Background
This Bill provides for the implementation of reforms of the private rented sector recommended by the Commission on the Private Rented Residential Sector and accepted by the Government. It introduces a measure of security of tenure for tenants, specifies minimum obligations applying to landlords and tenants and provides for the establishment of a Private Residential Tenancies Board to resolve disputes arising in the sector, operate a system of tenancy registration and provide information and policy advice. The Bill also contains provisions relating to rent setting and reviews and procedures for the termination of tenancies, including gradated notice periods linked to the duration of a tenancy. There are some consequential amendments to the existing landlord and tenant code.

PART 1
PRELIMINARY AND GENERAL
(Sections 1 to 11)

Sections 1 to 11 contain the usual provisions of a general nature dealing with such matters as citation, commencement, interpretation (see sections 4 and 5 for definitions of various terms), service of notices, offences, regulations and orders and expenses. Section 3 spells out the scope of this Bill. It does not apply to formerly rent controlled and long occupation lease tenancies and to holiday, employment related or business lettings. It also does not apply to owner-occupied or social housing. It applies to rented dwellings where the landlord’s spouse, child or parent is a resident if a lease or written tenancy agreement has been entered into.

Section 10 provides for repeals, including the Housing (Registration of Rented Houses) Regulations 1996, which are replaced by the registration requirements in Part 7 of the Bill.

PART 2
TENANCY OBLIGATIONS OF LANDLORDS AND TENANTS
(Sections 12 to 18)

This Part specifies explicit obligations that apply to landlords and tenants of all tenancies regardless of whether or not there is a written tenancy agreement. In relation to the maintenance of rented dwellings, it imposes an explicit requirement on landlords to maintain the
structure of the building and to maintain the interior to the standard that applied at the commencement of the letting. There is a corresponding responsibility on the tenant to remedy any disrepair (other than normal wear and tear) attributable to the tenant’s acts or omissions. The obligations applying to tenants include a prohibition on anti-social behaviour. There is an explicit onus on landlords to enforce tenant obligations. Failure to do so will enable another party, who can show that he/she is adversely affected by a tenant’s non-compliance with the tenancy obligations, to refer a complaint to the Board concerning the landlord’s failure to enforce.

Chapter 1 — Provisions regarding landlord’s obligations

Section 12 lists explicit tenancy obligations applying to all landlords. These relate to allowing the tenant to enjoy peaceful and exclusive occupation, carrying out repairs, insuring the dwelling, providing a point of contact, refunding deposits and reimbursing tenants for expenditure on repairs that were appropriate to the landlord.

Section 13 enables the Private Residential Tenancies Board (the Board) to make regulations, where considered appropriate, specifying what parts of a dwelling constitute the structure or interior for the purpose of section 12.

Section 14 prohibits landlords from penalising tenants who have referred a dispute to the Board.

Section 15 imposes a duty on landlords to enforce the obligations of a tenant so that a third party directly affected by a failure to do so may refer a complaint to the Board under section 76.

Chapter 2 — Provisions regarding tenant’s obligations

Section 16 lists explicit tenancy obligations applying to all tenants. These relate to the paying of rent and any other charges specified in a lease or tenancy agreement, ensuring no act or omission causes the landlord to be non-compliant with relevant obligations (including the provisions of the Housing (Standards for Rented Houses) Regulations 1993), notifying the landlord of any repair requirements and allowing access for repairs to be carried out and by appointment for routine inspections. They also relate to the obligation not to do anything to cause the dwelling to deteriorate beyond normal wear and tear, and if done, to make good such damage, not to engage in or allow anti-social behaviour or act in a way that would invalidate the landlord’s insurance, not to assign, sub-let, alter, improve or change the use of the dwelling without the landlord’s written consent and to keep the landlord informed of the identity of the occupants.

Section 17 interprets certain references in section 16 including defining anti-social behaviour as behaviour within the dwelling that constitutes the commission of an offence, causes danger, injury, damage or loss, or includes violence, intimidation, coercion, harassment, obstruction or threats. It also includes persistent behaviour that prevents or interferes with the peaceful occupation of their dwellings by others in the building or its vicinity.

Section 18 prohibits written tenancy agreements from varying, modifying or restricting these basic landlord and tenant obligations but allows such agreements to impose additional obligations on the landlord or on the tenant.
PART 3
RENT AND RENT REVIEWS
(Sections 19 to 24)

This Part deals with rent setting and rent reviewing. The rent payable may not be greater than the open market rate as defined in section 24. Rent reviews should be no more frequent than once a year unless there has been a substantial change in the nature of the accommodation in the interim. Rents may be reviewed upwards or downwards. There are some provisions relating to disputes about rents.

Section 19 prohibits an initial or reviewed rent from being set at an amount greater than the market rent.

Section 20 provides that rent reviews may take place no more frequently than once a year unless there has been a substantial change in the nature of the accommodation in the interim.

Section 21 allows either party to seek a rent review under section 20 in circumstances where provision is not made for one by way of a lease or tenancy agreement.

Section 22 requires the tenant to be given 28 days notice of any rent revision and allows a tenant to refer to the Board a dispute about such a rent only within that period or within 28 days of its receipt, whichever is later.

Section 23 entitles a person owed arrears of rent to recover such arrears under the dispute resolution procedures in Part 6.

Section 24 defines market rent as the rent that a willing tenant would give and a willing landlord would take for vacant possession having regard to the other tenancy terms and the letting values of dwellings of a similar size, type and character and located in a similar area. The definition is based on that applying to “gross rent” in the Landlord and Tenant (Amendment) Act 1980 (the 1980 Act).

PART 4
SECURITY OF TENURE
(Sections 25 to 55)

This Part provides for security of tenure on the basis of 4-year cycles whereby tenancies will be deemed terminated at the end of each 4-year period and a new tenancy will come into being, assuming the dwelling continues to be let to the same person/s. For the first 6 months of each tenancy, the landlord will be free to terminate without giving a reason. For the remaining 3½ years, termination will only be possible where one of the grounds specified in section 34 applies. The first cycle of these tenancies is called a “Part 4 tenancy” and each subsequent one is called a “further Part 4 tenancy” in the Bill. The tenant will be free to terminate at any time, subject to any fixed term agreement. Longer notice periods linked to the duration of the tenancy will apply to both landlords and tenants. Part 5 contains the provisions relating to terminations. More detailed aspects of the application of the security of tenure measure to sub-tenancies are contained in the Schedule to the Bill.
Chapter 1 — Preliminary

Section 25 provides that the security of tenure measure does not apply in respect of a tenancy of a house that is divided into two where the landlord is residing in the other dwelling and notifies the tenant in writing at the outset of the non-application of the measure.

Section 26 provides that this Part does not take from a tenant more beneficial rights that a particular tenant may have (for example, under a long lease).

Chapter 2 — Statement of essential protection enjoyed by tenants

Section 27 provides that occupation before this Part is commenced is to be disregarded so that the 4-year tenancy cycle starts from the commencement date of this Part for all tenancies in existence when the Bill comes into force.

Section 28 provides that the 4-year statutory protection comes into existence when the tenancy has lasted 6 months from its commencement or from the Bill coming into force and for its lasting four years in total (or until a notice period bringing it beyond the four years has expired), unless terminated in accordance with the Bill.

Section 29 provides that a tenancy that has qualified for the statutory protection contained in section 28 shall be known as a “Part 4 tenancy”.

Section 30 applies to the Part 4 tenancy the terms of the previous tenancy of which it is a continuation, unless varied by agreement between the parties or inconsistent with the Bill.

Section 31 construes a series of continuous separate fixed term tenancies as continuous occupation for the purposes of qualifying for a Part 4 tenancy.

Section 32 prohibits the sub-letting of part only of a dwelling and provides for protection to be afforded to a sub-tenant as contained in the Schedule to the Bill.

Chapter 3 — Termination of Part 4 tenancy

Section 33 prohibits a landlord from terminating a Part 4 tenancy except in accordance with section 34.

Section 34 contains the grounds for terminating a Part 4 tenancy, most of which are listed in the Table to the section. They are: (1) a failure by the tenant to comply with the obligations of the tenancy, (2) the dwelling being no longer suited to the accommodation needs of the occupying household by reference to the number of bedspaces, (3) the landlord intending to enter into a contract to sell the dwelling in the next 3 months, (4) the landlord requiring the dwelling for own or family member occupation, (5) the landlord intending to refurbish substantially the dwelling such that vacant possession would be required, or (6) the landlord intending to change the business use of the dwelling. Any of these grounds must be cited in the termination notice. In addition a landlord may terminate on the basis that the 4 years are expired. Where termination is by reason of the tenant’s failure to comply with the tenancy obligations, the tenant must first be notified of the failure and the intention to terminate if the failure is not remedied within a specified reasonable time. The exception to this is in the case of serious anti-social behaviour that falls within the definition in paragraphs (a) and (b) of section 17(1).
Section 35 clarifies what is meant by remedying a failure to comply with a tenancy obligation and the scope of the term “family member” in section 34.

Section 36 clarifies that the tenant may, at any time, terminate the Part 4 tenancy, subject to giving the required amount of notice.

Section 37 provides that, if a tenant who is in arrears of rent vacates the dwelling without giving the landlord the required amount of notice or if a tenant at least 28 days in arrears of rent vacates without any notice, the Part 4 tenancy is deemed to be terminated so that the landlord can recover possession. This section also deals with assigned tenancies by converting the tenancy to a monthly periodic tenancy with a new commencement date for the assignee and terminating the Part 4 tenancy of the assignor.

Section 38 deems a Part 4 tenancy to be terminated on the death of the tenant.

Chapter 4 — Additional statutory right — further Part 4 tenancy

Section 39 is a technical interpretation section.

Section 40 provides that a new tenancy comes into being on the expiry of the 4-year period unless a termination notice has been validly served. This tenancy is termed a “further Part 4 tenancy” and lasts for 4 years unless terminated by the tenant or by the landlord in the first 6 months (see section 41) or on one of the grounds listed in section 34.

Section 41 allows a landlord to terminate, in the first 6 months of a further Part 4 tenancy, without specifying a ground, by giving the tenant 112 days (16 weeks) notice — this is the maximum notice period under the Bill.

Chapter 5 — Successive further Part 4 tenancies may arise

Section 42 explains that the rights to further Part 4 tenancies are of a rolling nature, as indicated in section 44, and successive such tenancies will arise if not previously terminated in accordance with the provisions in this Bill.

Section 43 is a technical construction section.

Section 44 provides that another further Part 4 tenancy comes into being on the expiry of the previous further Part 4 tenancy unless a termination notice has been validly served. This further Part 4 tenancy also lasts for 4 years unless terminated by the tenant or by the landlord in the first 6 months or on one of the grounds listed in section 34.

Section 45 applies to the further Part 4 tenancy the terms of the previous tenancy (either the initial Part 4 tenancy or a previous further Part 4 tenancy) as appropriate and unless varied, consistent with the Bill, by agreement between the parties.

Section 46 is another technical section catering for the application to a further Part 4 tenancy of earlier provisions in the Bill as appropriately modified in the accompanying Table.

Chapter 6 — Rules governing operation of Part in cases of multiple occupants

Section 47 is an interpretation section defining “multiple tenants” as 2 or more persons who are tenants of a single dwelling.
Section 48 provides that the 4-year security of tenure measure applies to a dwelling occupied by multiple tenants, together with any of their lawful licensees, from the earliest date at which a multiple tenant has been in occupation for 6 months.

Section 49 provides that, once a Part 4 tenancy has come into being, each of the multiple tenants and any person/s subsequently accepted by the landlord as tenant in addition to or replacement for any of those multiple tenants, benefit from the protection of that Part 4 tenancy. It further provides that any licensee of a tenant or multiple tenants may apply to become a tenant on the existing tenancy terms and the landlord may not unreasonably refuse such a request — acceptance is to be acknowledged in writing. The rights, restrictions and obligations of a tenant then apply to the former licensee.

Section 50 provides that the actions of one multiple tenant in breach of the obligations applying to the tenancy will be grounds for the termination of the Part 4 tenancy only if done with the consent of the other multiple tenants. A landlord may conclude that the breach was done with the consent of any tenant who does not assist the landlord in identifying the tenant responsible for the breach and any tenant who consented to it. If the landlord concludes that not all of the tenants were complicit in the breach, he/she may terminate the benefit of the protection of the Part 4 tenancy for the relevant person/s only. A dispute in relation to this matter may be determined under the dispute resolution procedures in Part 6.

Section 51 provides that the death or vacating of the dwelling by the person whose occupation gave rise to the Part 4 tenancy does not deprive the other tenants of the benefit of that protection.

Section 52 has the effect of providing that there can be only one commencement date for determining when the Part 4 tenancy comes into being and that is on the first completion of a 6 months' tenancy. The tenancy commencement date of any of the other tenants is then disregarded.

Chapter 7 — Miscellaneous

Section 53 prohibits the parties to a tenancy from entering into a contract that varies, modifies or restricts the provisions contained in this Part, unless to give the tenant greater security of tenure in accordance with section 26.

Section 54 clarifies that nothing in the Bill can be used to prevent a tenant from exercising his or her entitlement to a long occupation equity lease under section 13 of the 1980 Act.

Section 55 allows a tenant, whose tenancy was terminated on the basis of one of the grounds listed in section 34 that relates to a landlord's intentions and the ground turned out to be false, to bring a complaint to the Board that he/she was unjustly deprived of possession and the Board may, if appropriate, award damages. (This is subject to an upper limit of €20,000 in section 176.)
PART 5

TENANCY TERMINATIONS — NOTICE PERIODS AND OTHER PROCEDURAL REQUIREMENTS

(Sections 56 to 73)

This Part is complementary to Part 4 and specifies the procedures to be followed so as to terminate validly a tenancy. Termination is to be by way of a termination notice regardless of the reason for the termination. The Part introduces gradated notice periods linked to the duration of the tenancy and these are listed in the Table to section 65 — they apply to both landlords and tenants. It also details procedures applicable where a sub-tenancy has been created out of the tenancy that is being terminated.

Chapter 1 — Scope of Part and interpretation provisions

Section 56 clarifies that the Part applies to all tenancies to which the Bill applies (including those excluded in section 25).

Section 57 makes it absolutely clear that the termination of tenancies is to be done in accordance with the provisions contained in this Part only. (Therefore landlords will no longer be able to utilise means such as forfeiture and re-entry so as to recover possession of a dwelling.)

Section 58 excludes from application any existing rules of law or provisions of enactments relating to termination of tenancies and to notice periods in particular, but this is subject to section 59.

Section 59 provides that where a greater notice period than that specified in this Part is required by any lease or tenancy agreement, that greater notice period shall apply.

Section 60 is a technical construction section providing that notice periods commence on the day following service of the notice and that references in the Part to the duration of a tenancy are to the period between its commencement date (for the purpose of the Bill) and the date of service of the termination notice.

Chapter 2 — What a valid notice of termination must contain

Section 61 lists the requirements for a termination notice to be valid. It must be in writing, be signed by the person serving it, specify the date of service, the date the tenancy will terminate and the section 34 termination ground (where issued by the landlord and the tenancy duration exceeds 6 months). It must also advise the recipient that any dispute as to the validity of the notice may only be referred to the Board within 28 days of its receipt. Additional requirements relating to the termination of sub-tenancies are in Chapter 4.

Section 62 provides that the date to be specified in the notice as the termination date is the last day of the period of notice required to be given under section 65 or such longer period as the party chooses to give.

Section 63 clarifies that a date of service specified in the notice is not valid if any of the steps involved in serving the notice remains untaken on that specified date.

Chapter 3 — Period of notice to be given

Section 64 outlines the purpose of the chapter and clarifies that, unlike the termination date, the amount of notice being given in the notice of termination is not required to be stated therein and that
either party may choose to give a greater period of notice than that required by section 65.

Section 65 specifies the required notice periods in a Table to the section. These range from 4 weeks where the tenancy has lasted less than 6 months to 12 weeks where notice issues in the 4th year. Termination during the first 6 months of a further Part 4 tenancy requires 16 weeks notice.

Section 66 specifies the shorter notice periods applicable where the termination of the tenancy by the landlord is due to the tenant’s failure to comply with the tenancy obligations. In the case of serious anti-social behaviour falling within the definition in paragraphs (a) and (b) of section 17(1) or behaviour that is threatening to the dwelling or property containing the dwelling, the notice period is 7 days. For other un-remedied breaches of the tenant’s obligations, the notice period is 28 days and where termination is for the non-payment of rent, the notice can be served once 7 days have elapsed from the service of notice to the tenant seeking the rent due.

Section 67 specifies the shorter notice periods applicable where the termination of the tenancy by the tenant is due to the landlord’s failure to comply with the tenancy obligations. Where the landlord has been notified of the breach and has failed to remedy it within a reasonable time, the notice to be given by the tenant is 28 days. Where a breach by the landlord of a tenant’s right to peaceful occupation involves behaviour that poses an imminent danger of death or serious injury or danger to the fabric of the dwelling, the notice period is 7 days.

Section 68 allows the parties to agree to any lesser notice period that they choose but this can only be done when one party has been advised of the other party’s decision to terminate and such an agreement cannot be made when a tenancy is being entered into.

Chapter 4 — Additional requirements and procedures where tenancy sub-let

Section 69 requires the landlord of a tenancy that has been sub-let to indicate in a notice of termination served in respect of the head-tenancy whether or not he/she requires the sub-tenancy to be terminated. If the sub-tenancy is required to be terminated, the landlord must also serve a copy of the notice of termination on the sub-tenant.

Section 70 requires a head-tenant, who is not disputing the validity of a termination notice served on him/her, to serve a notice of termination on the sub-tenant within 28 days.

Section 71 requires a head-tenant, who has received a notice of termination indicating that termination of the sub-tenancy is not required, to notify the sub-tenant within 28 days of the contents of the termination notice and, where the head-tenant is referring a dispute as to the validity of that notice to the Board, of that referral. Where a dispute referral results in a determination order of the Board, the head-tenant must notify the sub-tenant of the particulars of the order within 14 days of receipt.

Chapter 5 — Miscellaneous

Section 72 provides that where a tenancy is being terminated by all of the multiple tenants, one of the tenants may sign on behalf of the others named in the notice.

Section 73 makes it an offence to purport to serve an invalid notice
of termination and then act in reliance on it in a way that adversely affects the interests of the person on whom it was served.

**PART 6**

**DISPUTE RESOLUTION**

(Sections 74 to 123)

The principal function being assigned to the Private Residential Tenancies Board being established under Part 8 is the resolution of all disputes arising between landlords and tenants of dwellings to which this Bill applies. The Board’s dispute resolution function will replace the current role of the courts in relation to such matters for these tenancies. The Board will, for example, deal with disputes about the refund of deposits that are currently dealt with by the Small Claims Court, disputes about breaches of tenancy obligations whether arising from the provisions of this Bill or under a tenancy agreement and disputes surrounding the termination of tenancies in accordance with the provisions of this Bill. In relation to rents, the Board will deal with cases relating to rent arrears and disputes about whether a rent sought exceeds market rent. Part 6 details the dispute resolution procedures that will be followed by the Board. The process consists of two stages; stage one is either mediation or adjudication and is confidential, and stage two is a public hearing by a Tenancy Tribunal. The Tribunal is composed of 3 persons drawn from the Board’s Dispute Resolution Committee and is described in section 102. A mediated agreement or the determination of an adjudicator or of a Tribunal will result in a determination order of the Board. The Tribunal’s determination of a matter may be appealed to the High Court on a point of law only. The enforcement of determination orders of the Board that are not complied with will be through the Circuit Court in accordance with the provisions in section 122.

**Chapter 1 — Referral of matters to Board for resolution**

Section 74 is an interpretation section and provides that referrals to the Board of disputes may be for the purposes of mediation, determination by an adjudicator or determination by the Tribunal. It construes “disputes” as including disagreements and complaints under sections 55, 75 and 76 and the Schedule. It construes parties as including, where appropriate, legal personal representatives, licensees and complainants under section 76.

Section 75 allows disputes to be referred to the Board relating to terminated tenancies (except about an amount of rent agreed and paid by the former tenant) and to situations where the landlord is disputing the existence of a tenancy with a person claiming entitlement to the rights of a tenant through a person who is/was the tenant. It also provides for the referral of disputes by a licensee on the basis of an unreasonable refusal of consent to his/her becoming a tenant in accordance with section 49.

Section 76 provides for the referral to the Board of a complaint by a third party (referred to in section 15) affected by a landlord’s failure to enforce the obligations of the tenancy.

Section 77 contains a non-exhaustive list of the types of disputes and complaints that may be referred to the Board.

Section 78 allows the referral of more than one dispute at a time.
Section 79 provides that disputes arising from the service of a termination notice may only be referred within 28 days of receipt of the notice.

Section 80 deals with the situation where a landlord, in terminating the head-tenancy of a tenancy that has been sub-let, has indicated, in accordance with section 69, a requirement for the sub-tenancy to be terminated and the head-tenant intends to refer to the Board a dispute about the termination of the head-tenancy. In such circumstances the head-tenant, when serving the termination notice on the sub-tenant, must require the sub-tenant to inform him/her within 10 days of receipt of the notice whether the sub-tenant also intends to refer a dispute about the termination and the head-tenant may not refer the dispute until 15 days have elapsed from service of the required notice. Non-compliance with their respective obligations under the provisions in this section will disqualify the head-tenant and sub-tenant from eligibility to refer a dispute about the termination.

Section 81 allows for the withdrawal of a matter referred to the Board by the referring party. Costs and expenses may be awarded against the party withdrawing the matter if the other party objects to the withdrawal.

Section 82 prohibits the Board from dealing with any dispute until the appropriate referral fee has been paid and, if referred by the landlord, the tenancy has been registered in accordance with Part 7.

Section 83 provides that where the Board is of the opinion that a dispute concerns a dwelling to which the Bill does not apply or does not come within the Board’s jurisdiction, or the matter is vexatious or frivolous or would be statute-barred in the context of court proceedings, it must serve a notice on the referring party of that opinion and provide an opportunity for that party to make a submission as to why the Board should deal with the matter. If the Board then finds that its decision not to deal with the matter was not well founded, it must then proceed to deal with it.

Section 84 provides similarly for an adjudicator or Tenancy Tribunal to come to a conclusion that a dispute is not appropriate to be dealt with (but not where the process in section 83 was gone through and the dispute was accepted).

Section 85 prohibits an increased rent until a dispute concerning the appropriate rent amount has been determined and explicitly provides that rent continues to be payable in respect of a tenancy and any sub-tenancy while the dispute is not yet determined by the Board, unless the parties agree otherwise.

Section 86 requires the Board to disregard any remedial action taken by a party, subsequent to the termination of a tenancy for a failure to comply with the tenancy obligations, in dealing with a dispute relating to that termination.

Section 87 empowers the Board to extend time limits imposed by the Bill for referring disputes to the Board where the applicant shows good grounds for such an extension.

Chapter 2 — Relationship between Part and certain other dispute resolution mechanisms

Section 88 provides that any dispute that is the subject of court proceedings that are ongoing at the time the Board is established,
may, by agreement between the parties, be referred to the Board on foot of the discontinuance of the proceedings.

Section 89 provides that an arbitration agreement may not operate to prevent a dispute being referred to the Board for resolution, unless the tenant consents to arbitration when the dispute has arisen.

Section 90 provides that, where an alternative legal remedy is available in respect of a matter that is in dispute and is availed of by a person, he/she may not refer that dispute to the Board. In such cases, if the other party to the dispute refers it to the Board, the Board will take into account that alternative remedy in deciding the relief that may be granted.

Chapter 3 — Preliminary steps by Board (include power to refer matter to Tribunal)

Section 91 allows the Board to communicate with the parties to a dispute to ensure that they are fully informed as to the issues in dispute and, where the dispute appears to derive from a basic misunderstanding as to the rights and obligations of landlords and tenants, to enable the issues be resolved by agreement between the parties at the earliest possible stage. The section applies conditions to such communication.

Section 92 requires the Board to offer mediation to the parties unless it is a dispute that the Board considers should go direct to a Tenancy Tribunal, as provided for in section 93(b), or section 180 applies. If the offer of mediation is accepted by both parties, the dispute will be referred to a mediator from a panel established by the Board under section 158. Otherwise, the dispute will be referred to an adjudicator from a panel also established under section 158.

Section 93 exempts the Board from the requirement to offer mediation in circumstances where the offer would be inappropriate.

Chapter 4 — Mediation and adjudication

Section 94 sets out the process and objective involved in mediation and the matters that must be contained in the subsequent mediation report, including a summary of the agreement (if any) reached between the parties, that is to be subsequently provided to the Director of the Board. (The report goes to the Director with only an extract relating to the agreement being given to the Board due to the absolute confidentiality of the mediation process.)

Section 95 requires the Board to furnish the parties with a copy of any agreement referred to in the mediator’s report with a notice asking them to confirm that agreement within 21 days. Unless notified during that period that the agreement no longer exists, the Board shall proceed to make a determination order reflecting it within the following 7 days. If an agreement no longer exists or never existed, the Board shall refer the dispute to the Tribunal for determination at the request of either or both of the parties.

Section 96 sets out the process and objective involved in adjudication and provides that the adjudicator shall determine the dispute by reaching his/her own decision or by reflecting any agreement reached between the parties in the course of the adjudication, whether independently or on foot of a provisional conclusion indicated to both parties by the adjudicator.

Section 97 gives the parties a 21-day “cooling off” period within which to indicate that an agreement, which the adjudicator proposes to reflect in his/her decision, no longer exists (as otherwise such an
adjudication decision is binding). If either party indicates, within the time allowed, that the agreement no longer exists, the adjudicator shall proceed to reach his/her own decision in the matter.

Section 98 stipulates the matters that the adjudicator’s report, on foot of a determination of a dispute, shall contain. A copy of the report is to be served by the Board on the parties together with a statement advising them that the adjudicator’s decision will be the subject of a determination order of the Board unless a non-binding adjudication decision is appealed within 21 days in accordance with section 99.

Section 100 imposes certain requirements on mediators and adjudicators in relation to the disclosure of conflicts of interests, the manner in which they conduct themselves and the maintenance of the absolute confidentiality of the proceedings.

Chapter 5 — Tenancy Tribunal

Sections 101 and 102 deal with the setting up of Tenancy Tribunals by the Board to hold one or more hearings into disputes that have been referred directly to the Tribunal or for which mediation has failed to result in a resolution or where a party appeals the decision of an adjudicator. The Tribunal will consist of 3 members drawn from the Board’s Dispute Resolution Committee (see sections 151 and 153) and will be chaired by a Board member.

Chapter 6 — Dispute resolution by Tribunal

Section 103 stipulates the period and content of hearing notices and provides that each of the parties shall be entitled to be heard, to be represented and to present evidence and witnesses at the hearing.

Section 104 enables the Tribunal to hear evidence under oath, to summon witnesses and to require the furnishing of documentation. Witnesses may be cross-examined and will be entitled to the same immunities and privileges as if before the High Court. Any party failing to comply with a legal request of the Tribunal will be guilty of an offence. Reasonable expenses incurred by any person summoned to appear before the Tribunal may be reimbursed.

Section 105 provides that the Tribunal’s hearings shall be held in public but enables the Tribunal, where it considers it appropriate, to direct that the identity of the parties not be disclosed.

Section 106 allows the Tribunal to adjourn a hearing.

Section 107 requires the Tribunal to make a determination and notify it to the Board on completion of its hearing.

Chapter 7 — Supplementary procedural matters

Section 108 requires the Board, with the consent of the Minister, to make procedural rules relating to dispute resolution. Such rules may include the specification of fees, notification requirements and time limits applicable to various stages of the process.

Section 109 provides that a tenant may not bring the landlord’s title to the property into question in any dispute. (This is similar to section 101 of the Landlord and Tenant Law Amendment Act Ireland 1860 (Deasy’s Act).)

Section 110 empowers a mediator, adjudicator, member of the Tribunal or Board, dealing with a dispute, on giving at least 24 hours notice where the occupant is not participating in the dispute resolution process, to enter and inspect any dwelling to which the dispute
relates. The power may also be exercised by a person with relevant expertise authorised in writing to act on behalf of the Board. The obstruction of the exercise of these powers is an offence.

Section 111 prohibits a mediator or adjudicator from disclosing any statement or information of a confidential nature supplied during the performance of his/her functions, except in certain limited circumstances including consent by the party to its disclosure or disclosure for the purpose of legal proceedings under section 112. Contra-vention of this provision is an offence.

Section 112 makes it an offence knowingly to provide false or misleading information to an adjudicator, the Tribunal or the Board in the performance of any of their functions.

Chapter 8 — Redress that may be granted under this Part

Section 113 empowers an adjudicator or a Tribunal in making a determination to include directions for the purpose of providing relief to one or more of the parties as appropriate relating to matters such as the award of costs, damages (up to €20,000) and expenses, recovery of Board costs, directions to pay a specified rent amount, directions to vacate a dwelling or set aside a lease term, etc.

Section 114 provides that a determination directing the tenant to quit a dwelling may also require any sub-tenant to quit the dwelling in the circumstances where the landlord has indicated a requirement for the termination of the sub-tenancy by the head-tenant.

Section 115 allows an adjudicator or Tribunal to make a determination order for the purposes of providing relief of an interim nature, pending the making of a final determination that may provide for different relief.

Section 116 gives the Board discretion not to allow a party wrongly deprived of possession of a dwelling to resume possession in circumstances where another party, who is not party to the dispute and was not complicit in the deprivation, is now in possession of the dwelling. Instead, in such circumstances, the Board may direct that damages be paid by the landlord.

Section 117 provides that an amount of rent arrears stipulated to be payable in a determination shall be the gross amount of the arrears as reduced by any amounts due to the tenant for repairs, as set-off in respect of debts due by the landlord to the tenant under section 48 of Deasy’s Act, as compensation under Part IV of the 1980 Act or as warranted in the opinion of the adjudicator or Tribunal and as increased by any amount considered appropriate by the adjudicator or Tribunal in respect of costs incurred in pursuing the arrears, damages or the cost of repairs caused by the tenant’s failure to comply with the obligations of the tenancy. The breakdown of the calculation is to be included in the determination.

Section 118 precludes the circumstances, financial or otherwise, of the landlord or tenant being taken into consideration by a mediator, adjudicator or Tribunal in dealing with a dispute about a rent.

Chapter 9 — Determination orders and enforcement generally

Section 119 specifies that each mediation agreement, adjudication determination and Tribunal determination, interim direction and direction as to costs on foot of a dispute withdrawal shall be the subject of a written record called a “determination order” containing the terms of the agreement or determination concerned. However, the Board may express the terms in a different manner so as to
remove ambiguity or help to clarify the agreement or determination. In considering whether it is appropriate to do so, the Board must have regard to the relevant reports of the mediator or adjudicator and may consult directly with them, the Tribunal and the parties.

Section 120 empowers the Board to ensure consistency in Tribunal determinations. If the Board considers that a particular determination is inconsistent with previous determinations of a similar nature in all material respects, it may notify the Tribunal of that opinion, request the views of the Tribunal and then notify the parties in dispute of that opinion and ask for an indication of consent to the making of a fresh determination or invite any representations. If the parties give consent or the Board considers it appropriate, it may direct the Tribunal to make a fresh determination of the dispute following a re-hearing of the matter.

Section 121 provides that a determination order resulting from an agreement reached at mediation or adjudication is binding when issued. A determination order resulting from a Tribunal determination may be appealed to the High Court within 21 days on a point of law only. The determination of the High Court on any such appeal, which can be to cancel or vary the order, is final. The section also construes a determination order for the purposes of section 122 as an order either not appealed, or if appealed and not cancelled, in its original or varied terms.

Section 122 enables the Board or a party to the dispute to apply to the Circuit Court (for the circuit in which the dwelling the subject of the tenancy is located) for an order to enforce a determination order of the Board with which there has been non-compliance. The Circuit Court shall make an order directing the respondent party to comply with that determination order unless it considers or the respondent shows to the satisfaction of the court that the process was not procedurally fair, a material consideration was not taken into account, an erroneous decision in relation to a legal issue was made in the processing of the dispute or the determination was manifestly erroneous. Where a respondent opposes the making of an order, the court may require security for costs from the respondent and also the lodgement in court or the payment of any rent due to the applicant in the case of a dispute about the termination of a tenancy for failure to pay rent. Where the application to the Circuit Court is not made by the Board and the respondent party proposes to oppose the application on any of the grounds mentioned, he/she must notify the Board to that effect so that the Board can be heard at the hearing of the application. Having completed its hearing, the court may make such ancillary or other orders as it considers just. The Board may supply the court registrar with any information in its possession that may assist in the execution of a court order.

Section 123 makes it an offence not to comply with the terms of a determination order of the Board but provides that a person convicted of such an offence may not be sentenced to a term of imprisonment where he/she shows that the non-compliance was due to limited financial means.

PART 7

REGISTRATION OF TENANCIES

(Sections 124 to 142)

This Part contains the registration requirements that replace the 1996 Registration Regulations repealed in section 10. Landlords will
be required to register details of all tenancies with the Private Residential Tenancies Board established under Part 8. The Board will use the data from registrations for the purpose of its information provision function and also in the resolution of certain types of disputes. The extract from the register published by the Board may not include the identity of the landlord or tenant/s or the rent. The registration fee will be €70 per tenancy and a composite fee of €300 will be available where a landlord is registering the tenancies of a number of units in the one building at the same time. The fee will be revised in line with movements in prices generally and a double fee will apply where a tenancy is not registered within the specified time limit. In a case where a tenancy lasts for 4 years, a new registration application and fee will be required where a further Part 4 tenancy commences. Funding available from registration fees paid to the Board will be applied to the enforcement of statutory requirements applying to the rented sector — local authorities will continue to be responsible for enforcement of the Rent Books and Standards Regulations. There are provisions dealing with offences under this Part.

Chapter 1 — Private residential tenancies register

Section 124 requires the Board to establish the register of tenancies of dwellings that are the subject of registration applications under this Part as soon as possible after its establishment.

Section 125 requires the Board to establish the published register consisting of an extract of data from the register, but excluding information that could lead to the disclosure of the rent or the identity of the landlord or tenant/s of a dwelling.

Section 126 provides that the published register is to be available for inspection and that the Board may charge a fee in respect of this service.

Section 127 enables the register and published register to be kept in an electronic form, provided the entries are capable of reproduction.

Section 128 allows the Board to publish aggregated details from the register.

Section 129 provides that landlords and tenants may be provided with a copy of any register entry relating to their tenancy and that others may be provided with a copy of any of the published register entries on payment of a fee.

Section 130 empowers either party to a tenancy to require the Board to confirm the registration particulars contained in the application to register their tenancy.

Chapter 2 — Procedures for registration

Section 131 imposes the obligation on landlords to register the tenancies of their dwellings. An application must be made per tenancy in the prescribed form and be accompanied by the fee specified in section 134. In the case of tenancies coming into existence more than 3 months after the Board is established, the application must be made within a month; in all other cases the application must be made within 3 months of the Board’s establishment.

Section 132 clarifies that a new application under section 131 must be made in respect of each new tenancy that is created in respect of a dwelling and that the coming into being of a further Part 4 tenancy
(after 4 years) gives rise to a requirement to register that new tenancy. It provides that the application form must be signed by the landlord and tenant/s and is to be assigned a unique reference number by the Board. The Board is to acknowledge receipt of registration fees and to afford an opportunity to the landlord to rectify an incorrect or incomplete application.

Section 133 specifies the particulars that are to be contained in an application for registration. These include; name, address and Personal Public Service Number (PPSN) or company registration number of the landlord or agent, the name/s and PPSN of the tenant/s, details relating to the dwelling such as address, description, rent and number of occupants. The application must also contain the tenancy commencement date and the tenancy term (if for a fixed term) and indicate if it is a sub-tenancy.

Section 134 specifies the fee required to accompany a registration application. This will be initially €70 per tenancy (or a composite fee of €300 is available where a number of applications are being made in respect of the one building at the same time). The fee is double in the case of late applications.

Section 135 provides for the varying of the fee in line with movement in prices generally after a year has elapsed from the commencement of section 131.

Chapter 3 — Updating of register and enforcement of requirement to register

Section 136 requires a landlord within one month of a change in the rent applicable to a tenancy, to notify the Board of the revised rent together with any other change in particulars that may have occurred by that time. No fee may be imposed in respect of such notification.

Section 137 allows the Board to amend the register at any time so as to correct the data.

Section 138 deals with the deletion of register entries where the Board is notified by the landlord that the dwelling has ceased to be one to which the registration requirement applies and it is satisfied that the deletion is appropriate. No refund of fee is payable in such circumstances and the Board may keep a record of deleted entries for the purpose of its information functions.

Section 139 provides that, in the case of any dispute referred to the Board, the tenancy commencement date stated in the register shall be presumed correct unless the contrary is proved.

Section 140 provides that it is an offence to furnish false or misleading information recklessly or knowingly to the Board in purported compliance with section 131 or section 136.

Section 141 deals with enforcement by the Board of the requirement to register tenancies. It specifies a notification procedure to be followed where the Board has reason to believe that a tenancy exists that should be registered, culminating in a notice requiring a landlord to register the tenancy within 14 days. Failure to comply with such a notice is an offence.

Section 142 empowers the Board to carry out inspections of dwellings to ascertain the correctness of particulars specified in registration applications where it has reason to believe any of the details is false or misleading. It empowers the Board by notice to require a
tenant of a tenancy that the Board believes should be registered to supply the landlord’s name and address or other identifying particulars in the tenant’s possession. Failure by a tenant to comply is an offence.

PART 8

PRIVATE RESIDENTIAL TENANCIES BOARD

(Sections 143 to 175)

This Part provides for the establishment of the Private Residential Tenancies Board to perform the functions listed in section 145 relating to the resolution of disputes under Part 6, the registration of tenancies under Part 7, and the carrying out of research and the provision of information, policy advice and guidelines in relation to the private rented sector. Many of the provisions are standard ones applying to most statutory bodies. There are also provisions specific to the Board arising from its dispute resolution role.

Chapter 1 — Establishment and principal functions of Board

Section 143 requires the Minister to appoint an establishment day for the Board and for the purposes of this Part.

Section 144 provides that, on the day appointed under section 143, the Private Residential Tenancies Board will be established as a statutory body to perform the functions conferred on it by the Bill. It imposes an explicit requirement on the Board to be independent in the performance of its functions. The need for this arises particularly from its dispute resolution role.

Section 145 lists the functions of the Board, which include the resolution of disputes in accordance with Part 6, the registration of tenancies in accordance with Part 7, the provision of policy advice, the development of good practice guidelines and the collection and provision of information and the carrying out of research in relation to the private rented sector. Additional functions may be conferred on the Board by Ministerial order.

Section 146 provides that the function of developing good practice guidelines may include the production of a model lease.

Chapter 2 — Composition of Board

Section 147 deals with the Board’s membership, which is to consist of no fewer than 9 and no more than 15, inclusive of the member appointed as chairperson. The members, as appointed by the Minister, shall be persons who have experience in a field of expertise relevant to the Board’s functions and will be appointed for a term of up to 5 years. Board members are to be paid such remuneration as the Minister determines with the consent of the Minister for Finance.

Section 148 contains supplemental provisions applying to the membership, relating to eligibility for reappointment on expiry of a term, resignations, the filling of casual vacancies, disqualification from membership and removal from membership for incapacity, stated misbehaviour, etc.

Section 149 deals with the appointment by the Minister of a chairperson from among the members and the procedure to be followed if the chairperson resigns. A member who has chaired the Board is eligible for reappointment as chairperson on re-appointment as a Board member for a subsequent term.
Chapter 3 — Meetings and committees

Section 150 contains standard provisions relating to meetings; the Board quorum is 5 and, subject to the provisions of the Bill, the Board may regulate its own procedures.

Section 151 allows the Board to establish committees to assist it in the performance of its functions and requires the Board to establish a Dispute Resolution Committee for the purposes of functions under Part 6. While the Board will fix the terms of membership of committees, the term is to be no less than 3 years in the case of the Dispute Resolution Committee.

Section 152 contains supplemental provisions applying to committees relating to matters such as terms of reference, the appointment of chairpersons, dissolution, removal of members, their acts being subject to confirmation by the Board and the provision of information on their activities to the Board.

Section 153 contains provisions relating specifically to the Dispute Resolution Committee — this and only this committee is to perform such functions of the Board under Part 6 as the Board determines. It shall consist of up to 40 members appointed by the Board after consultation with the Minister. The membership must include at least 4 Board members, one of whom shall chair the Committee and appointments are to be for at least 3 years. The Committee shall adopt rules and procedures for its meetings and the performance of its functions.

Chapter 4 — Management of Board

Sections 154 and 155 contain provisions relating to the appointment of a chief officer of the Board to be known as the “Director” and relating to the functions, terms and conditions of that post.

Chapter 5 — Staff of Board and superannuation matters

Section 156 deals with the appointment of staff in addition to the Director and contains the usual provision that would enable the Minister, if considered appropriate, after consulting with any relevant trade unions or associations, to designate staff of the Minister as transferred to the Board.

Section 157 is a standard provision dealing with superannuation arrangements for Board staff.

Chapter 6 — Appointment or engagement of certain persons

Section 158 deals with the appointment by the Board of persons as mediators and adjudicators and the creation of two panels of such names. The appointments are to be for at least 3 years and the Board shall decide their terms and conditions, including those that are likely to secure the independence and impartiality of the adjudicators.

Section 159 specifies a procedure involving an application to the District Court for an order to remove an adjudicator from the panel where, in the opinion of the Board, the adjudicator has been guilty of misconduct. The necessity for this provision derives from the fact that adjudicators will be making determinations in respect of disputes referred to the Board.

Section 160 is a standard provision enabling the Board to avail of the services of consultants and advisers and section 161 deals with the supply by the Minister of services and staff, including a person to act as Director, to enable the Board to perform its functions as and from its establishment day.
Chapter 7 — Supplemental provisions with regard to Board’s administration and management

Sections 162 to 167 contain standard provisions relating to the indemnification of persons performing functions of the Board, membership of the Houses of the Oireachtas, European Parliament and local authorities, disclosure of interests, disclosure of information and the Board’s seal.

Chapter 8 — Financial and accountability provisions

Sections 168 to 175 contain standard provisions relating to grants to the Board, borrowings by the Board, accounts and audit, accountability to the Public Accounts and other Oireachtas Committees and reports to and from the Board. Section 170 provides that the Board may charge such fees as it determines — apart from those prescribed elsewhere in the Bill — for the provision by it of services (other than the provision of advice or information to the Minister).

PART 9

MISCELLANEOUS

(Sections 176 to 192)

This Part contains some miscellaneous and consequential amending provisions to the Housing Acts and the Landlord and Tenant Acts, including one abolishing, 5 years after the commencement of the Part, the entitlement to apply, for the first time, for a long occupation equity lease under the 1980 Landlord and Tenant Act. It also contains provisions for injunctive type applications in the case of very serious emergency disputes coming before the Board, for example, involving imminent danger to life, illegal evictions, etc.

Section 176 prohibits the instituting of proceedings in a court in respect of a dispute that may be referred to the Board for resolution unless the amount claimed (by way of damages, arrears of rent or other charges or a combination of these) exceeds €20,000.

Section 177 provides that the Minister may issue guidance to the Board in relation to the performance of its functions (other than functions under Part 6).

Section 178 renders void a provision of a lease or tenancy agreement where it could be reasonably inferred that the purpose of the provision is to facilitate a party being at all times in a position to terminate the tenancy on the grounds of non-compliance by the other party with the provision in question.

Section 179 enables a tenant of a fixed term tenancy to terminate the tenancy in accordance with the termination provisions in the Bill where the landlord has refused consent to an assignment or subletting (as entitled to under section 16) so that a tenant in such circumstances has a means of getting out of the tenancy.

Sections 180 and 181 provide for the Board applying to the Circuit Court for interim or interlocutory relief where the Board considers it appropriate to do so (e.g. in cases of serious anti-social behaviour, illegal evictions, etc.).

Section 182 amends section 17(1)(a) and section 85 of the 1980 Act to enable a tenant to renounce his/her right to a long occupation equity lease under section 13(1)(b) of that Act. Thus, a tenant facing
the termination of his/her tenancy so as to prevent such a right accruing, will be able to renounce the right in return for being allowed to continue the tenancy.

Section 183 abolishes, with effect from the 5th anniversary of the commencement of Part 4 of the Bill, the right to apply, for the first time, for a long occupation equity lease under the 1980 Act, except where the tenant has served notice on the landlord of his/her intention to claim that lease under section 20 of that Act. Accordingly, use of the renunciation provision provided for in section 182 will only arise for a period of five years.

Section 184 disapplies from the tenancies covered by the Bill some sections of the Conveyancing Acts, the 1980 Act and the notice to quit provision in the Housing (Miscellaneous Provisions) Act 1992 that are inconsistent with the provisions of the Bill.

Section 185 applies section 37 (dealing with deemed termination of tenancies) to tenancies to which Part 4 does not apply.

Section 186 requires a tenant of a fixed term tenancy for a term of 6 months or more who intends to avail of the protection afforded by Part 4 and to remain in occupation when the fixed term expires, to notify the landlord of that intention during the last 3 months of the fixed term.

Section 187 clarifies that nothing in the Bill can be used to authorise conduct prohibited by, or to prejudice powers under, the Equal Status Act 2000.

Section 188 amends section 4 of the Housing (Miscellaneous Provisions) Act 1997 dealing with ex parte applications for interim excluding orders in line with a similar amendment to the Domestic Violence Act 1996.

Section 189 amends section 79 of, and article 4(b) of the Third Schedule to, the Housing Act 1966 to entitle all tenants to notice from the relevant local authority in connection with a compulsory purchase order affecting their dwelling.

Section 190 amends sections 58 and 60 of the 1980 Act to apply compensation for disturbance/termination to residential as well as business lettings and to update outdated references to “obsolete areas” in the provision dealing with compensation for the termination of a tenancy.

Section 191 amends section 3(8)(b) of the Housing (Miscellaneous Provisions) Act 1992 to bring the treatment of shared ownership leases in line with that of reversionary leases. There is also an amendment to section 20(8) to reflect the fact that registration fees transmitted to a local authority from the Board will not be received under that section.

Section 192 enables the Minister, for a period of 3 years, to make regulations to remove technical difficulties encountered in operating provisions of the Bill.
SCHEDULE

PROTECTION FOR SUB-TENANCIES CREATED OUT OF PART 4 TENANCIES

The Schedule is associated with section 32 and details aspects of the application of the security of tenure measure in Part 4 to sub-tenancies. The protection afforded to a Part 4 tenancy applies to a sub-tenancy as long as the head-tenancy continues to exist. If a head-tenancy is terminated by the landlord in circumstances where no requirement to terminate the sub-tenancy is notified or if the head-tenancy is terminated by the head-tenant, the sub-tenant becomes the tenant of the landlord but the tenancy is deemed to have commenced on the commencement date of the head-tenancy. The Schedule adapts sections 34 to 38 (dealing with terminations) for application to sub-tenancies and makes provision for former sub-tenants to refer complaints to the Board that a termination ground cited by a head-tenant turned out to be false and for the award of damages in such cases.

Staffing and Financial Implications

The eventual cost and staffing implications of the Private Residential Tenancies Board will very much depend on the number and type of disputes that are referred to it. In this context a staffing requirement of the order of 20 people is likely to be required. The overall cost of operation of the Board including staff, the Tribunal, mediation and adjudication services, overheads, capital outlay on IT requirements and general administration is estimated to be in the region of €2.5 million annually.

An Roinn Comhshaoil agus Rialtais Áitiúil,