



**AN BILLE SRIANTA CÍOSA (FORÁLACHA SEALADACHA), 1981**  
**RENT RESTRICTIONS (TEMPORARY PROVISIONS) BILL, 1981**

**EXPLANATORY MEMORANDUM**

1. The purpose of this Bill is to provide as a matter of urgency a measure of immediate and temporary safeguard for the numerous body of tenants and their families deprived of the protection afforded by the Rent Restrictions Acts in consequence of the decision of the Supreme Court delivered on 29th June, 1981, which declared Parts II and IV of the Rent Restrictions Act, 1960, to be invalid having regard to the provisions of the Constitution. The Bill is required to give time for the preparation, consideration and enactment of legislation in permanent form to reconcile the interests of all parties affected by the decision, whether as landlords or tenants, so as best to subserve the common good.

2. The State by Article 40.3 of the Constitution undertakes by its laws to protect from unjust attack and, in the case of injustice done, vindicate—amongst other personal rights—the property rights of every citizen. In Article 43, the State acknowledging the natural rights of property, at the same time recognises that the exercise of those rights ought, in civil society, to be regulated by the principles of social justice and that the State, accordingly, may as occasion requires delimit by law the exercise of the said rights with a view to reconciling their exercise with the exigencies of the common good. The State also pledges itself, in Article 45, to the application of certain principles of social justice, placing their application under the exclusive care of the Oireachtas. Of particular relevance in the present context are that the policy of the State should be directed towards securing that the ownership and control of the material resources of the community may be so distributed amongst private individuals and the various classes as best to subserve the common good (Article 45.2.ii) and that the State pledges itself to safeguard with special care the economic interests of the weaker sections of the community. This Bill, as its title indicates, is founded upon these considerations as must any permanent legislation propounded to deal with the situation.

3. Rent control was introduced as a temporary wartime measure by the Increase of Rent and Mortgage Interest (War Restrictions) Act, 1915, and was continued, with some amendments and adjustments, through a series of temporary Acts until 1960. The Rent Restrictions Act, 1960, was a comprehensive measure which repealed all former enactments relating to rent control and provided for the first time for permanent control of those dwellings in the rented sector formerly governed by the repealed enactments. The Act of 1960 also relaxed the scope of control and increased the level of controlled rents. This Act was further amended by the Rent Restrictions (Amendment) Act, 1967 (Number 10 of 1967), but without any major change in the nature of the control involved.

4. In March, 1980, an action was taken in the High Court challenging the constitutionality of Parts II (lawful rent of controlled dwellings) and IV (restrictions on recovery of possession of controlled premises) and in a decision on 18th April, 1980, both these parts were adjudged to be repugnant to the provisions of the Constitution. This decision was appealed by the Attorney General to the Supreme Court. On 29th June, 1981, the Supreme Court upheld the decision of the High Court that both these Parts of the Act of 1960 were repugnant to the provisions of the Constitution.

5. Section 1 of the Bill provides that the Bill be construed as one with the Rent Restrictions Acts, 1960 and 1967.

6. Section 2 sets the duration of the Bill; it is to have effect for a period of six months from the day that it is passed.

7. Section 3 is the interpretation section. In the Bill the term 'tenant' is deemed to include members of the tenant's family *bona fide* residing with him at the time of his death: in the case that he is survived by his spouse—that spouse, and in the case where there is no spouse—another member of the family as agreed upon between the members of the family, or, in default of agreement, as may be selected by the Court. This definition is necessary to replace the protection given by Section 31 of the Act of 1960 to surviving spouses and members of a tenant's family and is designed to remove any doubt about their rights. The definitions used in the Acts of 1960 and 1967 apply to this Bill.

8. Section 4 makes an increase in the rent of a controlled dwelling, notified on or after the 18th April, 1980, the date of the High Court decision, unenforceable for the period of six months that the Bill is in force.

9. Section 5 replaces on a temporary basis the provisions of section 29 of the Act of 1960, as amended by section 9 of the Act of 1967, so as to provide for the conditions under which a landlord can recover possession of a controlled dwelling. The main circumstances in which a landlord can recover possession are:

- (a) rent arrears or breach of obligation by the tenant under the tenancy agreement,
- (b) nuisance or annoyance of the landlord or his agent by the tenant, any subtenant or person residing with the tenant, or use of the dwelling for an immoral or illegal purpose,
- (c) deterioration of the dwelling due to acts of waste by tenant, subtenant or lodgers,
- (d) tenant having given notice to quit in certain circumstances,
- (e), (f), (g) landlord needs the premises for occupation by himself or certain other persons, and alternative accommodation is available for the tenant and his family in a controlled dwelling,
- (h) dwelling needed for use by a statutory body,
- (i) landlord has suffered financial stringency since purchasing the controlled dwelling, requires the dwelling to meet his financial needs and is prepared to pay the tenant compensation,
- (j) for the purpose of good estate management or for the purpose of further development of the premises subject to compensation to the tenant, and

- (k) tenant failing to deal in certain trade commodities where the dwelling is a 'tied' house.

In all cases the over-riding consideration is that the Court should consider it reasonable that a decree for ejectment be given. In such consideration the Court may take into account the extent to which the landlord has contributed to the circumstances under which application for recovery of possession is sought.

10. In addition to the replacement of the provisions of section 29 of the Act of 1960, the Bill introduces an additional subsection (subsection (7)) which gives the tenant the right to the possession of the dwelling while the Act is in force notwithstanding the existence of an order for recovery of possession, otherwise than for a reason specified in section 29, made on or after 18th April, 1980, subject to the right of a landlord to apply for an order under section 5 of the Bill.

11 *Section 6* gives power to the Court to vary or postpone orders for recovery of possession, whether made under section 5 or before the passing of the Bill. It is similar to section 33 of the Act of 1960.

12. *Section 7* contains the short title and collective citation.

*An Roinn Comhshaoil*  
*Iúil, 1981.*

4. In March, 1980, an action was taken in the High Court challenging the constitutionality of Part II (control of dwellings) and IV (restrictions on recovery or possession of controlled premises) and in a decision on 18th April, 1980, both these parts were adjudged to be unconstitutional. In all cases the overriding consideration is that the Court should consider if reasonable that a decree for recovery be given in such circumstances. The Court may take into account the extent to which the landlord has complied with the circumstances under which application for recovery of possession is sought.

10. In addition to the replacement of the provisions of section 29 of the Act of 1960, the Bill introduces an additional subsection (3) which gives the tenant the right to the possession of a dwelling while the Act is in force notwithstanding the existence of an order for recovery of possession of the dwelling for reasons specified in section 29, made on or after 18th April, 1980, subject to the provisions of section 31 of the Bill.

7. Section 31 of the Bill provides for an order for recovery of possession to be made in favour of a landlord or his agent if it is deemed to include members of the tenant's family *bona fide* residing with him or his agent or other persons or persons residing with him or his agent or other persons who are not members of the family, or, in default of agreement, as may be selected by the Court. The provisions of section 31 of the Act of 1960 apply to surviving spouses and members of a tenant's family and is designed to remove any doubt as to the application of the provisions of the Act of 1960 and 1967 apply to the Bill.

8. Section 4 makes an increase in the rent of a controlled dwelling, notified on or after the 18th April, 1980, the date of the High Court decision, unenforceable for the period of six months that the Bill is in force.

9. Section 5 replaces on a temporary basis the provisions of section 29 of the Act of 1960, as amended by section 9 of the Act of 1967, so as to provide for the conditions under which a landlord can recover possession of a controlled dwelling. The main circumstances in which a landlord can recover possession are:

- (a) rent arrears or breach of obligation by the tenant under the tenancy agreement.
- (b) nuisance or annoyance of the landlord or his agent by the tenant, any subtenant or person residing with the tenant, or use of the dwelling for an immoral or illegal purpose.
- (c) deterioration of the dwelling due to acts of waste by tenant, subtenant or lodgers.
- (d) tenant having given notice to quit in certain circumstances.
- (e), (f), (g) landlord needs the premises for occupation by himself or certain other persons, and alternative accommodation is available for the tenant and his family in a controlled dwelling.
- (h) dwelling needed for use by a statutory body.
- (i) landlord has suffered financial stringency since purchasing the controlled dwelling, requires the dwelling to meet his financial needs and is prepared to pay the tenant compensation.
- (j) for the purpose of good estate management or for the purpose of further development of the premises subject to compensation to the tenant.