



**AN BILLE UM THIONÓNTACHTAÍ CÓNAITHE (LEASÚ),
2012
RESIDENTIAL TENANCIES (AMENDMENT) BILL 2012**

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

Section

1. Definition.
 2. Meaning of “deposit”.
 3. Payment of deposits to Board.
 4. Amendment of section 92 of Principal Act.
 5. Tenants’ deposits to form investment fund.
 6. Rent allowance to be payable only in respect of registered tenancies.
 7. Short title and collective citation and construction.
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ACTS REFERRED TO

Residential Tenancies Act 2004

2004, No. 27

Residential Tenancies Acts 2004 and 2009

Social Welfare Acts



AN BILLE UM THIONÓNTACHTAÍ CÓNAITHE (LEASÚ),
2012

RESIDENTIAL TENANCIES (AMENDMENT) BILL 2012

BILL

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entitled

AN ACT TO AMEND THE RESIDENTIAL TENANCIES ACT
2004 SO AS TO PROVIDE FOR THE PAYMENT OF
DEPOSITS TO THE PRIVATE RESIDENTIAL TENANCIES
10 BOARD IN RESPECT OF TENANCIES REQUIRED
TO BE REGISTERED UNDER PART 7 OF THAT ACT; TO
REQUIRE FURTHER THAT PAYMENTS OF SUPPLEMENTARY
WELFARE ALLOWANCE UNDER THE SOCIAL WELFARE ACTS
IN RESPECT OF RENTAL PAYMENTS SHALL BE PAID ONLY
15 IN RESPECT OF A TENANCY REGISTERED WITH THE BOARD;
AND TO PROVIDE FOR CONNECTED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act, “the Principal Act” means the Residential
Definition. Tenancies Act 2004.

20 2.—In this Act and in the Principal Act, “deposit” means any
Meaning of money intended to be held (by the landlord or otherwise) as
“deposit”. security for—

(a) the performance of any obligations of the tenant, or

(b) the discharge of any liability of the tenant,

25 arising under or in connection with a tenancy.

3.—(1) Where a landlord requires a tenant, on entering into an
agreement for a tenancy or lease, to pay a deposit, the deposit shall
be paid by the landlord to the Board at the time of application for
registration of the tenancy under Part 7 of the Principal Act and shall
30 be held by the Board until—

(a) an application is made under *subsection (3)*, or

(b) a dispute is referred to the Board for resolution under
section 76 of the Principal Act.

(2) A landlord who contravenes *subsection (1)* is guilty of an offence.

(3) Where a landlord and a tenant jointly apply in the prescribed form for the repayment of a deposit by the Board to—

- (a) the tenant, 5
- (b) the landlord, or
- (c) in part to the tenant and in part to the landlord,

the Board shall promptly repay the deposit in the manner specified in the application.

(4) Section 78 of the Principal Act is amended, in subsection (1), 10 by substituting the following for paragraph (a):

“(a) the repayment of a deposit held by the Board to the tenant or the landlord or in part to each of them,”.

(5) A dispute in respect of matters referred to in section 78(1)(a) 15 of the Principal Act that is referred to the Board for resolution shall be determined in accordance with the following principles:

- (a) no amount of the deposit concerned shall be required to be repaid to the tenant if, at the date of referral of the dispute to the Board, there is a default in—
 - (i) the payment of rent and the amount of rent that is in 20 arrears is equal to or greater than the amount of the deposit, or
 - (ii) compliance with section 16(f) of the Principal Act and the amount of the costs that would be incurred by 25 the landlord, were he or she to take them, in taking such steps as are reasonable for the purposes of restoring the dwelling to the condition mentioned in the said section 16(f) is equal to or greater than the amount of the deposit;
- (b) where, at the date of the referral of the dispute to the 30 Board—
 - (i) there is a default in the payment of rent or compliance with the said section 16(f), and
 - (ii) *subparagraph (i) or (ii)*, as the case may be, of *para-* 35 *graph (a)* does not apply, then there shall be repaid—
 - (I) to the landlord, the amount of rent that is in 40 arrears or, as appropriate, the amount of the costs that would be incurred in taking steps of the kind referred to in *paragraph (a)(ii)*,
 - (II) to the tenant, the difference between the amount referred to in *subparagraph (i)* and the deposit;
- (c) where neither *paragraph (a)* or *(b)* apply, the deposit concerned shall be repaid in full to the tenant.

(6) No provision of any lease, tenancy agreement, contract or other agreement entered into after the commencement of this Act may operate to vary, modify or restrict in any way this section.

(7) Section 12(1)(d) and (4) of the Principal Act are repealed.

5 (8) Section 115 of the Principal Act is amended by substituting the following for subsection (2)(i):

10 “(i) in the special circumstances of a dispute heard under this Part, a direction that the whole or part of the costs or expenses incurred by the adjudicator or the Tribunal in dealing with the dispute shall be paid by one or more of the parties,

15 (j) a direction that a specified amount of damages be paid for unreasonably refusing to agree to a joint application for the repayment of a deposit under section 3(3) of the *Residential Tenancies (Amendment) Act 2012*.”

4.—Section 92 of the Principal Act is amended by inserting the following after subsection (4):

Amendment of section 92 of Principal Act.

20 “(5) For the purposes of this section, and in particular to enable the Board to clarify for itself and for the parties any issue arising in relation to a dispute referred to it, the Board may—

(a) inquire into any relevant aspect of the dispute concerned,

25 (b) require either party to furnish to it, within a specified period, such documents or other information as it considers appropriate, and

(c) provide to, and receive from, each party such information as is appropriate.”

30 5.—(1) The Board shall establish an investment account (the “account”) into which deposits paid to it under section 2 shall be deposited.

Tenants’ deposits to form investment fund.

(2) The National Treasury Management Agency (the “Agency”) shall manage the account on behalf of the Board.

35 (3) Moneys in the account shall be invested and the investments shall be realised or varied as occasion requires and the proceeds of any such realisation, and any dividends or other payments received in respect of moneys invested under this section, shall be paid into the Exchequer: provided that the Agency shall ensure that there is always within the account a sufficient amount of money to enable
40 the Board to repay deposits to tenants and landlords under section 2.

45 6.—(1) The Department of Social Protection shall not make a payment of a supplement towards the amount of rent payable by a person in respect of his or her residence where the tenancy has not been registered in accordance with the provisions of Part 7 of the Principal Act.

Rent allowance to be payable only in respect of registered tenancies.

(2) *Subsection (1)* does not prevent the payment by the Department of Social Protection—

(a) of such a supplement upon the creation of a tenancy, or

(b) of assistance in the form of a deposit prior to the registration of the tenancy.

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Short title and
collective citation
and construction.

7.—(1) This Act may be cited as the Residential Tenancies (Amendment) Act 2012.

(2) This Act and the Residential Tenancies Acts 2004 and 2009 may be cited together as the Residential Tenancies Acts 2004 to 2012 and shall be construed together as one Act.

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