



SEANAD ÉIREANN

**AN BILLE UM MÉADUITHE AMHÁIN AR CHÍOS (CLÁSAIL
AGUS ATHBHREITHNITHE), 2013
UPWARD ONLY RENT (CLAUSES AND REVIEWS) BILL 2013**

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

SEANAD ÉIREANN

AN BILLE UM MÉADUITHE AMHÁIN AR CHÍOS (CLÁSAIL AGUS ATHBHREITHNITHE), 2013 —AN COISTE

UPWARD ONLY RENT (CLAUSES AND REVIEWS) BILL 2013 —COMMITTEE STAGE

*Leasuithe
Amendments*

SECTION 2

1. In page 3, between lines 21 and 22, to insert the following:

“Disapplication of certain clauses

2. (1) A clause which is contained in a relevant lease and which purports to set the amount of rent payable in respect of that land at a level which is greater than the amount of the prevailing market rent for that tenancy at that time may be disappplied by an arbitrator during the course of a review where the considerations set out in *subsection (4)* are satisfied.
- (2) A tenant who is subject to a relevant lease may give notice of his or her intention to invoke a review under this section.
- (3) (a) A review under this section shall be conducted by an arbitrator appointed by the Chartered Institute of Arbitrators Ireland whose determination shall be final and binding.
- (b) An arbitrator's determination may—
 - (i) direct that the current level of rent remain in place, or
 - (ii) direct the payment of a reduced level of rent.
- (4) In conducting a review under this section, the arbitrator shall have regard to whether—
 - (a) due to the external economic environment the business is currently, or is imminently in danger of, experiencing financial distress,
 - (b) the level of rent currently payable represents a threat to the continued viability of the business,
 - (c) a reduction in the level of rent will enhance the viability of the business, and
 - (d) a reduction in the level of rent will preserve existing levels of employment.
- (5) This section shall not be used to confer the benefit of reduced rent payments on a business whose financial distress has been shown to have been principally caused by

[SECTION 2]

inadequate or ineffective management.

- (6) A review under this section may only be invoked once during the term of the relevant lease.”.

—*Senator Feargal Quinn.*

[*Acceptance of this amendment involves the deletion of section 2 of the Bill.*]

SECTION 3

2. In page 3, between lines 25 and 26, to insert the following:

“Abatement of rent under certain review processes

3. (1) A review process which is provided for under the terms of a relevant lease shall not be bound to determine that the amount of rent payable in respect of that land may only be set at a level which is greater than the amount of the prevailing market rent for that tenancy provided that the considerations set out in *subsection (2)* are satisfied.
- (2) Where a review process referred to in *subsection (1)* is being conducted under a relevant lease the following matters shall be taken into consideration by the reviewer, namely whether—
- (a) due to the external economic environment the business is currently, or is imminently in danger of, experiencing financial distress,
 - (b) the level of rent currently payable represents a threat to the continued viability of the business,
 - (c) a reduction in the level of rent will enhance the viability of the business, and
 - (d) a reduction in the level of rent will preserve existing levels of employment.
- (3) Where the considerations set out in *subsection (2)* are satisfied, the reviewer may—
- (a) direct that the current level of rent remain in place, or
 - (b) direct the payment of a reduced level of rent.
- (4) This section shall not be used to confer the benefit of reduced rent payments on a business whose financial distress has been shown to have been principally caused by inadequate or ineffective management.
- (5) In this section “reviewer” means the arbitrator or other person charged with leading or otherwise adjudicating upon a review process which is provided for in a relevant lease.”.

—*Senator Feargal Quinn.*

[*Acceptance of this amendment involves the deletion of section 3 of the Bill.*]

SECTION 5

3. In page 4, after line 9, to insert the following:

- “(3) (a) This Act shall cease to operate five years after the date of its commencement and shall thereat stand repealed.

[SECTION 5]

- (b) The repeal of this Act shall not serve to affect the duration or effectiveness of—
- (i) a determination made under *section 2**, or
 - (ii) a review process decision made under *section 3***,
- prior to its repeal.”

—*Senator Feargal Quinn.*

[*This is a reference to the section proposed to be inserted by amendment 1.]

[**This is a reference to the section proposed to be inserted by amendment 2.]