable valuation under £10 is being applied to non-statutory as well as to statutory tenants (*section 34 (2)*).

#### PART V OF THE BILL

20. Following are the modifications being made in this Part of the Bill :—

(a) it is proposed that the existing power of the Court to require a landlord to pay to his tenant a sum necessary for the proper repair of a controlled dwelling will not apply where the cost of repair would be uneconomic or where the premises would have to be rebuilt, reconstructed or structurally altered to a substantial extent (*section 40 (2)*);

(b) it is provided that a consent order, whenever made, relating to the determination or apportionment of a basic rent or the apportionment of a rateable valuation should bind only the parties to the order (*section 45*);

(c) in the case of future tenancies, it is provided that :—

(1) when the tenant gives up possession, deposits made as security for rent may be recovered from the person to whom the rent was last paid (*section 46 (1)*);

(2) such deposits should not exceed three months' rent and should be set out in the tenancy agreement or rent book : otherwise they will be recoverable on demand (*section 46 (2) and (3)*);

(d) certain future sublettings by tenants of dwellings used partly for business purposes are to enure to the benefit of the landlord (*section 47*);

(e) it is being made clear that the District Court has jurisdiction in all ejectments from controlled dwellings where the rent does not exceed £53 per annum (*sections 2 (2) and 50 (b) (ii)*);

(f) the provision empowering the Minister to nominate a District Justice assigned to the Dublin Metropolitan

District to have sole jurisdiction in that District in all Rent Act cases is not being re-enacted;

(g) provision is being made for an appeal to the High Court from a decision of the Circuit Court (other than a decision on an appeal from the District Court) as to an apportionment of rent or rateable valuation (implied by not re-enacting section 55 (4) of 1946 Act);

*Section 51* contains the transitional provisions and *section 54* confers on tenants of business premises who become decontrolled on the passing of the Bill immediate rights to a new tenancy under Part III of the Landlord and Tenant Act, 1931.

*An Roinn Dlí agus Cirt,*

Bealtaine, 1960.