



**An Bille um Thionóntachtaí Cónaithe agus Luacháil,
2020**
Residential Tenancies and Valuation Bill 2020

Meabhrán Mínitheach
Explanatory Memorandum



**AN BILLE UM THIONÓNTACHTAÍ CÓNAITHE AGUS
LUACHÁIL, 2020
RESIDENTIAL TENANCIES AND VALUATION BILL 2020**

EXPLANATORY MEMORANDUM

Introduction

The Bill provides for increased notice periods in relation to notices of termination served on tenants in the residential rental sector during the emergency period from the date of the passing of this Act to 10 January 2021 for failure to pay rent due and to prohibit increases in rents on tenancies of dwellings during that period; to make provision in relation to the giving of notifications, and notices of termination, by landlords to tenants and the Residential Tenancies Board in relation to arrears of rent; to extend the period within which a valuation list in relation to the rating authority area of Dun Laoghaire Rathdown County Council shall be published; for those and other purposes, to amend the Residential Tenancies Act 2004, the Emergency Measures in the Public Interest (Covid-19) Act 2020 and the Valuation Act 2001 and to provide for matters connected therewith.

Provisions

There are 3 Parts in the Bill, comprising 13 sections.

PART 1

Preliminary and General — (sections 1 and 2)

This Part contains standard provisions relating to short title, collective citations and definitions.

PART 2

Protection of tenants during emergency period – (section 3 to 6)

Part 2 of the Bill provides for enhanced protections for tenants during an emergency period if, they have been economically impacted by the Covid-19 pandemic and are unable to meet their obligations under the Residential Tenancies Acts to pay the rent due.

Section 3 - Interpretation – defines the emergency period to mean from the date of the passing of this Act to 10 January 2021.

Section 4 provides that Part 2 shall not apply unless the tenant makes a written declaration that he or she is a ‘relevant person’, as defined in subsection (6) and as a consequence thereof is at significant risk that their tenancy will be terminated by their landlord. A ‘relevant person’ includes a person unable to comply with his or her obligations to pay rent due in respect of a tenancy because he or she was or is temporarily out of work due to having contracted Covid-19, without entitlement to be paid by his or

her employer; or in receipt of (or entitled to receive) the temporary wage subsidy, any other payment out of public moneys provided for by or under statute and paid for the purpose of alleviating financial hardship resulting from the loss of employment occasioned by Covid-19, including rent supplement or a supplementary welfare allowance.

Such a declaration shall be served on the Residential Tenancies Board (RTB) and copied to the landlord. It shall be an offence to make a false or misleading declaration.

During the emergency period and where the declaration has been made:

- **Section 5** provides that before a notice of termination is served by a landlord on foot of rent arrears, a tenant must have been afforded with a minimum of 28 days to pay his or her rent arrears after a written rent arrears notice has been received by both the tenant and the RTB. A 90 day notice of termination period will now apply where rent arrears are the basis of the termination (the corresponding notice period for rent arrears terminations outside of the emergency period is 28 days' notice). A notice of termination served during the emergency period shall not specify a termination date that falls earlier than 11 January 2021. A tenant cannot acquire Part 4 security of tenure rights as a result of this section; and
- **Section 6** provides that no rent increase can take effect during the emergency period and no increase in rent will be payable in respect of any time during that period.

PART 3

Miscellaneous - (section 7 to 13)

This Part provides for amendments to the Residential Tenancies Act 2004, the Emergency Measures in the Public Interest (Covid-19) Act 2020 and the Valuation Act 2001.

Section 7 provides that during the period from the date of the passing of this Act to 10 January 2021, tenancy tribunals are not required to be held in public.

Section 8 provides for an amendment to the table to section 34 of the Residential Tenancies Act 2004 to provide a new ground (1A) for termination of a tenancy for reasons of non-payment of rent within the minimum 28 day period afforded for payment following receipt of a written rent arrears notice by both the tenant and the RTB. The aforementioned 28 day period commences upon receipt of the written rent arrears notice by the tenant or the RTB, whichever occurs later.

Section 9 is a consequential amendment to section 35 of the Residential Tenancies Act arising from the new ground (1A) provided for under section 8.

Section 10 inserts a new section 39A into the Residential Tenancies Acts. The new section 39A provides that where a landlord serves a notice of termination in relation to the failure to pay an amount of rent set under the tenancy, a copy of that notice must be sent to the RTB at the same time as to the tenant.

When the RTB receives a copy of the notice, it shall notify the tenant in writing of his or her right to refer a matter in connection with the notice of termination to the Board for resolution under section 76. In the resolution of any such matter arising, the RTB adjudicator shall have regard to any advice provided to the tenant by the Money Advice and Budgeting Service (MABS) when making a decision or determination.

Where there is an appeal to a Tribunal, the Tribunal shall also have regard to any advice provided by MABS when making its determination.

Section 11 provides for a number of amendments to section 67 of the Residential Tenancies Acts. Paragraphs (a) and (b) provide conditions for the serving of a notice of termination where the tenant has failed to pay an amount of rent due. The conditions are that the tenant and the RTB have been notified in writing that: such amount of rent due as is specified in the notification has not been paid, and that the rent has not been paid to the landlord within the minimum period of 28 days following receipt of the notification by the tenant, or by the RTB, whichever occurs later.

Paragraph (c) provides for the insertion of 3 new subsections -

Subsection (3A) provides that where the RTB receives a notification that an amount of rent due has not been paid, it shall request the tenant to give their consent to the RTB to assist the tenant in obtaining MABS advice. Subsection (3B) ensures that where that consent is given, the RTB will so assist. Subsection (3C) provides that a notice of termination for failure by a tenant to pay an amount of rent due shall be deemed to be invalid if the landlord fails to simultaneously serve a copy of that notice on the tenant and the RTB.

Section 12 amends section 5 of the Emergency Measures in the Public Interest (Covid-19) Act 2020 in subsection (6) to re-define the 'revised termination date' so that it cannot expire any earlier than 10 August 2020 (this applies to tenancies where the notice of termination had been served but the notice period had not expired before the 2020 Act came into law on 27 March 2020); and by deleting subsection (7) to ensure that Part 2 – Operation of Residential Tenancies Act 2004 – of that Act ceases to operate at the end of the emergency period under section 3(1) of that Act.

Section 13 modifies the application of section 25 of the Valuation Act 2001 by extending the period from 10 years to 12 years within which a valuation list in relation to the rating authority area of Dun Laoghaire Rathdown County Council shall be published, with a return to the usual 10 year period in 2023.

An Roinn Tithíochta, Pleanála agus Rialtais Áitiúil, 24 Iúil, 2020.