



**AN BILLE UM ATHCHÓIRIÚ AN DLÍ TALÚN AGUS
TÍOLACTHA (ATHBHREITHNIÚ AR CHÍOS I gCÁSANNA
ÁIRITHE) (LEASÚ) 2010**

**LAND AND CONVEYANCING LAW REFORM (REVIEW OF
RENT IN CERTAIN CASES) (AMENDMENT) BILL 2010**

EXPLANATORY MEMORANDUM

Purpose of the Bill

The purpose of the Bill is to recognise the serious burden placed on businesses throughout the State, arising from the current decline in the economy, when faced with “upwards only” commercial rent reviews.

As is generally known and agreed, a serious disturbance in the economy and a decline in the economic circumstances of the State have occurred, which threaten the well-being of the community.

In these circumstances, the viability of many businesses that are tenants of commercial premises is also threatened, with the threat of a consequent loss of employment in the State.

And, in such circumstances, leases of commercial premises providing for the periodic review of rents by way of increase only are inequitable, because they result in an unjust distribution of the economic burdens facing the community.

This issue was partially addressed in the Land and Conveyancing Law Reform Act 2009. Section 132 of that Act provides that any provision in a business lease which provides for the review of the rent payable under the lease must be construed as providing that the rent payable following such review may be fixed at an amount which is less than, greater than or the same as the amount of rent payable immediately prior to the date on which the rent falls to be reviewed.

However, this new rule applies only to leases or agreements for leases made after the commencement of the section. It has no application to the many existing business leases.

This Bill empowers the Government, in the public interest, by order to grant temporary relief from the operation of existing upwards only rent reviews.

Provisions of the Bill

Section 1 amends section 132 of the Land and Conveyancing Law Reform Act 2009, dealing with rent reviews in business leases.

At present, subsection (2) of that section states simply that the section shall not apply to a lease or an agreement for a lease was entered into prior to the commencement of the section.

A new subsection (2) is substituted for this provision. The new subsection repeats the existing rule but makes it subject to exception where the Government is of the opinion that, arising from a serious disturbance in the economy and a decline in economic circumstances in the State, tenants of business premises cannot fairly be expected to pay rents at the rates that were previously prevailing, or at any increased rate.

In such a case the Government may make an order under *paragraph (2)(b)*. The order may:

- limit the application of the order to a class or type of business premises;
- apply to the whole State or to a particular geographical area in the State;
- provide for any incidental or ancillary matter that the Government considers necessary or expedient to give full effect to any provision of the order or to secure compliance with it.

The order will, unless it is earlier revoked, remain in force for the period specified (which may not exceed 24 months) and shall then expire.

During the period when an order is in force, then the provisions of section 132, which effectively prohibit the application of “upward only” rent review clauses in business leases, will apply both to existing leases as well as to new leases.

Section 2 contains standard provisions relating to the short title and the collective citation and construction of the Bill.

*An Teachta Ciarán Lynch,
Márta, 2010.*