



SEANAD ÉIREANN

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

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

[Substitute Numbered List for the List issued on the 31st July 2020.]

SEANAD ÉIREANN

AN BILLE UM THIONÓNTACHTAÍ CÓNAITHE AGUS LUACHÁIL, 2020 —AN COISTE

RESIDENTIAL TENANCIES AND VALUATION BILL 2020 —COMMITTEE STAGE

Leasuithe Ionaid Substitute Amendments

**Government amendments are denoted by an asterisk*

SECTION 3

1. In page 4, between lines 27 and 28, to insert the following:

“(2) (a) The Government may from time to time by order extend the emergency period, either generally or with reference to any particular purpose or provision, for such period as it considers appropriate if it is satisfied that, having regard to the threat to public health presented by Covid-19 and the need to mitigate the economic effects arising from that disease, the making of such order is in the public interest.

(b) Every order under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House sits after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.”.

—*Senators Rebecca Moynihan, Ivana Bacik, Annie Hoey, Marie Sherlock, Mark Wall,
Alice-Mary Higgins, Lynn Ruane.*

SECTION 4

2. In page 5, lines 8 to 10, to delete all words from and including “serves” in line 8 down to and including line 10 and substitute “in the opinion of the Board—”.

—*Senator Lynn Boylan.*

3. In page 5, line 12, to delete “significant”.

—*Senator Lynn Boylan.*

4. In page 5, to delete lines 16 and 17.

—*Senators Rebecca Moynihan, Ivana Bacik, Annie Hoey, Marie Sherlock, Mark Wall,
Alice-Mary Higgins, Lynn Ruane.*

[SECTION 4]

5. In page 5, lines 16 and 17, to delete “that is false or misleading in any material respect shall be guilty of an offence” and substitute the following:

“shall do so in good faith and where a declaration is found to be false, misleading or inaccurate, that declaration shall not be valid for the purposes of this Act”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

6. In page 5, line 17, after “is” to insert “deliberately and intentionally”.

—*Senator Lynn Boylan.*

7. In page 5, line 34, to delete “in relation to the payment of rent due”.

—*Senator Lynn Boylan.*

8. In page 6, between lines 23 and 24, to insert the following:

“(d) his or her having received a Notice to Quit from their landlord the execution of which is likely to result in the tenant(s) presenting as homeless.”.

—*Senator Lynn Boylan.*

9. In page 6, between lines 23 and 24, to insert the following:

“(d) his or her being a person to whom section 2 of the Housing Act 1988 would otherwise apply on the date a notice of termination is served.”.

—*Senator Lynn Boylan.*

10. In page 6, between lines 23 and 24, to insert the following:

(d) notwithstanding anything in this section the Board has the discretion to hear Notice to Quit disputes in cases where the tenant(s) is accused of wilfully refusing to pay rent when they have a demonstrable ability to do so; where a tenant is accused of engaging in or facilitating serious anti-social behaviour; or in cases where failure to proceed with the Notice to Quit would result in the landlord having to present as homeless.”.

—*Senator Lynn Boylan.*

11. In page 6, between lines 23 and 24, to insert the following:

“(7) A tenant may serve a declaration referred to in *subsection (1)* whether before or after the service by the landlord concerned on the tenant of notice of termination or of an increase in rent.”.

—*Senators Rebecca Moynihan, Ivana Bacik, Annie Hoey, Marie Sherlock, Mark Wall, Lynn Ruane.*

Section opposed.

—*Senators Rebecca Moynihan, Ivana Bacik, Annie Hoey, Marie Sherlock, Mark Wall, Alice-Mary Higgins, Lynn Ruane.*

[SECTION 5]

SECTION 5

12. In page 7, to delete lines 2 to 4.

—*Senators Lynn Ruane, Alice-Mary Higgins.*

13. In page 7, between lines 4 and 5, to insert the following:

“PART 3

PROHIBITION OF RENT INCREASES DURING EMERGENCY PERIOD

Prohibition of rent increases during emergency period

6. Notwithstanding the Act of 2004—
- (a) no notice of a rent increase for any tenancy or licence will be permitted during the emergency period, and
 - (b) an increase in the rent under the tenancy or licence of a dwelling shall not be payable in respect of the emergency period or any period falling during the emergency period.”.

—*Senator Lynn Boylan.*

14. In page 7, between lines 4 and 5, to insert the following:

“PART 3

PROHIBITION OF NOTICES TO QUIT ON GROUNDS OF VACANT POSSESSION

Prohibition of notices to quit on grounds of vacant possession

6. Notwithstanding the Act of 2004 and in order to maintain a low level communal residential occupation of emergency homeless accommodation to limit the spread of Covid-19, no Notice to Quit on grounds of a landlord seeking vacant possession to sell a property will be permitted during the emergency period.”.

—*Senator Lynn Boylan.*

SECTION 7

15. In page 8, between lines 2 and 3, to insert the following:

“Definition of landlord

8. Section 5 of the Act of 2004 is amended by the substitution of the following for the definition of ‘landlord’:

“ ‘landlord’ means—

- (a) the person for the time being entitled to receive (otherwise than as an agent for another person) the rent paid in respect of a dwelling

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by the tenant thereof and, where the context so admits, includes a person who has ceased to be so entitled by reason of the termination of the tenancy,

- (b) where legal proceedings in respect of a dwelling have commenced, any person having the benefit of a charge or lien in respect of that dwelling, and
- (c) any person appointed to be a receiver of the income in respect of a dwelling, or to exercise any powers delegated by the mortgagee or other person to the receiver.”.”.

—*Senators Rebecca Moynihan, Ivana Bacik, Annie Hoey, Marie Sherlock, Mark Wall, Alice-Mary Higgins, Lynn Ruane.*

16. In page 8, between lines 2 and 3, to insert the following:

“Deposit not to exceed one month’s rent

8. Section 12 of the Principal Act (Obligations of landlords) is amended by the insertion of the following subsection:

“(6) A deposit (howsoever described, being money payable on entering into an agreement for the tenancy of a dwelling and intended to be held as security for the performance of any obligations, and the discharge of any liabilities, of the tenant under or in connection with the tenancy) shall not in any case exceed the monthly rent (or, if the rent is not payable monthly, the amount that the tenant pays in rent as calculated pro rata on a monthly basis) set under that tenancy.”.”.

—*Senators Rebecca Moynihan, Ivana Bacik, Annie Hoey, Marie Sherlock, Mark Wall, Alice-Mary Higgins, Lynn Ruane.*

17. In page 8, between lines 2 and 3, to insert the following:

“Deposits

8. The amendments to section 12 of the Act of 2004 effected by section 23 of the Residential Tenancies (Amendment) Act 2015 come into operation three months after the passing of this Act.”.

—*Senators Rebecca Moynihan, Ivana Bacik, Annie Hoey, Marie Sherlock, Mark Wall, Lynn Ruane.*

18. In page 8, between lines 2 and 3, to insert the following:

“State deemed to be rent pressure zone

8. The Principal Act is amended by inserting the following section after section 24BA (inserted by section 10 of the Residential Tenancies (Amendment) Act 2019):

“24BB. With effect from the date of passing of the *Residential Tenancies and Valuation Act 2020* and notwithstanding anything to the contrary in

[SECTION 7]

section 24A, orders under section 24A(5) shall be deemed to have been made in respect of those administrative areas of housing authorities in the State which on that date are not, and are not deemed to be, rent pressure zones; accordingly, each of those areas is deemed to be a rent pressure zone from that date for a period of 3 years.”.”.

—*Senators Rebecca Moynihan, Ivana Bacik, Annie Hoey, Marie Sherlock, Mark Wall, Lynn Ruane.*

SECTION 8

19. In page 8, to delete lines 3 to 5 and substitute the following:

“Amendment of section 106 of the Act of 2004

8. Section 106 of the Act of 2004 is amended by the insertion of the following subsection (4)—

“(4) Subsection (1) of this section may be satisfied by the online streaming of proceedings from the date of passing of this Act to 10 January 2021. If the online streaming of proceeding under subsection (4) is not feasible, then minutes of the proceedings should be taken and made publicly available.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

20. In page 8, line 4, after “shall” to insert “, subject to the consent of both parties to the Tenancy Tribunal,”.

—*Senator Lynn Boylan.*

SECTION 9

21. In page 8, between lines 7 and 8, to insert the following:

“(a) by the deletion of paragraph (b),”.

—*Senators Rebecca Moynihan, Ivana Bacik, Annie Hoey, Marie Sherlock, Mark Wall, Lynn Ruane.*

22. In page 8, between lines 7 and 8, to insert the following:

“(a) by the insertion of the following paragraph after paragraph (b):

“(c) notwithstanding paragraphs (a) and (b), on the grounds specified in paragraph 3 or 4 in the Table to this section, only if the emergency period specified in *section 3* of the *Residential Tenancies and Valuation Act 2020* has expired.”.”.

—*Senators Lynn Ruane, Alice-Mary Higgins.*

23. In page 8, between lines 16 and 17, to insert the following:

“(c) by the deletion of paragraph 3 of the Table, and

(d) in paragraph 5, by the substitution of “, no reasonable measures can be taken to maintain the dwelling fit for human habitation during the refurbishment or

[SECTION 9]

renovation” for “in a way which requires the dwelling to be vacated for that purpose”.”.

—*Senators Rebecca Moynihan, Ivana Bacik, Annie Hoey, Marie Sherlock, Mark Wall, Lynn Ruane.*

24. In page 8, between lines 16 and 17, to insert the following:

“(c) in paragraph 5 of the Table to that section, after subparagraph (b)(ii), to insert the following:

“(iii) and where the property is in a Rent Pressure Zone, the new tenancy offered by the landlord shall not be greater than 4 per cent of the cost of the previous tenancy.”.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

SECTION 10

25. In page 8, between lines 20 and 21, to insert the following:

“(b) by the substitution of the following for subsection (4):

“(4) In paragraph 4 of the Table the reference to a member of the landlord’s family is a reference to—

(a) a spouse or civil partner of the landlord, or

(b) a child (including a stepchild, foster child or adopted child) of the landlord.”.”.

—*Senators Rebecca Moynihan, Ivana Bacik, Annie Hoey, Marie Sherlock, Mark Wall.*

SECTION 11

26. In page 8, between lines 31 and 32, to insert the following:

“(2A) Where the board on receipt of a termination from a landlord have concerns that the notice may be *prima facie* invalid, they will notify both the tenant and the landlord of those concerns.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

27. In page 8, between lines 31 and 32, to insert the following:

“(2A) Where the grounds cited in a notification of termination is Section 16 (a) of the Act of 2004, the Board may take relevant steps to confirm whether the amount of rent unpaid as cited in the notification is compatible with other enactments, including enactments in respect of rent pressure zones.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

[SECTION 11]

28. In page 9, between lines 4 and 5, to insert the following:

“(5) If the amount of rent sought in a Tribunal dispute is found to be in contravention of any other enactment, including rent pressure zone rates, the claim shall be deemed invalid.”

—*Senators Alice-Mary Higgins, Lynn Ruane.*

SECTION 12

29. In page 9, line 8, to delete “28 days” and substitute “60 days”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

30. In page 9, line 20, to delete “28 days” and substitute “60 days”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

31. In page 9, between lines 24 and 25, to insert the following:

“(c) the Board be satisfied that the stated amount of rent unpaid is accurate and consistent, as required by Section 16(a)(ii) of the Act of 2004, with other enactments, including enactments in respect of rental pressure zones.”

—*Senators Alice-Mary Higgins, Lynn Ruane.*

32. In page 9, between lines 35 and 36, to insert the following:

“(c) where a tenant is at risk of homelessness having been served a notice for failure to comply with his or her obligations under the Act of 2004, provide the tenant concerned with such information in writing as will enable him or her to apply for assistance from the relevant local authority under the Housing Act 1988, including preventative measures to avoid entry into emergency accommodation. The Board shall have regard to the response of the local authority in assisting the tenant from entering emergency accommodation in any decision on the termination notice.”

—*Senator Lynn Boylan.*

33. In page 10, between lines line 4 and 5, to insert the following:

“(3D) If the amount of rent sought is found to contravene any other enactments, including rental pressure zone rates, the service of a notion of termination shall be deemed invalid.”

—*Senators Alice-Mary Higgins, Lynn Ruane.*

34. In page 10, between lines 4 and 5, to insert the following:

“(d) the substitution of the following subsections for subsection (4):

“(4) Where a landlord serves a notice of termination in relation to the tenancy of a dwelling under this section, he or she shall at the same time serve a copy of the notice on the relevant housing authority.

[SECTION 12]

(5) Where a tenant on whom a notice of termination in relation to the tenancy of a dwelling has been served under this section notifies the relevant housing authority that he or she (and his or her dependants, if any) is likely to become homeless on termination of the tenancy, the housing authority shall make such inquiries as it thinks fit and may for that purpose, by notice in writing to the landlord concerned, require the landlord to extend the period specified in the notice by not more than 28 days.

(6) This section is subject to section 69.”.”.

—*Senators Rebecca Moynihan, Ivana Bacik, Annie Hoey, Marie Sherlock, Mark Wall, Lynn Ruane.*

35. In page 10, between lines 4 and 5, to insert the following:

“Private residential tenancies register: publication of certain details

13. Section 128 of the Act of 2004 is amended by the substitution of the following for subsection (4):

“(4) The published register—

(a) shall not contain any information, as respects a particular dwelling, that discloses or could reasonably lead to the disclosure of the identity of the landlord or the tenant of the dwelling, and

(b) shall disclose, as respects every dwelling, the amount of the rent payable under the tenancy of that dwelling.”.”.

—*Senators Rebecca Moynihan, Ivana Bacik, Annie Hoey, Marie Sherlock, Mark Wall, Lynn Ruane.*

NEW SECTION

36. In page 10, after line 27, to insert the following:

“Report to Oireachtas

15. Within 12 months of the passing of this Act, the Minister shall prepare and lay before each House of the Oireachtas a report to include detailed legal analysis of—

(a) the full extent of the private property rights contained within the Constitution, both explicit and implicit, having due regard to relevant decisions by the courts,

(b) the degree to which such rights act as an impediment to the pursuit of certain public policy objectives relating to housing, including—

(i) the capacity of the State to respond to the challenges arising from Covid-19,

(ii) the provision and availability of adequate, affordable and appropriate housing in the State,

(iii) the reduction and eventual elimination of homelessness, and

[NEW SECTION]

- (iv) the strengthening of protections for tenants, including providing further for security of tenure, rent controls and restrictions on evictions,
- (c) the legal and policy options available to both the Minister and the Oireachtas to address impediments identified in paragraph (b), including the potential for constitutional reform, and
- (d) explicit textual proposals in relation to options for constitutional amendment identified under paragraph (c), as appropriate.”.

—*Senators Lynn Ruane, Alice-Mary Higgins.*

PREAMBLE

37. In page 3, line 16, after “significant” to insert “public health risks and”.

—*Senator Lynn Boylan.*

38. In page 3, between lines 22 and 23, to insert the following:

“WHEREAS the Emergency Measures in the Public Interest (Covid-19) Act 2020 resulted in a significant reduction in the number of adults and children both presenting and entering emergency homeless accommodation, which in turn played a significant role in reducing the Covid-19 infection rate among residents of emergency accommodation, this should remain an objective of Government that must be sustained until such time as the risk of infection of Covid-19 in congregated residential emergency accommodation settings is reduced significantly;”.

—*Senator Lynn Boylan.*

TITLE

39. In page 3, lines 6 and 7, to delete “for failure to pay rent due”.

—*Senator Lynn Boylan.*

40. In page 3, lines 9 and 10, to delete “in relation to arrears of rent”.

—*Senator Lynn Boylan.*