



DÁIL ÉIREANN

AN BILLE UM SHEIRBHÍSÍ MAOINE (RIALÁIL) 2009 PROPERTY SERVICES (REGULATION) BILL 2009

LEASUITHE COISTE COMMITTEE AMENDMENTS

DÁIL ÉIREANN

AN BILLE UM SHEIRBHÍSÍ MAOINE (RIALÁIL) 2009 —ROGHCHOISTE

PROPERTY SERVICES (REGULATION) BILL 2009 —SELECT COMMITTEE

Leasuithe Amendments

SECTION 2

1. In page 12, subsection (1), between lines 11 and 12, to insert the following:

“ “Commercial Leases Database” means the Commercial Leases Database established under *section 87(1)**;

“commercial property” means property that is used for the purposes of business within the meaning of section 3 of the Landlord and Tenant (Amendment) Act 1980;

“commercial property lease” means an instrument creating a tenancy in respect of commercial property;”.

—An tAire Dlí agus Cirt agus Comhionannais.

[*Note: This is a reference to the section proposed to be inserted by amendment No. 71.]

2. In page 12, line 17, to delete “partner” and substitute the following:

“civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010”.

—An tAire Dlí agus Cirt agus Comhionannais.

3. In page 12, line 20, to delete “partner” and substitute the following:

“civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010”.

—An tAire Dlí agus Cirt agus Comhionannais.

4. In page 13, subsection (1), line 28, to delete “partner, employee or agent or former partner” and substitute the following:

“principal officer, employee or agent or former principal officer”.

—An tAire Dlí agus Cirt agus Comhionannais.

5. In page 15, subsection (1), line 38, to delete “Law Reform” and substitute “Equality”.

—An tAire Dlí agus Cirt agus Comhionannais.

6. In page 15, to delete lines 40 to 42 and substitute the following:

“(a) the issue, to the licensee, of—

(i) advice (including advice relating to participation in a professional competence scheme),

[SECTION 2]

- (ii) a caution,
 - (iii) a warning, or
 - (iv) a reprimand,
- or”.

—An tAire Dlí agus Cirt agus Comhionannais.

7. In page 15, subsection (1), to delete line 46, and substitute the following:

“estate, or any other complex or estate containing residential units within the meaning of the Multi-Unit Developments Act 2011;”.

—An tAire Dlí agus Cirt agus Comhionannais.

8. In page 16, subsection (1), to delete lines 3 and 4.

—An tAire Dlí agus Cirt agus Comhionannais.

9. In page 16, line 38, to delete “partner, employee or agent or former partner” and substitute the following:

“principal officer, employee or agent or former principal officer”.

—An tAire Dlí agus Cirt agus Comhionannais.

10. In page 17, line 4, after “provision” to insert “, for consideration,”.

—An tAire Dlí agus Cirt agus Comhionannais.

11. In page 17, subsection (1), to delete lines 20 to 24 and substitute the following:

“ “property services employer” means a person (referred to in this definition as “the employer”)—

(a) who is an individual who provides a property service where an employee of the employer may also provide such service on behalf of the employer, or

(b) whose employees or principal officers provide a property service on behalf of the employer,

and whether or not the employer engages in any other business;”.

—An tAire Dlí agus Cirt agus Comhionannais.

12. In page 17, subsection (1), between lines 28 and 29, to insert the following:

“ “relevant commercial lease” means a commercial property lease entered into on or after the commencement of *section 87**;”.

—An tAire Dlí agus Cirt agus Comhionannais.

[*Note: This is a reference to the section proposed to be inserted by amendment No. 71.]

13. In page 17, subsection (1), between lines 32 and 33, to insert the following:

“ “residential property” means a property that is used as a self-contained residential unit and includes any land appurtenant to it or usually enjoyed with it;”.

—An tAire Dlí agus Cirt agus Comhionannais.

[SECTION 3]

SECTION 3

- 14.** In page 19, subsection (1), line 1, to delete “does” and substitute “shall”.
—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 6

- 15.** In page 21, line 25, to delete “Finance” and substitute “Public Expenditure and Reform”.
—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 9

- 16.** In page 22, subsection (2)(c), line 2, to delete “Finance” and substitute “Public Expenditure and Reform”.
—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 10

- 17.** In page 22, lines 34 to 38, to delete subsection (4) and substitute the following:

“(4) Of the members of the Authority—

- (a) not more than 3 shall be persons who, in the opinion of the Minister, are representatives of persons who provide property services,
- (b) not less than 3 shall be persons who, in the opinion of the Minister, have knowledge of, or experience in, consumer affairs, and
- (c) one shall be an officer of the Minister.”

—An tAire Dlí agus Cirt agus Comhionannais.

- 18.** In page 23, subsection (12)(b), line 47, to delete “Finance” and substitute “Public Expenditure and Reform”.
—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 11

- 19.** In page 25, subsection (2)(n), line 43, to delete “and” and substitute the following:

“(o) maintain and publish particulars of residential property sales prices,

(p) establish and maintain the Commercial Leases Database, and”

—An tAire Dlí agus Cirt agus Comhionannais.

- 20.** In page 26, subsection (4), lines 9 and 10, to delete “Finance” and substitute “Public Expenditure and Reform”.
—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 14

- 21.** In page 28, subsection (1)(b), line 6, to delete “Finance” and substitute “Public Expenditure and Reform”.
—An tAire Dlí agus Cirt agus Comhionannais.

[SECTION 14]

- 22.** In page 28, subsection (3), line 12, to delete “Finance” and substitute “Public Expenditure and Reform”.
—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 16

- 23.** In page 30, subsection (2), lines 12 and 13, to delete “fine not exceeding €5,000” and substitute “class A fine”.
—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 20

- 24.** In page 33, subsection (3)(a), line 18, to delete “Finance” and substitute “Public Expenditure and Reform”.
—An tAire Dlí agus Cirt agus Comhionannais.
- 25.** In page 33, subsection (3)(b), line 24, to delete “Finance” and substitute “Public Expenditure and Reform”.
—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 21

- 26.** In page 34, subsection (1), line 10, to delete “Finance” and substitute “Public Expenditure and Reform”.
—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 22

- 27.** In page 34, subsection (1), line 18, to delete “Finance” and substitute “Public Expenditure and Reform”.
—An tAire Dlí agus Cirt agus Comhionannais.
- 28.** In page 34, subsection (3), line 27, to delete “Finance” and substitute “Public Expenditure and Reform”.
—An tAire Dlí agus Cirt agus Comhionannais.
- 29.** In page 34, subsection (4), line 30, to delete “Finance” and substitute “Public Expenditure and Reform”.
—An tAire Dlí agus Cirt agus Comhionannais.
- 30.** In page 34, subsection (6)(b), line 41, to delete “Finance” and substitute “Public Expenditure and Reform”.
—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 23

- 31.** In page 35, subsection (2), line 22, to delete “Finance” and substitute “Public Expenditure and Reform”.
—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 26

- 32.** In page 37, subsection (4), line 46, to delete “Finance” and substitute “Public Expenditure and Reform”.
—An tAire Dlí agus Cirt agus Comhionannais.

[SECTION 27]

SECTION 27

- 33.** In page 38, line 7, to delete “Finance” and substitute “Public Expenditure and Reform”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 28

- 34.** In page 38, subsection (1)(b), lines 18 and 19, to delete “Finance” and substitute “Public Expenditure and Reform”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 29

- 35.** In page 38, subsection (2)(a), line 39, to delete “fine not exceeding €5,000” and substitute “class A fine”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 30

- 36.** In page 39, subsection (3)(b), line 18, to delete “(if any)”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 31

- 37.** In page 40, subsection (2)(b), lines 31 and 32, to delete all words from and including “certificate” in line 31 down to and including “proper” in line 32 and substitute the following:

“report in the specified form by a duly qualified accountant that appropriate”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 32

- 38.** In page 42, subsection (3)(g)(ii), line 7, after “(f)” to insert “of this subsection”.

—An tAire Dlí agus Cirt agus Comhionannais.

- 39.** In page 42, subsection (3)(h)(ii), line 17, after “(f)” to insert “of this subsection”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 36

- 40.** In page 45, subsection (4)(b), lines 42 and 43, to delete all words from and including “certificate” in line 42 down to and including “proper” in line 43 and substitute the following:

“report in the specified form by a duly qualified accountant that appropriate”.

—An tAire Dlí agus Cirt agus Comhionannais.

[SECTION 38]

SECTION 38

41. In page 47, subsection (2), lines 19 and 20, to delete all words from and including “is” in line 19 down to and including “partnership” in line 20 and substitute “has a place of business as a licensee”.
- An tAire Dlí agus Cirt agus Comhionannais.

SECTION 39

42. In page 48, subsection (2), lines 31 and 32, to delete “fine not exceeding €5,000” and substitute “class A fine”.
- An tAire Dlí agus Cirt agus Comhionannais.

SECTION 41

43. In page 49, subsection (4), line 28, to delete “fine not exceeding €5,000” and substitute “class A fine”.
- An tAire Dlí agus Cirt agus Comhionannais.

SECTION 47

44. In page 53, subsection (1)(l), line 17, after “auditor” to insert “or a duly qualified accountant”.
- An tAire Dlí agus Cirt agus Comhionannais.

SECTION 48

45. In page 53, subsection (1), line 33, to delete “A licensee” and substitute “Subject to *subsection (2)**, a licensee”.
- An tAire Dlí agus Cirt agus Comhionannais.

[*Note: This is the appropriate reference if amendment No. 46 is accepted.]

46. In page 53, between lines 35 and 36, to insert the following subsection:

“(2) *Subsection (1)* shall not apply to a licensee who lodges client moneys (or who causes client moneys to be lodged) to an account (in this subsection referred to as the “relevant account”) other than a client account where—

- (a) the relevant account is an account into which charges levied under section 18 of the Multi-Unit Developments Act 2011 are paid for the purposes of a scheme referred to in that section, or
- (b) the relevant account is an account into which contributions fixed under section 19 of the Multi-Unit Developments Act 2011 are paid for the purposes of a sinking fund referred to in that section.”

—An tAire Dlí agus Cirt agus Comhionannais.

47. In page 53, subsection (3)(a), line 41, to delete “fine not exceeding €5,000” and substitute “class A fine”.
- An tAire Dlí agus Cirt agus Comhionannais.

SECTION 49

48. In page 56, subsection (6)(a), line 5, to delete “fine not exceeding €5,000” and substitute “class A fine”.
- An tAire Dlí agus Cirt agus Comhionannais.

[SECTION 58]

SECTION 58

- 49.** In page 60, subsection (2), lines 20 and 21, to delete “fine not exceeding €5,000” and substitute “class A fine”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 59

- 50.** In page 60, subsection (1), line 23, to delete “Where” and substitute “Subject to *subsection (2)**, where”.

—An tAire Dlí agus Cirt agus Comhionannais.

[*Note: This is the appropriate reference if amendment No.51 is accepted.]

- 51.** In page 60, between lines 27 and 28, to insert the following subsection:

“(2) *Subsection (1)* shall not apply where land is offered for sale by auction in compliance with—

(a) a court order under the Family Law Act 1995, or

(b) a court order under the Family Law (Divorce) Act 1996.”

—An tAire Dlí agus Cirt agus Comhionannais.

- 52.** In page 60, subsection (5), lines 43 and 44, to delete “fine not exceeding €5,000” and substitute “class A fine”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 62

- 53.** In page 61, subsection (1)(b), line 41, after “land),” to insert “booking deposits for the letting of land,”.

—An tAire Dlí agus Cirt agus Comhionannais.

- 54.** In page 62, subsection (4), to delete lines 15 to 17 and substitute the following:

“licensees or classes of such persons is guilty of an offence and liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 3 years or both.”

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 66

- 55.** In page 67, subsection (1)(f), line 3, after “licensee,” to insert “the licensee’s principal officer,”.

—An tAire Dlí agus Cirt agus Comhionannais.

- 56.** In page 69, subsection (17)(i), line 26, to delete “fine not exceeding €5,000” and substitute “class A fine”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 67

- 57.** In page 70, before section 67, to insert the following new section:

[SECTION 67]

“Protection for persons reporting improper conduct, etc.

67.—(1) A person who, apart from this section, would be so liable shall not be liable in damages in respect of the communication to the Authority, whether in writing or otherwise, of his or her opinion that any improper conduct by a licensee may have occurred or may be occurring, or that a contravention of a provision of this Act or of regulations made under this Act by a person other than a licensee may have been or may be being committed, unless—

(a) in communicating his or her opinion to the Authority did so—

(i) knowing it to be false, misleading, frivolous or vexatious, or

(ii) reckless as to whether it was false, misleading, frivolous or vexatious,

or

(b) in connection with the communication of his or her opinion to the Authority, furnished information that he or she knew to be false or misleading.

(2) The reference in *subsection (1)* to liability in damages shall be construed as including a reference to liability to any other form of relief.

(3) A person who makes a communication under *subsection (1)*, which the person knows to be false, that any improper conduct by a licensee may have occurred or may be occurring, or that a contravention of a provision of this Act or of regulations made under this Act by a person other than a licensee may have been or may be being committed, is guilty of an offence.

(4) *Subsection (1)* is in addition to, and not in substitution for, any privilege or defence available in legal proceedings, by virtue of any statutory provision or rule of law in force immediately before the commencement of this section, in respect of the communication by a person to another (whether that other person is the Authority or not) of an opinion of the kind referred to in *subsection (1)*.

(5) An employer shall not penalise or threaten penalisation against an employee, or cause or permit any other person to penalise or threaten penalisation against an employee, for—

(a) having formed an opinion of the kind referred to in *subsection (1)* and communicated it, whether in writing or otherwise, to the Authority unless the employee—

(i) in communicating his or her opinion to the Authority did so—

(I) knowing it to be false, misleading, frivolous or vexatious, or

(II) reckless as to whether it was false, misleading, frivolous or vexatious,

or

(ii) in connection with the communication of his or her opinion to the Authority, furnished information that he or she knew to be false or misleading,

or

(b) giving notice of his or her intention to do the thing referred to in *paragraph (a)*.

[SECTION 67]

(6) *Schedule 4* shall have effect for the purposes of *subsection (5)*.

(7) An employer who contravenes *subsection (5)* is guilty of an offence.

(8) A person guilty of an offence under *subsection (3)* or *(7)* shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 3 years or both.

(9) Any person who, upon examination on oath authorised under *paragraph 3(1)* of *Schedule 4*, wilfully makes any statement which is material for the purpose and which the person knows to be false or does not believe to be true is guilty of an offence and liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.

(10) A person to whom a notice under *paragraph 3(2)* of *Schedule 4* has been given and who refuses or wilfully neglects to attend in accordance with the notice or who, having so attended, refuses to give evidence or refuses or wilfully fails to produce any document to which the notice relates is guilty of an offence and liable on summary conviction to a class A fine.

(11) A document purporting to be signed by the chairperson or a deputy chairperson of the Labour Court stating that—

(a) a person named in the document was, by a notice under *paragraph 3(2)* of *Schedule 4*, required to attend before the Labour Court on a day and at a time and place specified in the document, to give evidence or produce a document, or both,

(b) a sitting of the Labour Court was held on that day and at that time and place, and

(c) the person did not attend before the Labour Court in pursuance of the notice or, as the case may be, having so attended, refused to give evidence or refused or wilfully failed to produce the document,

shall, in a prosecution of the person under *subsection (10)*, be evidence of the matters so stated without further proof unless the contrary is shown.

(12) For the purposes of this section, a reference to “dismissal” includes—

(a) a dismissal within the meaning of the Unfair Dismissals Acts 1977 to 2007, and

(b) a dismissal wholly or partly for or connected with the purpose of the avoidance of a fixed-term contract being deemed to be a contract of indefinite duration under section 9(3) of the Protection of Employees (Fixed-Term Work) Act 2003.

(13) *Paragraphs (a), (c), (d), (e) and (f)* of the definition of “penalisation” in *subsection (14)* shall not be construed in a manner which prevents an employer from—

(a) ensuring that the business concerned is carried on in an efficient manner,
or

[SECTION 67]

- (b) taking any action required for economic, technical or organisational reasons.

(14) In this section—

“contract of employment” means a contract of employment or of service or of apprenticeship, whether the contract is express or implied and, if express, whether it is oral or in writing;

“employee” means a person who has entered into or works under (or, where the employment has ceased, entered into or worked under) a contract of employment and references, in relation to an employer, to an employee shall be construed as references to an employee employed by that employer;

“employer”, in relation to an employee, means the person with whom the employee has entered into or for whom the employee works under (or, where the employment has ceased, entered into or worked under) a contract of employment, and includes—

- (a) a person (other than an employee of that person) under whose control and direction an employee works, and
- (b) where appropriate, the successor of the employer or an associated employer of the employer;

“penalisation” means any act or omission by an employer, or by a person acting on behalf of an employer, that affects an employee to his or her detriment with respect to any term or condition of his or her employment, and, without prejudice to the generality of the foregoing, includes—

- (a) suspension, lay-off or dismissal,
- (b) the threat of suspension, lay-off or dismissal,
- (c) demotion or loss of opportunity for promotion,
- (d) transfer of duties, change of location of place of work, reduction in wages or change in working hours,
- (e) the imposition or the administering of any discipline, reprimand or other penalty (including a financial penalty),
- (f) unfair treatment, including selection for redundancy,
- (g) coercion, intimidation or harassment,
- (h) discrimination, disadvantage or adverse treatment,
- (i) injury, damage or loss, and
- (j) threats of reprisal.”.

—An tAire Dlí agus Cirt agus Comhionannais.

[Acceptance of this amendment involves the deletion of section 67 of the Bill.]

SECTION 72

- 58.** In page 76, subsection (5), line 26, to delete “fine not exceeding €5,000” and substitute “class A fine”.

—An tAire Dlí agus Cirt agus Comhionannais.

[SECTION 72]

- 59.** In page 76, subsection (7), line 37, to delete “Finance” and substitute “Public Expenditure and Reform”.
—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 74

- 60.** In page 78, subsection (5), line 16, to delete “fine not exceeding €5,000” and substitute “class A fine”.
—An tAire Dlí agus Cirt agus Comhionannais.
- 61.** In page 78, subsection (6), lines 19 and 20, to delete “fine not exceeding €5,000” and substitute “class A fine”.
—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 78

- 62.** In page 79, subsection (1), lines 21 and 22, to delete “partner, employee or agent or former partner” and substitute the following:
“principal officer, employee or agent or former principal officer”.
—An tAire Dlí agus Cirt agus Comhionannais.
- 63.** In page 79, subsection (2), to delete lines 29 to 33 and substitute the following:
“incurred by the client in seeking to recover it with, where the Authority thinks fit, interest at the rate for the time being standing specified under section 26 of the Debtors (Ireland) Act 1840 on the whole or any part of the amount or value of such loss”.
—An tAire Dlí agus Cirt agus Comhionannais.
- 64.** In page 80, subsection (6)(a)(i)(II), lines 21 and 22, to delete “partner, employee or agent or former partner” and substitute the following:
“principal officer, employee or agent or former principal officer”.
—An tAire Dlí agus Cirt agus Comhionannais.
- 65.** In page 80, subsection (6)(a)(i)(III), lines 27 and 28, to delete “partner, employee or agent or former partner” and substitute the following:
“principal officer, employee or agent or former principal officer”.
—An tAire Dlí agus Cirt agus Comhionannais.
- 66.** In page 80, subsection (6)(a)(ii), lines 33 and 34, to delete “partner, employee or agent or former partner” and substitute the following:
“principal officer, employee or agent or former principal officer”.
—An tAire Dlí agus Cirt agus Comhionannais.
- 67.** In page 80, subsection (6), lines 38 to 47, to delete paragraph (b) and substitute the following:

[SECTION 78]

“(b) In *paragraph (a)*, references to the licensee or any principal officer, employee or agent or former principal officer, employee or agent of the licensee include, in the event of the death, insolvency or other disability of such licensee, principal officer, employee or agent or former principal officer, employee or agent, references to the personal representative of such licensee, principal officer, employee or agent or former principal officer, employee or agent or any other person having authority to administer the estate of such licensee, principal officer, employee or agent or former principal officer, employee or agent.”.

—An tAire Dlí agus Cirt agus Comhionannais.

68. In page 81, between lines 19 and 20, to insert the following subsection:

“(11) The Authority may, for the purposes of satisfying itself as referred to in *subsection (1)* or for the purposes of protecting its rights under *subsection (6)*, or for both such purposes, require any person to answer all questions, execute all documents and take all steps as may, in the opinion of the Authority, be necessary for any of those purposes, and may require a client of a licensee who claims he or she has sustained a loss referred to in *subsection (1)* to verify any document by affidavit.”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 83

69. In page 83, subsection (1), line 9, to delete “does” and substitute “shall”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 86

70. In page 84, before section 86, to insert the following new section:

“PART 12*

RESIDENTIAL PROPERTY SALES PRICES AND COMMERCIAL LEASES
DATABASE

Residential property
sales prices.

86.—(1) The Authority shall, as soon as is practicable after the commencement of this section, maintain and publish particulars of residential property sales prices in the State, including—

- (a) the address of the property,
- (b) the price at which the property was sold, and
- (c) the date of the sale of the property.

(2) The particulars referred to in *subsection (1)* may, at the Authority’s discretion, relate, whether in respect of all residential properties in the State or a class of such properties, to sales of properties over a period of time, including a period of time which has elapsed before the commencement of this section.

(3) The Authority shall make the particulars referred to in *subsection (1)* available for inspection free of charge by any person on its Internet website in such a manner that the section of the website which contains the particulars is readily accessible by members of the public.”.

—An tAire Dlí agus Cirt agus Comhionannais.

[SECTION 86]

[*Note: The proposed new Part comprehends the inclusion of amendments 70 to 72.]

71. In page 84, before section 86, to insert the following new section:

“Database of commercial property leases.

87.—(1) The Authority shall, as soon as is practicable after the commencement of this section, establish and maintain for the purposes of this Act a database relating to commercial property leases, to be known as the Commercial Leases Database.

(2) The Commercial Leases Database shall be in such form as the Authority thinks fit and shall, in respect of each relevant commercial lease which is in force, contain—

- (a) the address and description of the commercial property the subject of the lease,
- (b) the date of the lease of the property,
- (c) the term of years of the lease,
- (d) the rent payable in respect of the property,
- (e) the particulars provided to the Authority under *section 88** in relation to the property, and
- (f) such other particulars as may be prescribed by regulations made under *section 92* for the purposes of this paragraph.

(3) The Authority shall make the Commercial Leases Database available for inspection by any person, on payment of the appropriate fee—

- (a) at its principal office during normal working hours, and
- (b) on its Internet website in such a manner that the section of that website which contains the Database is readily accessible by such person.”

—An tAire Dlí agus Cirt agus Comhionannais.

[*Note: This is a reference to the section proposed to be inserted by amendment No. 72.]

72. In page 84, before section 86, to insert the following new section:

“Tenants to provide Authority with particulars of relevant commercial leases.

88.—(1) The tenant under a relevant commercial lease (or such other person as the tenant has authorised in writing to act on his or her behalf for the purposes of this subsection in so far as it relates to the lease) shall, within the relevant period immediately following the day on which a stamp certificate is received by or on behalf of the tenant from the Revenue Commissioners in respect of the lease, give to the Authority a notice in the specified form setting out—

- (a) the commencement date of the terms of the lease,
- (b) the capital consideration (if any) to be paid by the tenant or landlord in respect of the commercial property the subject of the lease,
- (c) the frequency of the rent review in respect of the property,

[SECTION 86]

- (d) the particulars relating to who is liable in respect of the rates, insurance, service charges and repairs in respect of the property,
- (e) the net floor area, per each floor, of the property,
- (f) the particulars (if any) relating to rent-free periods, fitting out time allowed, fit out allowances and capital contributions in respect of the property,
- (g) the particulars relating to any break-clause in the lease,
- (h) the certificate identification number (within the meaning of regulation 2 of the Stamp Duty (E-stamping of Instruments) Regulations 2009 (S.I. No. 476 of 2009)) of that stamp certificate, and
- (i) such other particulars as may be prescribed by regulations made under *section 92* for the purposes of this paragraph.

(2) Where a reviewed rent has been determined (whether or not the rent concerned is increased, decreased or remains the same) in respect of a relevant commercial lease (whether by agreement or otherwise), the tenant under the lease (or such other person as the tenant has authorised in writing to act on his or her behalf for the purposes of this subsection in so far as it relates to the lease) shall, within the relevant period immediately following the day of the determination, give to the Authority a notice in the specified form setting out—

- (a) the particulars of the reviewed rent,
- (b) the particulars of any other variations made to the lease during, or for the purposes of, the rent review, and
- (c) such other particulars as may be prescribed by regulations made under *section 92* for the purposes of this paragraph.

(3) A provision (howsoever expressed) of any contract or other agreement which has as its object or effect the prevention of the disclosure of any of the particulars referred to in *subsection (1)* or *(2)*, whether to the Authority or to other persons or to both, shall not prevent the disclosure of those particulars to the Authority in accordance with this section.

(4) A person who, without reasonable excuse, contravenes *subsection (1)* or *(2)* is guilty of an offence and liable on summary conviction to a class A fine.

(5) In this section, “relevant period” means—

- (a) the period prescribed by regulations made under *section 92* for the purposes of this definition,
- (b) if no such period is so prescribed for the time being, 30 days.”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 88

73. In page 86, subsection (2), lines 29 to 32, to delete paragraphs (a) and (b) and substitute the following:

“(a) imposition of a minor sanction on a licensee pursuant to a decision under *section 68(4)(a)*,

[SECTION 88]

- (b) imposition of a minor sanction on a licensee pursuant to a decision given under *section 70(3)*, or
- (c) imposition of a minor sanction on a licensee pursuant to a determination under *paragraph 25(1)(a) or (c) of Schedule 5*.”
- An tAire Dlí agus Cirt agus Comhionannais.

SECTION 91

74. In page 88, subsection (1), lines 7 and 8, to delete “fine not exceeding €5,000” and substitute “class A fine”.
- An tAire Dlí agus Cirt agus Comhionannais.

SECTION 93

75. In page 90, subsection (2), line 42, to delete “*section 3*” and substitute “*section 3(1)*”.
- An tAire Dlí agus Cirt agus Comhionannais.
76. In page 90, subsection (3), line 51, to delete “Finance” and substitute “Public Expenditure and Reform”.
- An tAire Dlí agus Cirt agus Comhionannais.

SCHEDULE 2

77. In page 97, paragraph 1, lines 24 to 26, to delete clause (i) and substitute the following:
- “(i) a statement of the obligation (if any) on the licensee, pursuant to sections 42 and 43 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, to report, to the Garda Síochána and the Revenue Commissioners, suspicious transactions and transactions involving places designated under section 32 of that Act,”.
- An tAire Dlí agus Cirt agus Comhionannais.

SCHEDULE 4

78. In page 102, paragraph 1(1), line 5, to delete “his or her parent or guardian)” and substitute the following:
- “the employee’s parent or guardian with the consent of the employee) or, with the consent of the employee, any trade union of which the employee is a member,”.
- An tAire Dlí agus Cirt agus Comhionannais.
79. In page 102, paragraph 1(1), line 6, to delete “his or her” and substitute “the employee’s”.
- An tAire Dlí agus Cirt agus Comhionannais.
80. In page 102, paragraph 1(3)(b), line 22, after “action” to insert the following:
- “, which may include, in a case where the penalisation constitutes a dismissal within the meaning of *section 67(12)**, re-instatement or re-engagement”.
- An tAire Dlí agus Cirt agus Comhionannais.

[SCHEDULE 4]

[*Note: This is a reference to the section proposed to be inserted by amendment No. 57.]

- 81.** In page 102, paragraph 1(3)(c), line 27, after “regulations” to insert “made”.
—An tAire Dlí agus Cirt agus Comhionannais.
- 82.** In page 102, paragraph 1(4), line 34, to delete “A rights” and substitute “Subject to *subparagraph (10)**, a rights”.
—An tAire Dlí agus Cirt agus Comhionannais.

[*Note: This is a reference to the subparagraph proposed to be inserted by amendment No. 85.]

- 83.** In page 102, paragraph 1(5), line 43, to delete “a reasonable cause” and substitute “exceptional circumstances”.
—An tAire Dlí agus Cirt agus Comhionannais.
- 84.** In page 103, paragraph 1(6), line 2, to delete “Enterprise, Trade and Employment” and substitute “Jobs, Enterprise and Innovation”.
—An tAire Dlí agus Cirt agus Comhionannais.
- 85.** In page 103, paragraph 1, between lines 9 and 10, to insert the following:
“(10) Where a delay by an employee in presenting a complaint under this paragraph is due to any misrepresentation by the employer, *subparagraph (4)* shall be construed as if the reference to the date of the contravention were a reference to the date on which the misrepresentation came to the employee’s notice.”
—An tAire Dlí agus Cirt agus Comhionannais.
- 86.** In page 103, paragraph 2(1), line 12, to delete “*paragraph 1*” and substitute “*paragraph 1(2)*”.
—An tAire Dlí agus Cirt agus Comhionannais.
- 87.** In page 104, paragraph 3(4), line 23, after “brought,” to insert the following:
“or, if such appeal has been brought, it has been abandoned.”
—An tAire Dlí agus Cirt agus Comhionannais.
- 88.** In page 104, paragraph 3, lines 43 to 47, to delete subparagraph 8 and substitute the following:
“(8) (a) If penalisation of an employee, in contravention of *section 67(5)**, constitutes a dismissal of the employee as referred to in *paragraph (a)* of the definition of “penalisation” in *section 67(14)**, the employee (or, in the case of an employee who has not reached the age of 18 years, the employee’s parent or guardian with the consent of the employee) may institute proceedings in respect of that dismissal under the Unfair Dismissals Acts 1977 to 2007 or to recover damages at common law for wrongful dismissal and, if the employee or his or her parent or guardian, as the case may be, does so, a complaint in relation to such dismissal may not be presented to a rights commissioner under *paragraph 1 (1)*.”

[SCHEDULE 4]

- (b) If an employee (or, in the case of an employee who has not reached the age of 18 years, the employee’s parent or guardian with the consent of the employee) presents a complaint to a rights commissioner under *paragraph 1(1)* in respect of a dismissal referred to in *clause (a)*, the employee or his or her parent or guardian, as the case may be, may not institute proceedings in respect of that dismissal under the Unfair Dismissals Acts 1977 to 2007 or to recover damages at common law for wrongful dismissal.”

—An tAire Dlí agus Cirt agus Comhionannais.

[*Note: This is a reference to the section proposed to be inserted by amendment No. 57.]

89. In page 104, paragraph 3, after line 47, to insert the following:

“(9) There shall be included among the debts which, under section 285 of the Companies Act 1963 (as amended by section 10 of the Companies (Amendment) Act 1982 and section 134 of the Companies Act 1990) are, in the distribution of the assets of a company being wound up, to be paid in priority to all other debts, all compensation payable by virtue of a decision under *paragraph 1(2)(b)* or a determination under *paragraph 2(1)* by the company to an employee, and that Act shall have effect accordingly. Formal proof of the debts to which priority is given under this subparagraph shall not be required except in cases where it may otherwise be provided by rules made under that Act.

(10) There shall be included among the debts which, under section 81 of the Bankruptcy Act 1988 are, in the distribution of the property of a bankrupt or arranging debtor, to be paid in priority to all other debts, all compensation payable by virtue of a decision under *paragraph 1(2)(b)* or a determination under *paragraph 2(1)* by the bankrupt or arranging debtor, as the case may be, to an employee, and that Act shall have effect accordingly. Formal proof of the debts to which priority is given under this subparagraph shall not be required except in cases where it may otherwise be provided under that Act.”

—An tAire Dlí agus Cirt agus Comhionannais.

90. In page 105, paragraph 4(1)(a), line 7, after “concerned” to insert the following:

“(or, in the case of an employee who has not reached the age of 18 years, the employee’s parent or guardian with the consent of the employee)”

—An tAire Dlí agus Cirt agus Comhionannais.

91. In page 105, paragraph 4(3), to delete lines 24 to 28 and substitute the following:

“pay to the employee concerned interest on the compensation at the rate for the time being standing specified under section 26 of the Debtors (Ireland) Act 1840 in respect of the whole or part of the period beginning 28 days after the day on which the”

—An tAire Dlí agus Cirt agus Comhionannais.

92. In page 105, paragraph 4(4), line 34, after “any” to insert “profession,”

[SCHEDULE 4]

—An tAire Dlí agus Cirt agus Comhionannais.

SCHEDULE 5

93. In page 106, paragraph 1, line 8, to delete “Finance” and substitute “Public Expenditure and Reform”.

—An tAire Dlí agus Cirt agus Comhionannais.

94. In page 108, paragraph 5, line 9, to delete “Finance” and substitute “Public Expenditure and Reform”.

—An tAire Dlí agus Cirt agus Comhionannais.

SCHEDULE 6

95. In page 116, lines 9 to 11, to delete paragraph 3 and substitute the following:

“3. The Authority may, with the approval of the Minister, given with the consent of the Minister for Public Expenditure and Reform and the Minister for Finance, borrow for the Fund and, for the purpose of giving security in respect of such borrowing, may charge investments of the Fund.”

—An tAire Dlí agus Cirt agus Comhionannais.

96. In page 117, after line 3, to insert the following:

“7. The Authority shall keep all proper and usual accounts of all moneys paid into the Fund and disbursements from the Fund, including—

- (a) an income and expenditure account,
- (b) a cash-flow statement, and
- (c) a balance sheet.

8. As soon as may be after the end of each financial year of the Authority, the Authority shall submit—

- (a) the accounts of the Fund to the Comptroller and Auditor General for audit, and
- (b) a copy of an abstract of the accounts as so audited together with a copy of the report of the Comptroller and Auditor General thereon to the Minister.

9. The Minister shall cause copies of the 2 documents referred to in *paragraph (8)(b)* to be laid before each House of the Oireachtas as soon as may be after the documents are submitted to him or her by the Authority.”

—An tAire Dlí agus Cirt agus Comhionannais.

SCHEDULE 8

97. In page 125, after line 52, to insert the following:

“**Amendment of Stamp Duties Consolidation Act 1999.**

9. The Stamp Duties Consolidation Act 1999 is amended by inserting the following sections after section 137A:

[SCHEDULE 8]

“Information exchange with Property Services Regulatory Authority.

137B.—(1) In this section “Authority” means An tUdarás Rialála Seirbhísí Maoine or, in the English language, the Property Services Regulatory Authority.

(2) Notwithstanding any obligation to maintain secrecy or any other restriction on the disclosure or production of information obtained by or furnished to the Commissioners, the Commissioners shall, at such intervals as are specified by the Authority on or after the establishment day within the meaning of *section 2(1) of the Property Services (Regulation) Act 2011*, supply to the Authority, such information in the Commissioners’ e-stamping system (including information which was in that system before that establishment day) as may be required by the Authority for the performance of the functions of the Authority.

Provision of information to Commissioner of Valuation.

137C.—(1) In this section “Commissioner of Valuation” means a Commissioner appointed under section 9(5) of the Valuation Act 2001.

(2) Notwithstanding any obligation to maintain secrecy or any other restriction on the disclosure or production of information obtained by or furnished to the Commissioners, the Commissioners shall, at such intervals as are specified by the Commissioner of Valuation, supply to the Commissioner of Valuation such information in the Commissioners’ e-stamping system as may be required by the Commissioner of Valuation for the performance of the functions of the Commissioner of Valuation.”.”

—An tAire Dlí agus Cirt agus Comhionannais.

98. In page 125, after line 52, to insert the following:

“**Amendment of Schedule 5 to Social Welfare Consolidation Act 2005.**

10. Schedule 5 to the Social Welfare Consolidation Act 2005 is amended, in paragraph 1(4), by substituting the following for “the Probate Office,”:

“the Probate Office,

the Property Services Regulatory Authority,”.”

—An tAire Dlí agus Cirt agus Comhionannais.