



**An Bille um Thionóntachtaí Cónaithe
(Cearta Tionóntaí), 2021
Residential Tenancies (Tenants' Rights) Bill 2021**

*Meabhrán Míniúcháin
Explanatory Memorandum*



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EXPLANATORY MEMORANDUM

Purpose of Bill

The purpose of this Bill is to make a range of amendments to the Residential Tenancies Acts 2004 to 2020, so as to provide for greater security of tenure and rent certainty for tenants, and to provide for other enhancements to tenants' rights.

Provisions of Bill

Section 1 makes standard provision for the short title of the Act and for its collective citation and construction. It provides that the Act comes into operation no later than 6 months after its enactment.

Section 2 defines the "Principal Act" as meaning the Residential Tenancies Act 2004.

Section 3 provides for model tenancy agreements. It provides that the Minister for Housing may prepare and revise such model agreements. The Minister may request the PRTB to provide its advice on model tenancy agreements.

Where model agreements are published, the provisions of the relevant model agreement shall be deemed to apply to any tenancy to which Residential Tenancy Acts apply, unless and to the extent that the parties have otherwise agreed in writing.

Section 4 introduces a new definition of 'landlord' into the residential tenancy code. At present the 2004 Act defines a landlord as being the person for the time being entitled to receive (otherwise than as agent for another person) the rent paid in respect of a dwelling by the tenant.

This definition can be problematic when a landlord gets into financial difficulties. Tenants can find themselves dealing with a receiver when lenders seek to repossess a mortgaged rental property. The extent, if any, to which a receiver is bound by the tenancy agreement is uncertain. Tenants' rights in relation to adequate notice, upkeep of the property, deposit return and adherence to the terms of the tenancy may be ignored in practice. The section extends the definition of landlord so as to include –

- 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
- 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.

Section 5 amends section 12 of the Principal Act, which outlines the obligations of landlords. The amendment provides that, save in the case of a tenancy the duration of which is a period of less than 6 months, the tenant is entitled, if the dwelling is let as a furnished dwelling, to opt at the same rent for occupation of the dwelling in an unfurnished state.

Section 6 inserts a new subsection (6) into section 12 of the Principal Act. The purpose of the new provision is twofold. First, the subsection provides for a definition of ‘deposit’, a term used in section 12 and elsewhere in the legislation. A deposit, however it may be described in the agreement, is money payable on entering into an agreement for the tenancy of a dwelling that is 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. Second, the subsection provides that a deposit must not in any case exceed the monthly rent set under the tenancy. (If the rent is not payable monthly, it must not exceed the amount that the tenant pays in rent, calculated pro rata on a monthly basis.)

Section 7 inserts a new section 12A into the Principal Act to deal with certain conditions that restrict the peaceable enjoyment of a tenancy. Under the new section, a landlord may not prohibit a tenant, by provisions contained in a lease or tenancy agreement or otherwise, from hanging clothes belonging to members of the household to dry in the garden or on the balcony of the dwelling concerned.

Further, any condition imposed on a tenant, by provisions contained in a lease or tenancy agreement or otherwise, that absolutely prohibits the tenant from keeping domestic pets in the dwelling shall have effect as if it were a condition prohibiting the keeping of domestic pets without the consent of the landlord, which consent shall not be unreasonably withheld.

A dispute between a landlord and a tenant in relation to the application of the section may be referred to the PRTB for resolution under section 76 of the Principal Act.

Section 8 provides that, where a landlord seeks to justify a rent increase following upon a substantial change in the nature of the accommodation provided under the tenancy, any dispute between the landlord and the tenant as to the appropriate increase in the rent may be referred to the PRTB for resolution under section 76 of the Principal Act.

Section 9 amends the 2004 Act to provide that orders are deemed to have been made declaring all local government administrative areas in the State, that are not at present designated, to be Rent Pressure Zones, for a 3 year period.

Section 10 amends section 34 of the Principal Act, which sets out permissible grounds for termination of a tenancy by a landlord. First, the section repeals section 34(b). That paragraph currently entitles a landlord to terminate a tenancy, regardless of the existence of any grounds, by simply serving a notice of termination dated to expire on or after the 6 year period of a ‘Part Four’ tenancy. The repeal of this paragraph means that in effect, unless there are permissible grounds for termination, a Part Four tenancy will become one of indefinite length.

Second, the section deletes paragraph 3 in the Table to section 34, which permits a landlord to terminate a tenancy on the grounds that he or she intends to sell the property within 3 months. This ground is often relied upon by receivers when they are appointed to mortgaged property that has been rented. In many countries, the proposed sale of a rented property cannot be relied upon as grounds for terminating the tenancy agreement. In other words, there is no entitlement to vacant possession simply for the purposes

of sale. The National Economic Social Council has recommended that Ireland adopt this approach, with a view to increasing secure occupancy.

Third, the section amends paragraph 5 of the Table, which deals with termination of a tenancy on the grounds that the landlord intends to substantially refurbish or renovate the property “in a way which requires the dwelling to be vacated for that purpose”. The amendment states that termination is permissible on this ground only if “no reasonable measures can be taken to maintain the dwelling fit for human habitation during the refurbishment or renovation”.

Section 11 amends section 35 of the 2004 Act, which makes further provision about grounds for termination of a tenancy. At present the tenancy may be terminated if the landlord requires the property for use by a spouse, child, stepchild, foster child, adopted child, grandchild, parent, grandparent, step parent, parent-in-law, brother, sister, nephew or niece. The amendment shortens this list so as to include only a spouse, civil partner or child (including a stepchild, foster child or adopted child) of the landlord.

Section 12 provides for the publication of additional information in the public version of the private residential tenancies register. A new subsection (4) is inserted into section 128 of the Principal Act to provide that, on the one hand, the published register shall not contain any information that discloses or could reasonably lead to the disclosure of the identity of the landlord or the tenant of a dwelling. On the other hand, the register must disclose, as respects every dwelling –

- the number and duration of any previous tenancies in respect of the dwelling,
- the date and duration of any works of refurbishment or renovation that gave rise to a notice of termination,
- the date and duration of any works causing a substantial change in the nature of the accommodation as a result of which the landlord sought to impose a rent increase, and
- the amount of the rent payable under the current tenancy and any previous tenancies of the dwelling.

Section 13 amends section 136 (1) of the Principal Act to provide that a landlord’s application for registration of a tenancy with the PRTB must include a statement that the dwelling complies with the Housing (Standards for Rented Houses) Regulations 2019 (S.I. No. 137 of 2019).

Section 14 provides for a new section 144 of the Principal Act. Under the new section, a person who fails, neglects or refuses to comply with the requirements of section 134 or 139 (the obligation to apply for registration of a tenancy and to update particulars) is guilty of an offence and is liable on summary conviction to a Class A fine or imprisonment for a term not exceeding 12 months or both.

*Ivana Bacik TD,
Meán Fómhair, 2021.*