

# DÁIL ÉIREANN

**AN BILLE UM THIONÓNTACHTAÍ CÓNAITHE (LEASÚ) (UIMH. 2), 2012  
[BILLR DÁIL ARNA LEASÚ AG AN SEANAD]**

**RESIDENTIAL TENANCIES (AMENDMENT) (NO. 2) BILL 2012  
[DÁIL BILL AMENDED BY THE SEANAD]**

*Leasuithe Iondacha  
Substitute Amendments*

*[The page and line references in this list of amendments  
are to the text of the Bill as passed by Dáil Éireann]*

## SECTION 3

4. In page 6, to delete lines 24 to 33 and substitute the following:

“(2A) Where—

- (a) a public authority provides a dwelling, of which it is the owner, to an approved housing body under a contract or lease between the public authority and the approved housing body pursuant to paragraph (ea) of section 6(2) of the Housing (Miscellaneous Provisions) Act 1992, and
- (b) subsequent to such provision the dwelling concerned is the subject of a tenancy between the approved housing body concerned and a household within the meaning of section 20 of the Housing (Miscellaneous Provisions) Act 2009 that has been assessed under that section of that Act as being qualified for social housing support (within the meaning of that Act),

for the purposes of subsection (1) and without prejudice to paragraph (c) of subsection (2)—

- (i) this Act applies to that dwelling (including any such dwelling that is the subject of a tenancy created before the coming into operation of this subsection),
- (ii) any such tenancy shall not, for the purposes of this Act, be treated as a sub-tenancy arising out of such lease or contract between the public authority and the approved housing body, and
- (iii) references in this Act to a sub-tenancy shall not include a dwelling that is the subject of a tenancy between the approved housing body and the household within the meaning of section 20 of the Housing (Miscellaneous Provisions) Act 2009.””.

*Amendment to Amendment No. 4*

[SECTION 3]

1. In the fifth line of subsection (2A)(b), to delete “being” and substitute “having”.

Paul Murphy, Ruth Coppinger, Joe Higgins.

[*This amendment is in substitution for amendment 4 on the principal list of amendments dated 25 November 2015.*]

5. In page 6, to delete lines 36 to 41, and in page 7, to delete lines 1 to 19 and substitute the following:

“(4) Without prejudice to subsection (1), for the purposes of the application of this Act to—

(a) a dwelling referred to in subsection (2A), and

(b) a dwelling, other than a dwelling referred to in paragraph (a), that—

(i) is owned and provided by an approved housing body to whom assistance is given under subsection (2) of section 6 of the Housing (Miscellaneous Provisions) Act 1992, other than the assistance referred to in paragraph (ea) of that subsection, for the purposes of such provision by the approved housing body,

(ii) is the subject of a tenancy (including a tenancy created before the commencement of this subsection), and

(iii) is let by that approved housing body to a household within the meaning of section 20 of the Housing (Miscellaneous Provisions) Act 2009 that has been assessed under that section of that Act as being qualified for social housing support (within the meaning of that Act),

subsections (5) and (6) (both inserted by *section 3* of the *Residential Tenancies (Amendment) Act 2015*) and sections 3A and 3B (both inserted by *section 4* of the *Residential Tenancies (Amendment) Act 2015*) shall apply to a dwelling referred to in paragraphs (a) and (b).”.

*Amendment to Amendment No. 5*

1. In the fourth line of subsection (4)(b)(iii), to delete “being” and substitute “having”.

Paul Murphy, Ruth Coppinger, Joe Higgins.

[*This amendment is in substitution for amendment 5 on the principal list of amendments dated 25 November 2015.*]

SECTION 15

47. In page 16, between lines 2 and 3, to insert the following:

**“Amendment of section 20 of Principal Act**

18. (1) Section 20 of the Principal Act is amended by inserting the following subsections after subsection (3):

“(4) The references to ‘12 months’ in—

- (a) paragraphs (a) and (b) of subsection (1), and
- (b) subsection (3),

shall, for the duration of the relevant period, be construed as references to ‘24 months’.

(5) Subsections (4) and (6) shall cease to have effect on the day immediately before the fourth anniversary of the day on which *section 18\** of the *Residential Tenancies (Amendment) Act 2015* came into operation and, on and from the first-mentioned day—

- (a) paragraphs (a) and (b) of subsection (1), and
- (b) subsection (3),

shall be read as if subsection (4) had not been enacted.

(6) In subsection (4), ‘relevant period’ means the period commencing on the day on which *section 18\** of the *Residential Tenancies (Amendment) Act 2015* comes into operation and ending on the day immediately before the fourth anniversary of the day on which that section came into operation.”.

(2) In the case of a tenancy which commenced before the coming into operation of *subsection (1)*, for the purposes of the amendments effected by that subsection, where—

- (a) a period of 12 months, beginning on the commencement of the tenancy, has not elapsed before the day on which *subsection (1)* comes into operation, a review of rent under that tenancy may not occur until a period of 24 months, beginning on the commencement of the tenancy, has elapsed,
- (b) a period of 12 months, beginning on the date of the commencement of the tenancy, has elapsed before the day on which *subsection (1)* comes into operation and a review of rent under section 20 of the Principal Act has not been carried out before that day, a review of rent may not occur until a period of 24 months, beginning on the commencement of the tenancy, has elapsed,
- (c) a review of rent was carried out pursuant to section 20(3) of the Principal Act and that review of rent was the most recent review of rent carried out before the coming into operation of *subsection (1)*, a review of rent may not occur until a period of 24 months, beginning on the date of that most recent review of rent, has elapsed, or

[SECTION 15]

- (d) one or more reviews of the rent under that tenancy has, or have, been carried out in accordance with section 20 of the Principal Act, a review of rent may not occur until a period of 24 months, beginning on the date of the most recent review of rent carried out before the coming into operation of *subsection (1)*, has elapsed.
- (3) The amendments effected by *subsection (1)*—
  - (a) shall not apply in respect of a review of rent under the tenancy of a dwelling carried out under section 20 of the Principal Act where a review of rent—
    - (i) is being carried out in accordance with that section before the day on which *subsection (1)* comes into operation, or
    - (ii) has been carried out in accordance with that section before the day on which *subsection (1)* comes into operation, pursuant to which a notice under section 22(2) of the Principal Act has been served on the tenant concerned before the day on which *subsection (1)* comes into operation,
  - and
  - (b) shall apply in respect of a review of rent under the tenancy of a dwelling carried out after the review of rent referred to in *paragraph (a)* during the period for which subsections (4) and (6) of section 20 of the Principal Act have effect.”.

[\* *This is a reference to the section proposed to be inserted by this amendment.*]

*Amendments to Amendment No. 47*

- I. To delete section 18, and substitute the following:

**“Amendment of section 20 of Principal Act**

**18.** Section 20 of the Principal Act is deleted and the following section is substituted:

- “**20.** (1) Subject to subsection (3), a review of the rent under the tenancy of a dwelling may not occur—
- (a) more frequently than once in each period of 24 months, nor
  - (b) in the period of 24 months beginning on the commencement of the tenancy.
- (2) Subsection (1) has effect notwithstanding any provision to the contrary in the lease or tenancy agreement concerned.
- (3) Subsection (1) does not apply despite the fact that a period of less than 24 months has elapsed from—
- (a) the last review of the rent under the tenancy, or
  - (b) the commencement of the tenancy, if, in that period—
    - (i) a substantial change in the nature of the accommodation provided under the tenancy occurs, and

[SECTION 15]

- (ii) the rent under the tenancy, were it to be set immediately after that change, would, by virtue of that change, be different to what was the market rent for the tenancy at the time of that last review or the commencement of the tenancy, as the case may be.”.

Dessie Ellis.

- 2. To insert the following subsection before subsection (1):

“(1) Section 19 of the Principal Act is amended in subsection (1), by inserting the following after “at that time.”:

“Market rent is defined as the average price per square metre of a property with equivalent fittings and finish in the same municipal district or local electoral area, as applicable. The average price per square metre shall be calculated using the data gathered and published in accordance with section 151(1)(bc) (as amended by *section 37\** of the *Residential Tenancies (Amendment) Act 2015*).”.

Clare Daly.

[\* *This is a reference to the section proposed to be inserted by amendment 82.*]

- 3. In section 18(1), in the inserted subsection (4), to delete “, for the duration of the relevant period,”.

Paul Murphy, Ruth Coppinger, Joe Higgins, Clare Daly.

- 4. In section 18(1), to delete the inserted subsections (5) and (6).

Paul Murphy, Ruth Coppinger, Joe Higgins.

- 5. In section 18(1), to delete the inserted subsection (5) and substitute the following:

“(5) Subsections (4) and (6) shall be reviewed by Dáil Éireann on the nearest date to the fourth anniversary of the day on which *section 18\** of the *Residential Tenancies (Amendment) Act 2015* came into operation on which Dáil Éireann sits, and Dáil Éireann shall decide, with a view to the housing situation in the country at the time, the social good, and the principle of housing as a human right, whether subsections (4) and (6) should remain in place.”.

Clare Daly.

[\* *This is a reference to the section proposed to be inserted by amendment 47.*]

- 6. In section 18(1), after the inserted subsection (6), to insert the following:

“(7) Any increase mandated by a review of the rent as referred to in subsection (1) shall not be greater than the percentage annual rate of inflation, or 5 per cent, whichever is the lower.”.

Clare Daly.

[SECTION 15]

7. In section 18, to delete subsection (3).

Paul Murphy, Ruth Coppinger, Joe Higgins.

8. In section 18(3)(a), in the first line, to delete “not”.

Clare Daly.

9. In section 18(3)(a), in the second line, to delete “where a review” and substitute “if a review”.

Clare Daly.

10. In section 18(3)(a), to delete subparagraph (i) and substitute the following:

“(i) has been carried out in accordance with that section 60 days or less than 60 days before the day on which *subsection (1)* comes into operation, and any notice under section 22(2) of the Principal Act served pursuant to that review shall be null, if it has been served 60 days or less than 60 days before *subsection (1)* comes into operation.”

Clare Daly.

11. In section 18(3)(b), in the second and third line, to delete “during the period for which subsections (4) and (6) of section 20 of the Principal Act have effect”.

Clare Daly.

[*This amendment is in substitution for amendment 47 on the principal list of amendments dated 25 November 2015.*]

48. In page 16, between lines 2 and 3, to insert the following:

**“Amendment of section 22 of Principal Act**

19. (1) Section 22 of the Principal Act is amended—

- (a) in subsection (2)—

(i) by substituting “90 days” for “28 days”,

(ii) by substituting “in the prescribed form” for “in writing”, and

(iii) by inserting “and the matters specified in subsection (2A)” after “have effect”,

and

- (b) by inserting the following subsections after subsection (2):

“(2A) The notice referred to in subsection (2) shall—

(a) without prejudice to subsection (2) and pursuant to the condition referred to in that subsection, state the amount of the new rent and the date from which it is to have effect,

(b) include a statement that a dispute in relation to the setting of a rent pursuant to a review of the rent under a tenancy must be referred to the Board under Part 6 before—

[SECTION 15]

- (i) the date stated in the notice as the date from which that rent is to have effect, or
  - (ii) the expiry of 28 days from the receipt by the tenant of that notice,
- whichever is the later,
- (c) include a statement by the landlord that in his or her opinion the new rent is not greater than the market rent, having regard to—
    - (i) the other terms of the tenancy, and
    - (ii) letting values of dwellings—
      - (I) of a similar size, type and character to the dwelling that is the subject of the tenancy, and
      - (II) situated in a comparable area to that in which the dwelling the subject of the tenancy concerned is situated,
  - (d) specify, for the purposes of paragraph (d), and without prejudice to the generality of that paragraph, the amount of rent sought for 3 dwellings—
    - (i) of a similar size, type and character to the dwelling that is the subject of the tenancy, and
    - (ii) situated in a comparable area to that in which the dwelling the subject of the tenancy concerned is situated,
- and
- (e) include the date on which the notice is signed.
- (2B) The notice referred to in subsection (2) shall be signed by the landlord or his or her authorised agent.
- (2C) In this section ‘amount of rent sought’ means the amount of rent specified for the letting of a dwelling in an advertisement the date of which falls within the period of 4 weeks immediately preceding the date on which the notice referred to in subsection (2) is served.”.
- (2) Where, before the coming into operation of *subparagraph (i) of paragraph (a) of subsection (1)*, a notice under subsection (2) of section 22 of the Principal Act has been served on a tenant, notwithstanding the amendments to that section by *subsection (1)*, that section shall continue to apply to—
- (a) that notice, and
  - (b) the operation of subsection (3) of that section in respect of that notice,
- as if *subparagraph (i) of paragraph (a) of subsection (1)* had not been enacted.”.

*Amendments to Amendment No. 48*

[SECTION 15]

1. In section 19(1)(a)(i), to delete “90 days” and substitute “180 days”.

Paul Murphy, Ruth Coppinger, Joe Higgins.

2. In section 19(1)(b), in the inserted subsection (2A), to delete paragraphs (c) and (d) and substitute the following:

“(c) include a statement by the landlord that the new rent is not in breach of subsection (7) (inserted by *section 19\** of the *Residential Tenancies (Amendment) Act 2015*),”.

Clare Daly.

[\* *This is a reference to the section proposed to be inserted by amendment 48.*]

3. In section 19(1)(b), in the inserted subsection (2A), to delete paragraph (c) and substitute the following:

“(c) include a statement by the landlord that in his or her opinion the new rent is not greater than for a dwelling in the Dublin area (as defined by the Private Residential Tenancies Board Rent Index) the rent charged on the dwelling in Quarter 1 2011, or for a dwelling outside the Dublin area (as defined by the Private Residential Tenancies Board Rent Index) the rent charged on the dwelling in Quarter 2 2013, with the addition in either case of allowance for the general rate of inflation according to the Consumer Price Index since Quarter 1 2011 or Quarter 2 2013, whichever date applies,”.

Paul Murphy, Ruth Coppinger, Joe Higgins.

4. In section 19(1)(b), to delete the inserted subsection (2C).

Clare Daly.

5. In section 19, to delete subsection (2).

Paul Murphy, Ruth Coppinger, Joe Higgins.

[*This amendment is in substitution for amendment 48 on the principal list of amendments dated 25 November 2015.*]

SECTION 16

50. In page 16, to delete lines 5 to 42 and substitute the following:

**“Amendment of section 34 of Principal Act**

16. The Table to section 34 of the Principal Act is amended—

- (a) in paragraph 1(a), by inserting “in writing” after “notified”,
- (b) in paragraph 2, by inserting “and the notice of termination is accompanied by a statement referred to in section 35” after “occupying household”,
- (c) in paragraph 3, by inserting “and the notice of termination is accompanied by a

[SECTION 16]

statutory declaration referred to in section 35” after “containing the dwelling”,

(d) in paragraph 4, by substituting “by a statutory declaration” for “, in writing, by a statement”,

(e) in paragraph 5—

(i) in subparagraph (a), by substituting “intended works,” for “intended works, and”,

(ii) by inserting the following subparagraphs after subparagraph (a):

“(aa) that, in a case where planning permission has been obtained, a copy of the planning permission is attached to the notice or statement,

(ab) that planning permission is not required and he or she has complied with the requirements of section 35(9)(b), and”,

and

(iii) in subparagraph (b)(i) by inserting “within the period of 6 months from the expiry of the period of notice required to be given by the notice, or if a dispute in relation to the validity of the notice was referred to the Board under Part 6 for resolution, the final determination of the dispute” after “available for re-letting”,

and

(f) in paragraph 6—

(i) in subparagraph (a), by substituting “intended use,” for “intended use, and”,

(ii) by inserting the following subparagraphs after subparagraph (a):

“(aa) that, in a case where planning permission has been obtained, a copy of the planning permission is attached to the notice or statement,

(ab) as to whether any works are to be carried out in respect of the change of use and where such works are required to be carried out, specifying—

(i) details of those works,

(ii) the name of the contractor, if any, employed to carry out such works, and

(iii) the dates on which the intended works are to be carried out and the proposed duration of the period in which those works are to be carried out,

and”.”.

*Amendment to Amendment No. 50*

**I.** In paragraph (d), after “declaration” to insert “referred to in section 35 (as amended by the *Residential Tenancies (Amendment) Act 2015*)”.

Paul Murphy, Ruth Coppinger, Joe Higgins.

[SECTION 16]

*[This amendment is in substitution for amendment 50 on the principal list of amendments dated 25 November 2015.]*

SECTION 17

51. In page 16, after line 42, to insert the following:

**“Amendment of section 35 of Principal Act**

17. Section 35 of the Principal Act is amended by inserting the following subsections after subsection (6):

- “(7) The statement to accompany a notice of termination in respect of a termination referred to in paragraph 2 of the Table shall specify—
  - (a) the bed spaces in the dwelling, and
  - (b) the grounds on which the dwelling is no longer suitable having regard to the bed spaces referred to in paragraph (a) and the size and composition of the occupying household.
- (8) The statutory declaration that is to accompany a notice of termination in respect of a termination referred to in paragraph 3 of the Table shall include a declaration that the landlord intends to enter into an enforceable agreement to transfer to another, for full consideration, of the whole of his or her interest in the dwelling or the property containing the dwelling.
- (9) A notice of termination in respect of a termination made on the ground specified in paragraph 5 of the Table, or the statement referred to in that paragraph shall—
  - (a) for the purposes of the statement referred to in subparagraph (aa) of paragraph 5 of the Table, be accompanied by a copy of the planning permission required for the carrying out of the refurbishment or renovation of the dwelling concerned, and
  - (b) specify, where planning permission is not required—
    - (i) the name of the contractor, if any, employed to carry out the intended works, and
    - (ii) the dates on which the intended works are to be carried out and the proposed duration of the period in which those works are to be carried out.
- (10) A notice of termination in respect of a termination made on the ground specified in paragraph 6 of the Table, or the statement referred to in that paragraph shall, for the purposes of the statement referred to in subparagraph (aa) of paragraph 6 of the Table, be accompanied by a copy of the planning permission required for the carrying out of the change of use of the dwelling concerned.””.

*Amendments to Amendment No. 51*

[SECTION 17]

1. In section 17, in the inserted subsection (8), in the sixth line after “dwelling” to insert the following “and shall also include evidence of that intention to sell, such as correspondence with an estate agent or a prospective buyer or buyers, and shall also include evidence that were the property not to be sold, the landlord would suffer significant financial hardship”.

Paul Murphy, Ruth Coppinger, Joe Higgins.

2. In section 17, after the inserted subsection (10), to insert the following new subsection:

“(11) The statutory declaration that is to accompany a notice of termination in respect of a termination referred to in paragraph 4 of the Table shall include evidence that the landlord would suffer significant financial hardship if he was not able to occupy the dwelling or the property containing the dwelling himself, or if it could not be made available for occupation by a member of his or her family.”.

Paul Murphy, Ruth Coppinger, Joe Higgins.

*[This amendment is in substitution for amendment 51 on the principal list of amendments dated 25 November 2015.]*

53. In page 16, after line 42, to insert the following:

**“Amendment of section 66 of Principal Act**

19. (1) Section 66 of the Principal Act is amended—

- (a) by substituting the following Table for Table 1:

“TABLE 1  
Termination by Landlord

Duration of Tenancy (1)	Notice Period (2)
Less than 6 months	28 days
6 or more months but less than 1 year	35 days
1 year or more but less than 2 years	42 days
2 years or more but less than 3 years	56 days
3 years or more but less than 4 years	84 days
4 years or more but less than 5 years	112 days
5 years or more but less than 6 years	140 days
6 years or more but less than 7 years	168 days
7 years or more but less than 8 years	196 days
8 or more years	224 days

”

and

- (b) by substituting the following Table for Table 2:

“TABLE 2  
Termination by Tenant

Duration of Tenancy (1)	Notice Period (2)
Less than 6 months	28 days
6 or more months but less than 1 year	35 days
1 year or more but less than 2 years	42 days
2 years or more but less than 4 years	56 days
4 years or more but less than 8 years	84 days
8 or more years	112 days

”.

- (2) Where, immediately before the coming into operation of *subsection (1)*, a period of notice was specified in a notice of termination in respect of a tenancy to which section 66 of the Principal Act applies but that period had not expired, notwithstanding the amendments to section 66 of the Principal Act made by *subsection (1)*, the periods of notice specified in the Tables to that section before those amendments were made shall continue to apply in respect of the notice of termination concerned as if those amendments had not been made.”.

*Amendments to Amendment No. 53*

- I.** In the section 19(1), to delete paragraph (a) and substitute the following:

“(a) by substituting the following Table for Table 1:

“TABLE 1  
Termination by Landlord

Duration of Tenancy (1)	Notice Period (2)
Less than 6 months	60 days
6 or more months but less than 1 year	60 days
1 year or more but less than 2 years	60 days
2 years or more but less than 3 years	90 days
3 years or more but less than 4 years	120 days
4 years or more but less than 5 years	150 days
5 years or more but less than 6 years	180 days
6 years or more but less than 7 years	180 days
7 years or more but less than 8 years	196 days
8 or more years	224 days

””.

Paul Murphy, Ruth Coppinger, Joe Higgins.

2. In section 19(1), to delete paragraph (b) and substitute the following:

“(b) by substituting the following Table for Table 2:

“TABLE 2  
Termination by Tenant

Duration of Tenancy (1)	Notice Period (2)
Less than 6 months	28 days
1 year or more but less than 2 years	35 days
2 years or more but less than 4 years	42 days
4 years or more but less than 8 years	56 days
8 years or more	84 days

”.”.

Dessie Ellis.

3. In section 19(1), to delete paragraph (b) and substitute the following:

“(b) the duration of tenancy shall not affect the notice period required for termination by a tenant, which shall in all cases be 28 days.”.

Clare Daly.

4. In section 19, to delete subsection (2).

Paul Murphy, Ruth Coppinger, Joe Higgins.

*[This amendment is in substitution for amendment 53 on the principal list of amendments dated 25 November 2015.]*

SECTION 36

82. In page 21, between lines 32 and 33, to insert the following:

**“Amendment of section 151 of Principal Act**

37. Section 151 of the Principal Act is amended, in subsection (1), by inserting the following paragraphs after paragraph (b):

“(ba) to retain deposits transmitted to it in accordance with this Act in one or more designated tenancy deposit accounts and to return the deposits to the parties concerned in accordance with this Act,

[SECTION 36]

(bb) to retain the interest that accrues on a designated tenancy deposit account and use it to meet the costs of the performance by it of its functions under this Act, ”.”.

*Amendment to Amendment No. 82*

**I.** In section 37, after paragraph (bb), to insert the following:

“(bc) to collect data on the price per square metre of every rental property registered with it, and to publically publish monthly the average price per square metre of rental properties in every municipal district or local electoral area, whichever is applicable,”.

Clare Daly.

*[This amendment is in substitution for amendment 82 on the principal list of amendments dated 25 November 2015.]*