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**An Bille um Thithíocht agus um Thionóntachtaí  
Cónaithe (Forálacha Ilghnéitheacha), 2026  
Housing and Residential Tenancies (Miscellaneous  
Provisions) Bill 2026**

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*Meabhrán Mínitheach  
Explanatory Memorandum*

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**AN BILLE UM THITHÍOCHT AGUS UM THIONÓNTACHTAÍ  
CÓNAITHE (FORÁLACHA ILGHNÉITHEACHA), 2026  
HOUSING AND RESIDENTIAL TENANCIES  
(MISCELLANEOUS PROVISIONS) BILL 2026**

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**EXPLANATORY MEMORANDUM**

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**Purpose of the Bill**

The purpose of this Bill is to amend the Housing (Miscellaneous Provisions) Act 2009, “the Principal Act” as amended, to provide for:

- Part 2 contains Residency requirements for social housing eligibility; each member of the household must be lawfully resident and habitually resident in the State. The lawfully resident requirement shall not apply to a member of household who is a child (within the meaning of the Children Act 2001).
- An appeal with regard to a determination made under section 20, or under regulations made under that section, by a housing authority that
  - the household is not qualified for social housing support,
  - the household, having previously been determined to be qualified for social housing support, is no longer qualified for such support, or
  - a particular form of social housing support is the appropriate form of such support for that household.
- Transitional provisions for applications for social housing support where, immediately before the commencement of section 20A, the housing authority concerned has not yet determined the application and related matters.

And to:

Amend the Residential Tenancies Act 2004, “the Act of 2004”, as amended –

- Part 3 of the Bill contains technical amendments to the Residential Tenancies Acts 2004 to 2026 (the RTA) to enhance its implementation and the outcomes thereunder, with greater efficiencies for stakeholders including the Residential Tenancies Board (RTB) and the courts.

**Provisions of the Bill**

The Bill contains 50 sections.

## **Part 1 Preliminary and General**

*Sections 1, 2 and 3* contain standard provisions dealing with the short title, commencement, construction and collective citation of the Bill, a definition of ‘Minister’ to mean the Minister for Housing, Local Government and Heritage and necessary repeals. *Section 3* provides for the repeal of section 39A(3) and (4) of the Residential Tenancies Acts (which requires Residential Tenancies Board (RTB) adjudicators and Tribunals to have regard to any advices of the Money Advice and Budgeting Service (MABS) in making determinations in relevant dispute cases). Sections 25(1)(a) and 30(1)(b) in Part 3 of this Bill incorporates those requirements under new sections 97(4A) and 104(8) of the Residential Tenancies Acts.

### **Part 2 Amendment of Housing (Miscellaneous Provisions) Act 2009**

*Section 4* contains standard interpretation of the “Act of 2009” means the Housing (Miscellaneous Provisions) Act 2009.

*Section 5* provides for amendment to section 2 of the Housing (Miscellaneous Provisions) Act 2009 by the substitution of “subject to sections 18A” for “subject to sections 20 and 84”.

*Section 6* provides for an amendment to Chapter 3 of Part 2 by inserting 18A providing for a definition of a “household” and that lawfully resident and habitually resident shall be construed in accordance with section 20A.

*Section 7* provides amendment of section 20 of the Housing (Miscellaneous Provisions) Act 2009 by the deletion of subsection (1) and in subsection (2) substitution of ‘subject to and in accordance with this section, regulations for the purposes of this section, and section 20A.’ This allows regulations to be made for the amendment to the eligibility criteria for social housing support.

*Section 8* - residency requirements and social housing appeals, amends the Act of 2009 by the insertion 20A after section 20.

20A(1) provides that a household shall not be eligible for social housing support unless at the time of carrying out the social housing assessment each member of the household is lawfully resident, habitually resident, meets any condition applicable to the member and no member is subject to a condition that prohibits the availing of social housing support. It provides that a household shall not be eligible for social housing support unless at the time of carrying out the social housing assessment no member of the household is subject to a condition that either expressly or by necessary implication prohibits the availing by any such member of social housing support.

20A(2) provides subsection (1) (a) does not apply to a member of a household who is a child (within the meaning of the Children Act 2001).

20A(3) sets out the members of a household that shall be considered lawfully resident in the State for the purposes of social housing support:

- a) Irish citizen;
- b) British citizen;
- c) a person whose residency is based on the person availing of his or her right under S.I. 548/2015 European Communities (Free Movement of Persons) Regulations 2015 and their permitted and qualified family members;

- d) Persons given permission to Remain in the State in accordance with Section 49 of the International Protection Act 2015, where the permission concerned is in force;
- e) Persons granted Permission to reside in the State under Section 54 of the International Protection Act 2015, where the permission concerned is in force;
- f) Persons granted permission to enter and reside in the State under section 56 of the International Protection Act 2015, where the permission concerned is in force. This subsection refers to family reunification for refugees and beneficiaries of subsidiary protection;
- g) Persons who have been given permission to reside in the State under Section 57 of the International Protection Act 2015, where the permission concerned is in force. This subsection relates to family of a qualified person;
- h) Persons who is a programme refugee within the meaning of Section 59 of the International Protection Act 2015;
- i) A person who is a member of class of persons prescribed under subsection (4), where the permission concerned is in force.

20A(4) gives the Minister for Housing, Local Government and Heritage with the consent of the Minister for Justice, Home Affairs and Migration, the power to prescribe in regulations a class or classes of persons. It may include persons being to whom permission as may be specified by the Minister ('specified permission') has been given, in accordance with the law of the State, to be or to remain in the State and where considered appropriate who have been lawfully resident for such period ('specified period') immediately preceding a 'specified permission.'

20A(5) outlines the matters that the Minister shall consider, in his or her opinion appropriate when prescribing a class or class of persons under subsection (4).

20A(6) outlines class or classes of persons that the Minister shall not prescribe under subsection (4).

20A(7) provides for the five factors that the housing authority shall take into consideration when determining whether a member of the household is habitually resident in the State.

20A(8) provides for the conditions that apply to a person whose residency is based on the person availing of his or her right under S.I. 548/2015 European Communities (Free Movement of Persons) Regulations 2015. They are not entitled to social housing support for a period of at least 3 months immediately prior to the day of application. They must be habitually resident and they must be in (i) employment or self-employed in the State, (ii) a permitted or qualified family member or where (iii) a person to whom (i) or (ii) no longer applies but they continue to reside in the State in accordance with S.I. 548/2015 European Communities (Free Movement of Persons) Regulations 2015.

20A(9) provides for conditions attached to persons under subsection (3)(i). They must be lawfully resident for a period, or periods comprising a total of at least five years during the period of eight years or lawfully resident for a period of less than five year during the period of eight years that enables them to achieve five years.

20A(10) provides for conditions attached to connected family of persons under subsection (3)(i). The effect is that on the day of application they must have a valid permission as specified under subsection (4)(a).

20A(11) provides that for the purposes of (1) the following persons that shall not be regarded as being habitually resident in the State for the purposes of social housing support.

- a) a person who has made an application under Regulation 25 or 26 of the European Union (Subsidiary Protection) Regulations 2013 where the application has yet to be determined under the Subsidiary Protection Regulations;
- b) a person who has been notified under paragraph (a) of section 3(3) of the Act of 1999 that the Minister for Justice, Home Affairs and Migration proposes to make a deportation order where that notification is in force;
- c) a person who was an applicant (within the meaning of the Refugee Act 1996) and in relation to whom a deportation order has been made under section 3(1) of the Act of 1999, where the deportation order concerned is in force;
- d) a person the subject of a deportation order under Section 51 of the International Protection Act 2015; where the deportation order concerned is in force;
- e) a person the subject of a return order (within the meaning of section 51A of the Act of 2015), where the return order is in force;
- f) a person the subject of a removal order (within the meaning of Regulation 20(1) of the Regulations of 2015), where the removal order is in force;
- g) a person the subject of a notification under Regulations 21(1) of the Regulations of 2015, where the notification is in force and the Minister for Justice, Home Affairs and Migration has not yet made a decision to make a removal order.
- h) a person who—
  - (i) is an applicant (within the meaning of the Act of 2015), or
  - (ii) has made, or is deemed under the Act of 2015 to have made, an application under section 15 of that Act which has been refused under section 47 of that Act,
- i) a person who has been given permission to reside in the State under section 60 of the Act of 2015, where the permission concerned is in force.

20A(12) contains standard provisions dealing with definitions.

### **20B social housing appeal**

20B(1) provides that a household may appeal a determination by a housing authority when it is determined that the household (a) is not qualified for social housing support or (b) the household, having previously been determined as qualified for support, is no longer qualified for such support and (c) that particular form of social housing support is the appropriate form of such support for that household.

20B(2) provides that an appeal does not apply to a household in receipt of social housing support.

20B(3) provides that a social housing appeal in relation to (a) or (b) in (1) shall be on one or more of the grounds in relation to eligibility specified in (4) only and that (c) in (1) shall be on one or more of the grounds in relation classification of housing need specified in (5) only.

20B(4) provides for the grounds on which a household may appeal a decision in relation to the eligibility criteria.

20B(5) provides the grounds on which a household may appeal a decision in relation to the classification of a households need.

20B(6) provides that a social housing appeal shall be made to the chief executive of the housing authority concerned within 14 days of the notification to the household concerned.

20B(7) provides that the appeal shall be in writing and what grounds the appeal is under.

20B(8) states that the household may submit such information/ documents as the household considers appropriate to support the appeal.

20B(9) states that on receipt by a housing authority of a social housing appeal, the chief executive of the authority shall appoint an officer or employee of the authority to decide the appeal.

20B(10) provides that an appeals officer shall be a person who did not make the determination concerned and is in a more senior position in the authority than any person who participated in making the said decision.

20B(11) states that an appeals officer shall be independent in the performance of his or her functions under this section.

20B(12) provides that an appeal shall be decided upon within 28 days and shall (i) confirm the determination of the social housing appeal concerned, (ii) vary the determination, or (iii) set aside the determination and, where the appeals officer considers it appropriate, replace it with an alternative determination.

20B(13) provides that an appeals officer shall consider all information provided by the household, the social housing appeal and any accompanying information provided in accordance with subsection (8).

20B(14) states that the appeals officer shall specify the reasons for the decision.

20B(15) provides for where an appeals officer makes a decision on a social housing appeal under paragraph (ii) or (iii) of subsection (12)(b), the date of the decision shall be deemed to be the date of the determination concerned.

20B(16) provides that an appeals officer shall notify the household concerned of his or her decision on the social housing appeal concerned.

20B(17) provides that a decision of an appeals officer on a social housing appeal shall be final.

### **Section 9 Transitional Provisions**

*Section 9(1)* provides for a definition as to circumstances this section applies to.

*Section 9(1)(a)* provides for an application for social housing support where, immediately before the commencement of the new section, the authority concerned has not yet determined the application.

*Section 9(1)(b)* provides for a review of an existing social housing application (already on the housing list) where, immediately before

the commencement of the relevant section, the authority has not yet concluded the review.

*Section 9(1)(c)* provides for a summary under section 21 of the Act of 2009 (Summary of Social Housing Assessments (SSHA)) where, immediately before the commencement of the section, the housing authority has not yet completed the summary.

*Section 9(2) (a)* provides any application specified above, the housing authority may give notice in writing that they are required to complete and submit a prescribed form to the housing authority for the purposes of demonstrating that each member of the household satisfies the new provisions in relation to legal and habitual residency.

*Section 9(2)(b)* provides for cases where a supplementary form is required, the household shall submit the form within 21 days. The housing authority may extend the period if considered appropriate.

*Section 9(3)* provides that the housing authority may if they consider it appropriate to extend the period of 21 days under Section 9(2)(b).

*Section 9(4)* provides the Minister may prescribe a form for the purposes of subsection (2) and in so prescribing, may prescribe the information and particulars to be provided by a household in that form and verification to be provided by the household for such information and particulars.

*Section 9(5)* provides that the housing authority shall that into consideration information submitted in accordance with a notice given under this section in order to determine an application, concluding a review or completing a summary referred to in subsection (1).

*Section 9(6)* provides that a person is guilty of an offence and is liable on summary conviction to a fine not exceeding €2,000 if he or she

- (a) knowingly makes any statement or representation which is to his or her knowledge false or misleading in any material respect, or knowingly conceals any material fact, or
- (b) furnishes, or causes or knowingly allows to be furnished, any information which he or she knows to be false in a material particular.

*Section 9(7)* provides that an officer under subsection (6) may be prosecuted the housing authority who gave the notice concerned to the household referred to in that subsection.

### **Part 3 – Amendment of the Residential Tenancies Act 2004 (the Act of 2004)**

*Part 3 (sections 10 to 50)* of the Bill provides for amendments to the Residential Tenancies Act 2004, as amended. *Section 10* defines the ‘Act of 2004’ to mean the Residential Tenancies Act 2004.

*Section 11* amends section 4(1) of the Act of 2004 to define ‘personal data’ to have the meaning it has under Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (i.e. the General Data Protection Regulation (GDPR)).

*Section 12* technically amends section 6 of the Act of 2004 (Service of notices) to clarify that it relates to the ‘issue of’ (in addition to, the ‘serving on’ or ‘giving to’) notices, and other documents, under the Act of 2004. *Sections 21, 22, 27, 33, 37* and 48 also provide technical amendments to refer to ‘preparing and issuing’ of RTB determination orders, rather than to the ‘making’ of such orders.

*Section 13* technically amends section 9 of the Act of 2004 (Offences) to increase the penalty for an offence under the Act from a class B to a class A fine (up to €5,000) and doubles the maximum imprisonment to a term of 12 months. The daily fine for a continuing offence is doubled to a class D fine (of up to €1,000), from a class E fine (of up to €500).

*Section 14* amends section 12 of the Act of 2004 (Obligations of landlords) to clarify that the obligation on a landlord to serve a notice on a tenant (and copy the Residential Tenancies Board (RTB)) under subsection (1)(i), explaining how the rent was set upon the commencement of a tenancy created on/after 1 March 2026, does not apply to a social tenancy with an Approved Housing Body (AHB) nor to a cost rental tenancy. The Act of 2004 does not apply to rent setting in respect of an AHB social tenancy nor to cost rental accommodation. It shall be an offence under a new subsection (7) not to give the aforementioned notice to the RTB within 1 month from commencement of a tenancy. Failure to do so may result in the RTB issuing a prescribed 28 day ‘fixed payment notice’ requiring a payment of €100 (or up to €500, if prescribed under Ministerial Regulations) or ultimately, face an RTB prosecution.

*Section 15* provides for the insertion of a new *section 22B (Provision in aid of enforcement of requirements relating to setting of rent)* into the Act of 2004 to empower the RTB to issue a prescribed 28 day ‘fixed payment notice’ requiring the payment of €200 (or up to €1,000, if prescribed under Ministerial Regulations) or ultimately, face an RTB prosecution for the offences under section 19(6A) and (6C) and section 22(4) relating to rent setting and the proper use of the exemptions from the rent increase restriction. *Section 46* makes a consequential technical amendment to section 148AG of the Act of 2004 (Relationship between investigation and criminal proceedings) to reflect the introduction of fixed payment notices for certain offences, as the first step in proceedings towards the prosecution of those offences.

*Sections 16* and *35* amend sections 56 (Damages for abuse of section 34 termination procedure) and 115 (Redress that may be granted on foot of determination) of the Act of 2004 to clarify that in a case where an enforceable agreement to transfer a dwelling has been entered (e.g. a contract for sale), an RTB direction for resumed possession by the tenant shall not be made or have effect but damages may be awarded to the tenant. *Section 35* also clarifies that the amount that any RTB adjudication/Tribunal determination order can direct for payment cannot exceed the jurisdictional limit of the Circuit Court in an action for tort (i.e. up to €75,000).

*Section 17* amends section 64A of Act of 2004 (Slip or omission in notice of termination) to clarify that the ‘slip rule’ can be used by the RTB to validate a notice of termination (NoT) where an immaterial slip or omission is contained in, or occurred during the service of: in addition to the NoT itself, as already provided, a rent arrears warning notice under section 67(3); a notification from the tenant to a landlord under section 68(3), in respect of the landlord’s failure to comply with a tenancy obligation; or any accompanying statement or statutory declaration required under section 34 (Grounds for termination by landlord) of the Act, where the NoT otherwise complies with the Act.

*Section 18* amends section 65(4) of Act of 2004 (What this Chapter does (i.e. Chapter 3 (Period of notice to be given) of Part 5 (Tenancy terminations – notice periods and other procedural requirements)) which limits to 90 days the termination notice period that a landlord can specify

in an NoT served to terminate a non Part 4 tenancy (a tenancy of less than 6 months' duration). The RTB proposed the 90 day limit increase to 120 days, as a matter of fairness, to avoid practical compliance difficulties for landlords as the minimum notice of termination for a non Part 4 tenancy is also 90 days and minor and unintended compliance issues can arise.

*Section 19* amends section 66 of Act of 2004 (Period of notice where section 67 or 68 is inapplicable) - to clarify, as proposed by the RTB, that notwithstanding an immaterial defect contained in, or that occurred during the service of: the NoT itself, as already provided, a rent arrears warning notification under section 67(3); a notification from the tenant to a landlord under section 68(3), in respect of the landlord's failure to comply with a tenancy obligation, or any required statement or statutory declaration, the RTB may determine, where the NoT otherwise complies with the Act, that a landlord or tenant may serve a 'remedial notice' in accordance with section 66(2A)(b).

*Section 20* provides a consequential technical amendment to section 71(1)(c) of the Act of 2004 to substitute '90 days' for '28 days'. This amendment reflects the increase in the minimum termination notice period, from 28 days to 90 days, to be served on a tenant with a tenancy of less than 6 months' duration in accordance with Table 1 to section 66 of the Act of 2004, as amended by section 96 of the Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022. Where a landlord serves an NoT on a head-tenant which requires the termination of the sub-tenancy, section 71 currently obliges the head tenant to serve an NoT on the sub-tenant within 28 days (*section 20* of the Bill increases this period to 90 days to align with the minimum termination notice period), where no dispute has been referred to the RTB for resolution.

*Section 21* of the Bill provides a similar technical amendment to sections 72(1) and (2) of the Act of 2004 in respect of an NoT served on a head-tenant that does not require the termination of the sub-tenancy, by providing 90 days (increased from 28 days) to the head-tenant to notify the sub-tenant of the content of the NoT and of any related dispute that has been referred to the RTB.

*Sections 11, 23(1)(a), 25(1)(c), 28, 32, 34, 37(d) and 50* provide for technical amendments to the Act of 2004 on foot of the Supreme Court judgment in *Zalewski v An Adjudication Officer and the Workplace Relations Commission & Ors.*, Supreme Court, O'Donnell J., 6 April 2021 [2021 IESC 24], to clearly provide for the RTB to administer justice in public. These sections are proposed to ensure that RTB hearings in the context of adjudication (section 25(1)(c)), Tribunal (section 32) and sanctioning (section 50) cases can be heard in public, taking account of Article 34 of the Constitution and the *Zalewski* judgement. Under the Act of 2004, the RTB may make procedural rules, with the consent of the Minister, under section 109 in the context of dispute resolution and under section 148AF in the context of sanctioning, to provide for an adjudication, Tribunal or sanctioning hearing to be held in private on foot of special circumstances. Provision is made for the non-disclosure of the name, address, contact details or other personal data of a party in any published determination orders, where the hearings were not held in public on foot of special circumstances.

*Sections 23(1)(b) and 26* technically amend sections 95 and 98 of the Act of 2004 to provide for 10 working days, rather than 10 calendar days, as a 'cooling-off period' for parties to a mediation or adjudication agreement, similar to the period to make an appeal to a Tribunal. Section

23(1)(c) technically corrects a cross-reference in section 95(5B) of the Act of 2004. *Section 24* technically amends section 96 of the Act of 2004 to require the Director of the RTB to prepare and issue a determination order as soon as practicable where a mediator reports that there is an agreement between the parties.

*Section 29* proposes to amend section 103 of the Act of 2004 to provide greater flexibility to a One Person Tribunal member on the timing of his or her request to the Board of the RTB to have a matter dealt with by a 3 person Tribunal. *Section 30(1)(a)* technically amends section 104(5)(a) of the Act of 2004 to reduce the period of notice that shall be given to the parties to a dispute of the holding of a hearing by a Tribunal from at least 21 days to at least 10 days. This efficiency measure is proposed by the RTB.

### **Evidence of anti-social behaviour**

*Section 25(1)(b)* (insofar as it inserts new sections 97(8) and (9) into the Act of 2004) and *section 31* (insofar as it inserts new sections 105(1A) and (1B) in the Act of 2004) provides that in respect of an RTB adjudication or Tribunal determining a matter referred to it under section 76 or 77 that relates to alleged anti-social behaviour or a danger posed to a dwelling, the adjudicator/Tribunal may receive evidence from a person who could be affected or a statement by a member of the Garda Síochána or an officer of a housing authority. The aim is to assist landlords to regain possession or control of their property and to safeguard peace in our communities.

*Section 36* inserts a new section 121(9) into the Act of 2004 to provide that the Director of the RTB may, by notice in writing given to the parties concerned, correct any mistake (including any omission) of an administrative or clerical nature in a determination order that has issued under Part 6 (Dispute Resolution) of the Act of 2004.

*Section 37* amends section 123 of Act of 2004 (Binding nature of determination orders) to: clarify the timing for RTB determination orders to become binding; empower the High Court (HC), in appeal cases on a point of law, to enforce an RTB determination order (DO) (thereby, removing any need to seek enforcement of such DOs through the District Court); provide the HC discretion to order the RTB to make a fresh determination and to make ancillary or other orders, including an order for possession of a dwelling; clarify that the HC has the power to make an interim order at any time during the course of the appeal to direct the payment of rent due; empower the RTB to furnish information, including Personal Public Service Numbers (PPSN) to the HC registrar; provide for the non-disclosure of the name, address, contact details or other personal data of a party in any published DO, where an adjudication/Tribunal hearing (or part of it) was not held in public on foot of special circumstances; empower the HC to extend the “relevant period” during which a party may make an appeal to the HC on a point of law beyond 21 days for good and substantial reason and where circumstances, outside of the control of the applicant, resulted in the application for the extension.

*Section 38* amends section 124 of Act of 2004 (Enforcement of determination orders) - currently, the District Court (DC) is mandated to make an Order of enforcement of an RTB determination order (DO) unless there are “substantial grounds” for not making such an Order and those grounds can only relate to one of the matters identified in section 124(3). It is proposed to limit the grounds under which the DC may refuse enforcement. *Section 39* provides a consequential technical amendment to section 125 of the Act of 2004.

*Sections 40 to 42* technically amend sections 137, 137A and 138 of the Act of 2004 to clarify the RTB's powers to charge late registration fees to Approved Housing Bodies (AHBs), same as for late private tenancy registrations, and to increase registration fees in line with inflation.

*Section 43* amends section 144 of Act of 2004 to empower the RTB to impose a fixed penalty of €100 (or up to €500, as may be prescribed by the Minister under Regulations) where it believes there is non compliance with registration requirements and their enforcement under s.144. If the penalty is paid within 28 days, prosecution can be avoided.

*Section 44* amends section 144A of Act of 2004 to clarify that the RTB 'may', rather than 'shall' prosecute for non compliance with the requirement under s.139(1) to update the rent amount on the Register. The RTB needs discretion as it might wish to pursue administrative sanctioning instead of a prosecution. The RTB is also empowered to impose a fixed penalty of €100 (or up to €500, as may be prescribed by the Minister under Regulations) where it believes there is non compliance with requirement to update its Register with a new rent amount and related enforcement provisions under s.144A. If the penalty is paid within 28 days, prosecution can be avoided.

*Section 45* amends section 145 of Act of 2004 to empower the RTB (with consent or on warrant from the District Court) to enter into and inspect a premises, including a private dwelling, for the purposes of: ascertaining details of a rented dwelling; the registration requirements; the particulars to be specified in any registration application; or the correctness of any particular specified in such application.

*Section 47* amends section 161 of the Act of 2004 to provide for a Deputy Director of the RTB to perform the functions of the Director of the RTB under certain circumstances and subject to certain conditions.

*Section 49* amends Schedule 2 to the Act of 2004 (Improper conduct) to provide a contravention of the requirement under section 12(1)(i) to serve notice on a tenant (and copy the RTB), explaining how the rent was set upon the commencement of a tenancy created on/after 1 March 2026, as improper conduct by a landlord, which may be investigated and sanctioned by the RTB.

*An Roinn Tithíochta, Rialtais Áitiúil agus Oidhreachta,  
Meitheamh, 2026.*



