



**BILLE NA dTITHE (TEAGHAISÍ PRÍOBHÁIDEACHA AR CÍOS),  
1982**

**HOUSING (PRIVATE RENTED DWELLINGS) BILL, 1982**

**EXPLANATORY MEMORANDUM**

1. The purpose of the Bill is to provide tenants of dwellings controlled under the Rent Restrictions Acts, 1960 to 1981, with a measure of security of tenure, to set up a mechanism for the fixing of the rents of such dwellings by the District Court if the rents are not agreed between the landlord and tenant and to provide for the payment of rent allowances to tenants faced with hardship in meeting increased rents. In relation to rented dwellings generally the Bill also provides for registration, rent books and standards. The Bill will replace the Rent Restrictions (Temporary Provisions) Act, 1981, (No. 26 of 1981), when it lapses on 25th April, 1982, and repeals the entire Rent Restrictions code. The Bill is founded on important principles in the Constitution, in particular the rights of private property and the role of the State in defending these rights and in delimiting by law the exercise of the rights with a view to reconciling their exercise with the exigencies of the common good.

2. The circumstances in which the Bill is needed are set out in paragraphs 3 to 6 following.

3. The Housing (Private Rented Dwellings) Bill, 1981, was passed by both Houses of the Oireachtas in December, 1981. After consultation with the Council of State, the President referred the Bill to the Supreme Court for a decision as to whether it was in any way repugnant to the Constitution. The Court in a judgment of 19th February, 1982, concluded that Section 9 of the Bill would constitute an unjust attack on the property rights of owners of controlled dwellings and would, accordingly, be in contravention of the provisions of Article 40, section 3, subsection 2 of the Constitution. The purpose of Section 9 had been to phase in over a five-year period the rent fixed for a dwelling by the Court.

4. The Rent Restrictions Acts controlled in a very rigid manner the rent a landlord could obtain in respect of a controlled dwelling and his right to secure possession of it. 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 The Rent Restrictions Act, 1960 (No. 42 of 1960), was a comprehensive measure which repealed all former enactments relating to rent control and provided for the first time for permanent control of those dwellings in the rented sector formerly governed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 (No. 10 of 1967), but without any major change in the nature of the control involved.

5. In March, 1980, actions were taken in the High Court challenging the constitutionality of Parts II (Restriction of Rent of Controlled Dwellings) and IV (Restrictions on Recovery of Possession of Controlled Premises) of the 1960 Act. 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.

6. Following the Supreme Court decision the Rent Restrictions (Temporary Provisions) Act, 1981, was passed on 25th July, 1981, providing, for six months, a measure of protection against eviction for tenants and their families, and prohibiting the enforcement of rent increases notified on or after 18th April, 1980. The Act was 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. The Act was extended by three months to 25th April, 1982, by the Rent Restrictions (Temporary Provisions) (Continuance) Act, 1981 (No. 35 of 1981).

## MAIN PROVISIONS OF THE BILL

### PART I: PRELIMINARY AND GENERAL.

7. *Section 1* contains the short title of the Bill and provides for its coming into operation on 26th April, 1982, at which date the temporary legislation will have expired.

8. *Section 2* is an interpretation section and defines a number of terms used throughout the Bill. The main definitions are:

“dwelling” means a house or part of a house let as a separate dwelling whether or not some facilities are shared with other persons;

“housing authority” means the county council, county borough or borough corporation or urban district council;

“landlord” means the person for the time being entitled to receive the rent for a dwelling.

9. *Section 3* is the usual provision in regard to expenses of the Minister.

10. *Section 4* deals with the giving of *notice* and serving of claims under the Act. It may be done by personal delivery or by registered post.

11. *Section 5* is the usual provision about laying of regulations before each House of the Oireachtas.

12. *Section 6* is the repeals section and the entire Rent Restrictions code is being repealed.

### PART II: TENANCIES OF CERTAIN DWELLINGS.

13. *Section 7* is the interpretation section for a number of terms used in *Part II* of the Bill. The main definitions are:

“improvement” means any addition or alteration to a dwelling carried out by the tenant or his predecessor in title after the 31st December, 1960, which adds to the letting value of the dwelling, but does not include work of painting, decorating or repairing except where the work of repairing was the responsibility of the landlord and the landlord failed to carry out the work;

“tenant” means the person for the time being entitled to the possession of a dwelling and includes a person who, at the commencement of the Act, would be tenant of the dwelling by virtue of the Rent Restrictions Acts and who is still in possession of the dwelling;

“family”—the definition lists the relationships to the person who was tenant at the commencement of the Act which may be regarded as part of that person’s family.

14. The scope of *Part II* is set out in *section 8*. It applies only to those dwellings which, at the commencement of the Act, were controlled under the Rent Restrictions Acts, 1960 to 1981. They are hereafter referred to as “controlled dwellings” and are set out in detail in the Appendix to this Memorandum. *Sections 9* and *16* do not apply to a controlled dwelling let to a person in connection with his employment, let for temporary convenience or to meet a temporary necessity. Where a right to retain possession of a dwelling ceases, or a tenant assigns or sublets his tenancy or the landlord recovers possession of the dwelling, *Part II* ceases to apply to the dwelling.

15. *Section 9* confers a right to retain, as a tenant, possession of a controlled dwelling, other than a dwelling referred to in *section 8 (2)* for the lifetime of the person who is the tenant at the commencement of the Act or his spouse, and where a member or successive members of the tenant’s family succeed to the tenancy, for a period of twenty years from the commencement of the Act. If a member of the family becomes tenant with less than five of the twenty years to run, he would have a right to stay at least five years.

16. *Section 10* entitles a tenant to surrender a controlled dwelling at any time provided he gives at least one month’s notice in writing to the landlord of his intention to do so.

17. *Section 11* provides that the terms of a tenancy of a controlled dwelling may be agreed between the landlord and the tenant or, in default of agreement, shall be fixed by the Court. In either case an increase in rent shall not be payable by the tenant until the terms have been set out in written form (and a copy given to the tenant) and the landlord has complied with any requirement to register under regulations made under *section 24* of the Bill.

18. *Section 12* gives both the landlord and the tenant of a controlled dwelling the right, subject to certain limitations, to apply to the Court at any time to make an order fixing the terms, including the rent, of the tenancy which order shall be binding on both parties. If terms have already been fixed by the Court, a subsequent application may be made only after five years have elapsed. This section thus provides a basis for a review of rents at five-yearly intervals. An application to the Court may be made notwithstanding an earlier agreement between the parties fixing the terms of the tenancy. The party making an application to the Court must give one month’s notice in writing to the other party of his intention to do so. A landlord who applies to the Court is made liable for the tenant’s costs reasonably and neces-

sarily incurred, unless the Court, on consideration of all the circumstances, orders otherwise.

19. *Section 13* specifies the criteria by reference to which the rent shall be fixed by the Court. The rent fixed shall be the amount which the Court considers just and proper having regard to the nature, character and location of the dwelling, the other terms of the tenancy, the means of the landlord and the tenant, the date of purchase of the dwelling by the landlord and the amount paid by him for it, the length of the tenant's occupancy of the dwelling and the number and ages of the tenant's family residing in the dwelling. That amount shall be reduced by an allowance for improvements done by the tenant or his predecessor in title.

20. *Section 14* empowers the Court to order the landlord or the tenant to pay the other party, in respect of the period from the date of notice of intention to institute proceedings to fix the rent and the date of the order of the Court, an amount not exceeding the difference between the former rent and the rent fixed by the Court. The Court may order its payment in such manner and over such period as it considers proper.

21. *Section 15* entitles a tenant to claim compensation from the landlord for certain improvements carried out by the tenant or his predecessors in title to the dwelling. The amount of compensation may be agreed between the landlord and the tenant or, in default of agreement, be determined by the Court. Where determined by the Court, the amount is to be the capitalised value of the addition to the letting value of the dwelling at the time of quitting. The Court may take into account in determining the amount of compensation any benefits by way of reduction in rent or otherwise that the tenant has received as a result of the improvements. The Court may also take into account any rent due to or other loss incurred by the landlord arising from the reasons for which an order for possession of a dwelling was granted. A claim for compensation may be made to the landlord at any time but not later than three months from the quitting of the dwelling. Compensation for improvements to a dwelling cannot be obtained under this Bill and under Part IV of the Landlord and Tenant (Amendment) Act, 1980.

22. *Section 16* specifies the grounds under which a landlord may obtain an order for recovery of possession of a controlled dwelling if the Court considers it reasonable. The grounds are:—

- (a) rent arrears or a breach of obligation under the tenancy agreement, by the tenant;
- (b) nuisance or annoyance to the landlord or his agent or adjoining occupiers by the tenant or any 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, neglect or default by the tenant or any person residing with the tenant;
- (d) the dwelling is required by the landlord for use as a residence by himself, by any person *bona fide* residing or to reside with him or by a person in his full time employment, or in the interests of good estate management;
- (e) the dwelling is required to carry out a scheme of development for which there is planning permission.

In the case of (d) and (e) the landlord must compensate the tenant to the extent of his expenses of quitting the dwelling and up to two years' rent of alternative accommodation. In all cases the over-riding consideration is that the Court should consider it reasonable that an order for possession should be given. Notwithstanding any rights being given in this Bill, a local authority may obtain possession of a controlled dwelling where it is required for the purpose of the execution of their powers, duties and functions. The provisions do not apply to a controlled dwelling let to a person in connection with his employment, let for temporary convenience or to meet a temporary necessity.

23. *Section 17* makes a warrant for delivery of possession of a controlled dwelling valid for six months. The summary ejection procedure under section 15 of the Summary Jurisdiction (Ireland) Act, 1851, is being applied to a controlled dwelling if its valuation does not exceed £10.

24. *Section 18* empowers the Court to stay execution on an order for possession and in cases of urgency an application may be made *ex parte* to vary the terms of the stay.

25. *Section 19* enables the Court to order a landlord to compensate a tenant of a controlled dwelling for any damage or loss as a result of the landlord obtaining an order for possession by misrepresentation or concealment of material facts.

26. *Section 20* provides that a landlord may, without prejudicing his right to recover possession of a controlled dwelling, accept an amount in lieu of rent for the period from the institution of proceedings to the date they are finally determined.

27. *Section 21* gives the District Court jurisdiction for all matters under *Part II* of the Bill.

28. *Section 22* provides that the interest of a spouse who becomes the tenant of a controlled dwelling shall not, for the purposes of any enactment relating to settled land, be regarded as having been acquired under a settlement.

29. *Section 23* provides authority for the payment by the Minister for Social Welfare of rent allowances to tenants of controlled dwellings who would be faced with hardship in meeting increases in the rents of their dwellings. The amount of the allowances and the conditions and limitations of entitlement and payment shall be specified in regulations to be made in due course by the Minister for Social Welfare. Certain relevant provisions of the Social Welfare (Consolidation) Act, 1981 (No. 1 of 1981), may be applied by the regulations to the allowances.

### PART III: RENTED DWELLING—REGISTRATION, RENT BOOKS, STANDARDS

30. *Section 24* empowers the Minister to make regulations requiring the landlord to register rented dwellings with the housing authority in whose area the dwelling is situate.

31. *Section 25* empowers the Minister to make regulations requiring landlords to provide rent books for use in respect of rented dwellings.

32. *Section 26* empowers the Minister to make regulations specifying standards for rented dwellings. These standards will relate to such matters as the quality, maintenance and facilities of the dwelling. The regulations, when made, will replace bye-laws which some hous-

ing authorities have made under section 70 of the Housing Act, 1966 (No. 21 of 1966). The housing authority may enter and inspect any dwelling and where a requirement of the regulations is not being complied with carry out any work necessary to ensure compliance and recover the expenses from the landlord. There is provision for an appeal by the landlord to the Court against such an action.

33. Section 27 provides for a penalty of £500 for a person found guilty of contravening a regulation made under this Part or of obstructing an officer of the housing authority in the carrying out of his duty. Responsibility for enforcing the regulations and for prosecuting offences rests with the housing authority. An offence may be prosecuted at any time within twelve months after the date of the offence.

## APPENDIX

### DEFINITION OF CONTROLLED DWELLING

The term "controlled dwelling" is defined in section 3 of the Rent Restrictions Act, 1960, as amended by section 2 of the Rent Restrictions (Amendment) Act, 1967. The section as so amended now reads (the words in italics were inserted by the 1967 Act):

"3.—(1) Subject to subsection (2) of this section, this Act applies to every dwelling.

(2) This Act does not apply to—

(a) a dwelling the rateable valuation of which exceeds—

(i) in case the dwelling is situate in the county borough of Dublin or the borough of Dún Laoghaire, sixty pounds (*if the dwelling is neither a house nor a separate and self-contained flat*) or forty pounds (*if the dwelling is a house*) or thirty pounds (*if the dwelling is a separate and self-contained flat*),

(ii) in any other case, forty pounds (*if the dwelling is neither a house nor a separate and self-contained flat*) or thirty pounds (*if the dwelling is a house*) or twenty pounds (*if the dwelling is a separate and self-contained flat*).

(b) a dwelling erected after, or in course of being erected on, the 7th day of May, 1941,

(c) a dwelling the letting of which is under the Labourers Acts, 1883 to 1958, or the Housing of the Working Classes Acts, 1890 to 1958,

(d) a dwelling let at a rent (hereinafter called the reserved rent) which includes payments for board, attendance or the use of furniture, or for the supply to the dwelling of heat, hot water, fuel, electricity or any other commodity or for the rendering of any services in connection with the dwelling, unless, on apportionment of the reserved rent by the Court, the portion of the reserved rent which, in the opinion of the Court, is attributable to the dwelling alone equals or exceeds three quarters of the reserved rent, in which case the rent of the

dwelling shall be taken, for the purposes of this Act, to be the portion of the reserved rent so attributable to the dwelling alone,

(e) a house which at the commencement of this Act is occupied by the owner thereof for the purposes of his own residence, or thereafter becomes so occupied,

(f) a house of which the landlord is, at the commencement of this Act, in possession or thereafter comes into possession and, *save in a case in which there is a coming into possession by the landlord on or after the 8th day of June, 1966*, the rateable valuation whereof exceeds—

(i) in case the house is situate in the county borough of Dublin or the borough of Dún Laoghaire, thirty pounds,

(ii) in any other case, twenty-five pounds,

(g) a dwelling which is a separate and self-contained flat forming part of any buildings which, after the commencement of this Act, were reconstructed by way of conversion into two or more separate and self-contained flats, *or which is a separate and self-contained flat (not being a flat forming part of any such buildings) of which the landlord is on the 8th day of June, 1966, in possession or thereafter comes into possession*,

(h) a dwelling let together with land other than the site of the dwelling, if the rateable valuation of the land exceeds the lesser of the following:

(i) half the rateable valuation of the site including the building or buildings thereon, or

(ii) (I) in case the dwelling is situate in the county borough of Dublin or the borough of Dún Laoghaire, ten pounds,

(II) in any other case, five pounds,

(i) *a dwelling which is a house the rateable valuation whereof exceeds ten pounds, being a house of which, after the passing of the Rent Restrictions (Amendment) Act, 1967, a person, being a bachelor or spinster and being over the age of 21 years and under the age of 65 years, has become the tenant.*

(3) The application of this Act to a dwelling forming part of a house (other than a house erected after, or in course of being erected on, the 7th day of May, 1941, or a house the letting of which is under the Labourers Acts, 1883 to 1958, or the Housing of the Working Classes Acts, 1890 to 1958) shall not be excluded by reason only of the fact that this Act does not apply to the house.

(4) Where the rateable valuation of a dwelling is increased and thereby the valuation becomes a valuation which exceeds—

(a) in case the dwelling is situate in the county borough of Dublin or the borough of Dún Laoghaire, sixty pounds (if the dwelling is neither a house nor a separate and self-contained flat) or forty pounds (if the dwelling is a house) or thirty pounds (if the dwelling is a separate and self-contained flat), or

(b) in any other case, forty pounds (if the dwelling is neither a house nor a separate and self-contained flat) or thirty pounds (if the dwelling is a house) or twenty pounds (if the dwelling is a separate and self-contained flat),

this Act shall, notwithstanding paragraph (a) of subsection (2) of this section, continue to apply to the dwelling unless and until the landlord comes into possession thereof.

(5) Where, immediately before the commencement of this Act,—

(a) a dwelling stood let together with land other than the site of the dwelling, and

(b) the Act of 1946 applied to the dwelling,

this Act shall, notwithstanding paragraph (h) of subsection (2) of this section, apply to the dwelling unless and until the landlord comes into possession thereof.

\* (6) In paragraph (e) of subsection (2) of this section 'owner' includes a person having any estate or interest in the house except under a contract of tenancy not being for more than a term of twenty-one years.

(7) In paragraph (f) of subsection (2) and in paragraph (g) of that subsection and in subsections (4) and (5) of this section 'possession' means actual possession, and a landlord shall not be deemed to have come into possession by reason only of a change of tenancy made with his consent."

*An Roinn Comhshaoil,  
Marta, 1982.*

\*Note: Section 2 (6) of the Rent Restrictions (Amendment) Act, 1967, provides that the application of the 1960 Act to a house shall not be excluded by reason only of this subsection in a case in which, at the passing of the 1967 Act, the house is occupied for the purposes of his own residence by a person who holds it under a lease the term of which is more than twenty-one years, but that if, at any time before the expiration of that term, neither he nor any other person having the lessee's interest under the lease is in occupation of the house for the purposes of his own residence, the 1960 Act shall thereupon cease to apply.