



**AN BILLE UM THIARNAI TALUN AGUS TIONONTAI
(LEASU), 1971
LANDLORD AND TENANT (AMENDMENT) BILL, 1971**

As passed by both Houses of the Oireachtas

EXPLANATORY MEMORANDUM

I—GENERAL

1. The Bill gives effect, with some modifications, to those recommendations made by the Landlord and Tenant Commission in their *Report on Certain Questions arising under the Landlord and Tenant Acts, 1958 and 1967* (Pr. 59) to which a certain urgency attaches. The other changes in the law arising out of this Report and an earlier Report* of the Commission are being incorporated in a comprehensive Bill which was introduced in Dáil Éireann in December, 1970, and the text of which has not yet been finally settled.

2. The main object of the present Bill is to give outdoor sports clubs a right in certain circumstances to renew their tenancies. It also gives a new class of tenant a right to a reversionary lease and a right to purchase the fee simple and it includes some minor amendments of the Rent Restrictions Acts, 1960 and 1967.

II—PROVISIONS OF THE BILL

3. *Section 1* is the definitions section.

4. *Section 2* provides for giving a sports club a right to a 99-year lease (a "sporting lease") in certain circumstances. These are that the club either holds its land for the purpose of sport under a lease for 21 years or longer or has been in continuous occupation or possession of its land for that purpose for not less than 21 years and that it has spent (other than on maintenance) sums amounting to not less than 15 times the yearly rent (with a minimum of £1,000) on permanent buildings or structures or on developing the land for sport (*subsections (1) and (2)*). *Subsection (3)* gives a club a right to a sporting lease of other land where it fulfils a number of conditions, including a condition that it has a twelve years' lease of that other land or a twelve-year period of occupation or possession. *Subsection (7)* provides that, where on 3rd March, 1970 (the date on which it was announced that the Government had approved generally of the Landlord and Tenant Commission's recommendations in this regard) a sports club held land in accordance with conditions which would have entitled it to obtain a sporting lease if this legislation had been in force, the Bill's provisions will extend to the club with necessary modifications, notwithstanding that its interest, occupation or possession ceased before the passing of the Bill.

5. *Section 3* contains provisions relating to the time for applying for sporting leases and provides for the date of commencement of these leases.

6. *Section 4* provides that a sporting lease may be refused in certain cases where the landlord has development plans. In such a case the club is entitled to compensation (*subsection (3)*).

**Report on Occupational Tenancies under the Landlord and Tenant Act, 1931* (Pr. No. 9685).

7. Section 5 deals with the covenants in a sporting lease and provides, in particular, that the lessor shall have the right to have the rent reviewed at 25-year intervals and also the right to terminate the lease if the lands cease to be used for sport.

8. Section 6 provides that the rent in a sporting lease, where it has to be fixed by the Court, shall be a "fair rent", as defined in subsection (2).

9. Section 7 applies, with necessary modifications, the provisions of the Landlord and Tenant (Reversionary Leases) Act, 1958, to sporting leases.

[Note: The Landlord and Tenant Commission's recommendations regarding the grant of a 99-year lease to sports clubs are contained in paragraphs 79, 93 and 120 (4) of their *Report on Certain Questions arising under the Landlord and Tenant Acts, 1958 and 1967* (Pr. 59). The Commission recommended that a 99-year lease be given to outdoor sports clubs where—

- (a) the land was let to the club for outdoor sporting purposes or was used for those purposes;
- (b) the land is held under a lease for not less than 25 years or there has been continuous occupation for not less than 25 years;
- (c) there are permanent buildings on the land which are used in connection with the land for outdoor sports;
- (d) the club has spent a sum equivalent to at least 15 times the rent on the permanent buildings or developing or improving the land for sporting purposes.

The terms of the lease were to be those applicable to reversionary leases granted under the Landlord and Tenant Act, 1958, as amended (including a provision that the rent would be one-eighth of the "gross rent" of the land) except that that rent was to be subject to review at 33-year intervals and that the lease should be terminable if the land were not used for outdoor sport. A club could in certain cases be refused a lease where the landlord had development plans. In that event the club should be entitled to compensation for disturbance.]

10. Section 8 extends the right to a reversionary lease and the right to purchase the fee simple to further tenants holding under a certain type of pre-1931 lease, including (section 9) those tenants whose leases expired up to eight years previously provided they are still in possession and have not made any new agreement with the landlord. Section 10 of the 1958 Act (which is being repealed) gave these rights to tenants who held, not under the original lease granted to the person who built the property, but under a pre-1931 renewal of that lease, or a new lease, provided the renewed or new lease was made to the successor of the original lessee. Section 8 gives these rights also where the renewed or new lease was made otherwise than to a successor of the original lessee provided it was made at a rent less than the rateable valuation.

11. Section 10 re-activates, for a period of one year, the spent provisions contained in section 8 (1A) of the Rent Restrictions Act, 1960. Subsection (1A) was inserted in section 8 of the 1960 Act by section 4 (1) of the Rent Restrictions (Amendment) Act, 1967, and in accordance with section 4 (3) it had a life of only two years which expired on 8th May, 1969. Section 10 will enable what may be described as 'small' landlords to have certain basic rents revised during the period of one year from the passing of the Bill. Under the provisions of section 8 (1A) of the 1960 Rent Act, which are being re-activated for a period of one year, the District Court will, *inter alia*, be authorised to review the basic rent on an application by a landlord who on 8th June, 1966, owned not more than six controlled houses or self-contained flats with a combined valuation not exceeding £60 (in case one at least of them is situate in the Dublin area) or £40 (in any other case).

12. *Section 11* is designed to remedy a defect in section 10 of the Rent Restrictions (Amendment) Act, 1967, with effect from the passing of that Act. An unexpected consequence of the section in question was that owner-occupiers of controlled dwellings (that is, occupiers under leases for terms of more than 21 years) in many cases had to obtain the landlord's consent to an assignment of the dwelling. Any assignment without such consent was made void. *Section 11* of the Bill is designed to rectify the position and also to validate any assignments that may thus have been made void.

Roinn Dlí agus Cirt,
Nollaig, 1971

ARRANGEMENT OF SECTIONS

- Sections
1. Definitions.
 2. Sporting leases.
 3. Application to other sporting leases.
 4. Restrictions on rights to sporting leases.
 5. Covenants under sporting leases.
 6. Rent under sporting leases.
 7. Application of Act of 1958.
 8. Leases deemed to be building leases.
 9. Rights of lessees under certain expired leases.
 10. Amendment of section 4 of Rent Restrictions (Amendment) Act, 1967.
 11. Amendment of section 10 of Rent Restrictions (Amendment) Act, 1967.
 12. Short title, construction and collective citation.

and the 20-year period designed to remedy a situation section 40 of the Landlord and Tenant (Amendment) Act, 1967, with effect from the passing of that Act. An unexpected consequence of the section in question was that owner-occupiers of houses (which is the case in many instances) had to obtain the landlord's consent to assignment of the lease. Any assignment without such consent was made void. Section 11 of the Bill is designed to rectify the position and to validate any assignments that may have been made void.

9. Section 7 applies, with necessary modifications, the provisions of the Landlord and Tenant (Reversionary Leases) Act, 1958, to sporting leases.

Roimé Dlí agus Cúir
Volúim 1977

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