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## **An Comhchoiste um Thithíocht, Rialtas Áitiúil agus Oidhreacht**

Tuarascáil maidir leis an nGrinnscrúdú Réamhreachtach  
ar Scéim Ghinearálta an Bhille um Thionóntachtaí  
Cónaithe (Ceart Ceannaigh), 2023

Nollaig 2023

## **Joint Committee on Housing, Local Government and Heritage**

Report on Pre-Legislative Scrutiny of the General Scheme of  
the Residential Tenancies (Right to Purchase) Bill 2023

December 2023



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## 1. CATHAOIRLEACH'S PREFACE



On 7 March 2023, the Government agreed the principles of new measures to give tenants the opportunity to buy their home, including the development of a “first right of refusal”. Although we must balance the constitutional rights to private property with the common good, the Residential Tenancies (Right to Purchase) Bill 2023 will facilitate landlords and tenants to develop relationships for the benefit of all.

The Committee discussed the *General Scheme of the Residential Tenancies (Right to Purchase) Bill 2023*, which requires a landlord, who wishes to sell their rented dwelling, to give their tenant an *Invitation to Bid* (first right of refusal) and a *Further Invitation to Bid* to purchase their rented home. This represents an improvement in tenants' rights, while also facilitating a more convenient sale of property for landlords. The legislation also proposes several amendments to the Residential Tenancies Acts to increase operational efficiencies in the Residential Tenancies Board.

In examining the General Scheme of the Bill, the Committee gained valuable insights from all witnesses who attended before the Committee. I would like to express my appreciation for their contributions, as well as Committee Members for their engagement with the scrutiny of the proposed legislation. I hope this report will help to inform the legislative process and make a valuable contribution to the Residential Tenancies (Right to Purchase) Bill 2023.

A handwritten signature in dark ink, which appears to read "Steven Matthews".

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Steven Matthews T.D.,  
Cathaoirleach,  
Joint Committee on Housing, Local Government and Heritage,  
19 December 2023

## 2. INTRODUCTION

In accordance with *Standing Order 173*<sup>1</sup> the *General Scheme of the Residential Tenancies (Right to Purchase) Bill 2023* (the General Scheme) was referred to the Joint Committee on Housing, Local Government and Heritage (the Committee) on 13 November 2023 by the Minister for Housing, Local Government and Heritage (the Minister), Mr. Darragh O'Brien T.D. The Committee agreed to undertake pre-legislative scrutiny of the General Scheme at its meeting on 21 November 2023.

The Committee conducted pre-legislative scrutiny on 5 December 2023 and 7 December 2023 (meeting transcripts linked in [Appendix 3](#)), in which officials from the Department of Housing, Local Government and Heritage (the Department), and representatives from tenant and landlord organisations were invited to the Committee to discuss the General Scheme. The Committee invited witnesses to make opening statements, and requested submissions, both of which are linked in [Appendix 4](#).

### Tuesday 5 December 2023

#### **Institute of Professional Auctioneers and Valuers**

- Mr John Kennedy, President
- Mr Pat Davitt, CEO

#### **Threshold**

- Ms Ann-Marie O'Reilly, National Advocacy Manager
- Mr Zak Murtagh, Legal Officer

#### **Irish Property Owners Association**

- Mr Brendan Allen, IPOA Committee Member
- Mr Maurice Deverell, IPOA Spokesperson

### Thursday 7 December 2023

#### **Department of Housing, Local Government and Heritage**

- Ms Catherine Comer, Principal Officer, Rental Market Unit
- Mr Liam Smyth, Assistant Principal Officer, Rental Market Unit

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<sup>1</sup> [Standing Orders 2020 consolidated version as of 26 May 2022 \(oireachtas.ie\)](#)

### 3. BACKGROUND

On 7 March 2023, the Government agreed the principles of new measures for the Minister for Housing, Local Government and Heritage (the Minister) to give tenants the opportunity to buy their home, including the development of a legislative based “first right of refusal”. This Bill is the product of that agreement and aims to guarantee tenants a *First Right of Refusal* or *Invitation to Bid* as well as a *Further Invitation to Bid*, to purchase their rental accommodation, where it is for sale. This General Scheme also proposes several technical amendments to the Residential Tenancies Acts 2004 – 2022 to enhance the operation of these Acts, improving their outcomes, as well as the operational efficiencies of the Residential Tenancies Board (RTB).

The General Scheme sets out the primary proposals, that is, amendments to the Residential Tenancies Act in Part 2 and the Planning and Development (Housing) and Residential Tenancies Act 2016 in Part 3. Part 1 of the General Scheme consists of standard provisions regarding the short title of the legislation, collective citation, commencement, and interpretation matters.

#### 3.1 RIGHT OF FIRST REFUSAL

Part 2 of the General Scheme establishes a *First Right of Refusal* or *Invitation to Bid* as well as a *Further Invitation to Bid*, introducing this as a new statutory right. Head 7 sets out the key provisions, while Heads 5, 6, 8 and 25 also relate to the *First Right of Refusal*.

The Department illustrated the key elements of the Bill, including Head 7 on the *Invitation to Bid*. It set out that the landlord would serve a notice of termination on an eligible Part 4 tenant (a tenant that has been *in situ* for at least 6 months) living in the eligible rented dwelling, together with the invitation to bid, with both such documents being simultaneously copied to the RTB that same day. These new procedural requirements will only apply to certain tenants and certain dwellings. Those eligible include Part 4 tenants, who are not in breach of their tenant obligations, who do not own residential accommodation in Ireland, and who can prove their financial capacity. Dwellings not eligible under this Bill include student-specific accommodation, built-to-rent developments, cost rental homes or one provided by an Approved Housing Body



(AHB) to a social tenant, where there is more than one dwelling in the same property which the landlord intends to sell in its entirety, or such a dwelling where the landlord resides. In addition, the legislation provides that dwellings which are subject to an enforceable agreement for the transfer to another for no or partial consideration are also excluded from the right of first refusal.

Head 7 also sets out that there is a 90-day period in which the landlord cannot agree to sell the property to anyone but the tenant, or eligible agencies who may bid on the tenant's behalf so they may remain *in situ*, such as a local authority, AHB, or the Housing Agency. As such, an enforceable agreement to transfer the dwelling cannot be entered into with anyone but the tenant during this 90-day period. However, there is no prohibition on the landlord placing the rented dwelling on the open market or hearing bids made by third parties during the initial 90 days, rather the landlord must not accept them until the 90 days has passed.

If no agreement is reached between the landlord and the tenant within the first 90 days, the landlord can enter into an enforceable agreement to transfer the dwelling with a third party from day 91. However, if the landlord receives, and is willing to accept a third-party open market bid on or after day 91 which is lower than or equal to the highest bid made by the tenant during the initial 90-day period, the landlord is obliged to give the tenant a further invitation to bid at a specified value that matches the bid from the third party. If the tenant does not match the bid within 10 days, the landlord may enter an enforceable agreement with the third party. The tenant may seek redress through the RTB should the landlord not comply with these new legal measures. While the tenancy cannot be reinstated, significant damages of up to €20,000 can be awarded to the tenant through a RTB dispute determination order.

### **3.2 TECHNICAL AMENDMENTS TO RESIDENTIAL TENANCIES ACT**

Technical amendments are set out in the General Scheme, making provision for greater flexibility in dispute resolution through the RTB.

Head 3 clarifies that notices and documents can be served or given under the Residential Tenancies Act by electronic means, while Heads 9, 11, 13 and 14 align timeframes in different sections of the Residential Tenancies Act, in particular to reflect



the minimum termination notice of 90 days (increase from 28 days in 2022) to be given to a tenant. Head 4 provides a clarification regarding the application of section 25A of the Residential Tenancies Act applying to all tenancies and Heads 15, 16, 17, 20, 21 23, and 26 provide technical amendments to allow RTB adjudication hearings to be held in public, in accordance with Article 34.1 of the Constitution and *Zalewski*<sup>2</sup>, a recent Supreme court judgement. Heads 16 and 19 refer to information and evidence that may be considered during an RTB dispute resolution involving anti-social behaviour.

Head 18 reduces the period of notice to be given to parties in a dispute of holding a Tribunal hearing from 21 to 10 days. Heads 10, 12, and 22 modify the use of the 'slip rule' and remedial notice of termination under the Residential Tenancies Act. This will allow minor defects to be made where they are contained in or occurring during the giving of rent arrears warning notices or statements and statutory declarations that are required to accompany a notice of termination. Head 24 provides for data exchange between the Revenue Commissioners and the RTB, to be used where there is no alternative means of contacting the owner of a dwelling available to facilitate the discharge of the RTB's statutory functions.

Part 3 amends section 44 of the Planning and Development (Housing) and Residential Tenancies Act 2016 which aims to create greater efficiencies and cost savings for the RTB through accelerated dispute resolution. Head 27 aims to empower a One Person Tribunal member to request the Board of the RTB to refer the dispute or complaint to a Tribunal composed of three members at any time, that is, without the need for a One Person Tribunal Hearing to have commenced. Thereby providing greater flexibility to a One Person Tribunal member on the timing of their request to the Board to have the matter dealt with by a three-person Tribunal. This amendment will enable the RTB to realise the efficiencies and cost savings available through the operation of One Person Tribunals, as section 44 of the 2016 Act has not yet commenced.

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<sup>2</sup> [2021] IESC 24

## 4. KEY ISSUES WITH THE PROPOSED LEGISLATION

In scrutinising the General Scheme, the Committee focussed on three key issues which were of particular interest.

### 4.1 KEY ISSUE 1: RIGHT OF FIRST REFUSAL

Firstly, the Committee notes that the title of this legislation, that is, the “Right to Purchase”, is misleading, as the legislation makes provision for tenants to make an invitation to bid or, rather, a right to first refusal of the property. Threshold expressed deeper concerns on the title, as just 2 of the 27 Heads of the General Scheme refer to the right to purchase. The other 25 Heads refer to technical and procedural matters, such as the holding of RTB hearings in private, the expansion of the ‘slip rule’ and what seems to be the creation of a new ground for termination. The Department concurred, informing the Committee that it has put in a query with the drafters of the legislation on the appropriateness of the title.

Additionally, the Department clarified the standing of Heads 5 and 7(5)(c)(vii) of the General Scheme, which provide grounds for termination where the landlord transfers ownership to a third party for no or partial consideration, and which caused much concern at the Committee. Threshold warned that these provisions create a new ground for a landlord to terminate a tenancy, including inter-familial transfers or the inter-transfer of properties by large or corporate landlords. The Department informed the Committee that, after discussing with drafters, Heads 5 and 7(5)(c)(vii) of the General Scheme will be removed as the Department initially aimed to cater to gifting requirements in these Heads. However, this Bill refers only to notice of termination served on the basis of sale, therefore this provision is not appropriately placed in this legislation as there is no notice of termination served upon gifting of property, as it may be transferred with tenants *in situ*.

The Committee queried stakeholder groups on what impact this legislation will have. Institute of Professional Auctioneers and Valuers (IPAV) and Irish Property Owners Association (IPOA) contended that transactions, as detailed in the General Scheme, are made every day between landlords and tenants without the restrictions laid out in the legislation. IPOA noted that landlords will be discouraged from investing in rental

properties if their ability to freely sell them is restricted. It expressed concern that the General Scheme makes provision, through a further invitation to bid, for the efforts of the landlord, through surveyor's fees, legal expenses, and others, to be superseded by the tenant with a final matching bid. Similarly, Threshold noted that this legislation is not likely to increase the numbers of sales happening between landlords and tenants, rather a small number of people would be given new opportunities to buy their home under the proposed legislation. Landlord groups reiterated throughout the Committee sessions that the sale of property to a tenant is not uncommon, therefore it does not require a change in law.

Several other matters were clarified at the Committee sessions.

#### **4.1.1 ELIGIBILITY**

The Committee queried the Department on why there is an exclusion of non-Part 4 tenants from holding the right to purchase. It responded that, once a tenancy becomes a Part 4 tenancy, the tenant has increased tenancy protections.

In addition, the Department detailed its rationale for excluding certain types of dwellings. It stated that it is reasonable that the right of first refusal would not apply to student-specific accommodation, and the exclusion of build-to-rent properties was rationalised on the basis of planning restrictions on such properties. However, Threshold highlighted that tenants, such as those living in buildings with multiple rented dwellings under the same roof, are in no less need of the security of a long-term home. It referred to the exclusion of the Tyrrelstown amendment, which provides that 10 or more households cannot be evicted at the same time, rather their homes can only be sold with tenants *in situ*. It submitted that extending the right to purchase to tenants of multiple rented dwellings, whose tenancy termination is subject to the Tyrrelstown Amendment, will not necessarily interfere with the sale of the dwellings, nor be unduly onerous and/or cause hardship to the seller, as the property will be sold at market price.

The Department clarified that if a landlord was to sell 10 or more units at once, the Tyrrelstown amendment comes in and those units would be sold with the tenants *in situ* to another landlord, therefore the landlord would not serve notices of termination and the invitation to bid would not be an option. Nevertheless, the Department explained

that the planning permission for Tyrrelstown tenancies often classifies these dwellings as rental properties and not private properties. As such, it is not appropriate for a rental property to become a private property. In addition, the Department commented that there is concern that better value would be achieved if the owner sells the full block with vacant possession, thereby protecting those who have invested in multiple properties as rental and want to sell them on together.

Similarly, IPAV commented that, as the tenant's right to bid does not apply to the sale of multiple-unit developments, this further exacerbates the unequal treatment of private and institutional landlords, impacting the property rights of landlords in an unequal manner. It stated that the full market impact of this unequal application of this legislation should be researched further. However, the Committee understands that multi-unit development as set out in Head 7(5)(c) can include pre-build-to-rent properties, and build-to-rent properties both with and without the build-to-rent design standards. As such, the Committee concludes that in one multi-unit development two landlords with varying numbers of properties would have different sets of obligations under this Bill. The Committee is concerned that the legislation is discriminatory regarding a set of rights and obligations, arbitrarily conferring a better position in society to those with more resources.

Furthermore, the Committee queried the Department on cases where the tenant may end up overholding in the property, thereby breaching their tenant obligations, despite being engaged in a process with the landlord, such as a further invitation to bid. The Department stated that this is provided for under Head 8, wherein an agreement can exist to preserve Part 4 rights and the tenant may remain in the property if there was agreement between the landlord and tenant, like a pause on the notice-to-quit. This ensures the tenant does not have to vacate the property, just to move in again when the sale goes through. However, overholding in other circumstances would render the tenant ineligible. Further, the Committee notes that there is scope for the tenant to seek redress of up to €20,000 where the landlord does not follow their obligations as set out under the General Scheme. It must be clarified if this is dependent on the tenant meeting certain obligations. As there are many scenarios which could arise on foot of the invitation to bid, the Committee asks that FAQs are developed to help to understand the implications of this legislation.

In addition, the County and City Management Association (CCMA) highlighted that, where there are multiple tenants in the property, clarity is required on whether priority will be given to certain tenants, as competition between them must be avoided. The Department clarified that, if there are multiple tenants in one property where the landlord has separate tenancy agreements with each tenant, the landlord would issue four notices of termination for sale, therefore Head 7(5)(c)(v) would apply and those tenants would be ineligible to the right of first refusal.

#### **4.1.2 INVITATION TO BID**

IPAV noted that many landlords would gladly enter a sale with an existing tenant as it saves the landlord from marketing and other expenses associated with putting the property on the market. However, it expressed concern that the legislation may frustrate many potential buyers as the notice period, in addition to the 90 days to bid on a property, will elongate the process before the property can be transacted. The Committee believes this process would actually allow landlords to achieve market rate much quicker than they otherwise would through vacant possession.

This issue of vacant possession was discussed, as it appears the General Scheme overlooks the fact that a large number of landlords who are selling their property wait until the property is vacant before putting it on the market as they may get a better price for the property without a tenant *in situ*, through improvements to the property and arranging on-the-spot appointments. In addition, IPAV emphasised that agents are bound by law to get the best price for their client, therefore landlords are generally advised that vacant possession is necessary to get the full value of the property. However, the Department stated that there is nothing in this Bill which stops the landlord from achieving the full market value of the property. For example, there is no restriction on the landlord advertising the property in the first 90 days or even hearing offers, rather the transaction must not go through in those 90 days. Provision could be made in Head 7(3) for the 90-day period to not apply where the tenant indicates in writing that they are not interested in bidding for the property.

On the further invitation to bid, the Department clarified that, even if the tenant moved out after a six month notice period, the landlord must make a further invitation to bid to the tenant if they do not receive a higher offer than the tenant's, irrespective of the

length of time that has passed. As much time may have passed, the Committee is concerned that the General Scheme does not make provision for the bids to be officially recorded, which could have implications for the further invitation to bid. IPAV mentioned that the Property Services Regulatory Authority requires that agents record every bid. It noted that Head 7(5) would cover this by amending Head 7(5)(c)(iii) of the General Scheme by referring to the landlord's solicitor *or* agent regarding proof of funds. The Committee notes that this would not necessarily apply as an agent may not be involved. As there are penalties set out of up to €20,000 where a transaction less than what the tenant had bid goes through, clear protection is needed in the legislation through a mechanism to ensure there is an official record of the bid. In addition, CCMA highlighted the need for safeguards to verify counter offers as *bona fide* and from a reliable source. It suggested incorporating such safeguards into conveyancing to ensure compliance.

The Committee queried the Department on the tenant's ability to transfer the right of first refusal to an eligible agency such as the local authority, the Housing Agency or an AHB. The Department replied that it will be provided in the legislation that the only entity which can buy the property other than the tenant is a local authority or an AHB. However, the liaison relating to the tenant obtaining help will occur outside of this legislation through guidance for tenants and information on the schemes available through, for example, the RTB website. It stated that the intention is that the right can interact administratively with whatever scheme is most appropriate. The Committee would prefer that a mechanism is in place for tenants to transfer this right to create a clear line of responsibility. Although the Committee understands the need to not be too prescriptive in the legislation, the Committee asks that a mechanism is set out for a tenant to transfer their right to bid within the 90 days to an eligible agency.

The Committee believes this legislation is only effective where adequate resources are in place to ensure all new functions can be carried out effectively. As the RTB would be required to provide the Minister with information on the operation of invitations to bid to monitor the effectiveness of the legislation, the RTB must be adequately resourced to provide such information and analysis. Similarly, consideration must be given to the impacts on the workloads of Housing Units in local authorities and their capacity to respond appropriately, as well as AHBs and the Housing Agency.

There is discrepancy in the language in this legislation which appears to differentiate the veracity of the obligations on landlords and tenants. IPOA indicated that, while the obligations of tenants are referred to in the General Scheme with tenants being “obligated”, the obligations of landlords are referred to with “shall”. IPOA noted that this is an unfair use of language as both are parties to a contract where both sides are obliged and should follow the rule of law. It is important that it is clear that both landlords and tenants are equally obligated according to this legislation.

## RECOMMENDATIONS

1. The Committee recommends that the title of the legislation is amended to reflect the intention of this legislation, that is the right of first refusal or invitation to bid, not a right to purchase.
2. The Committee asks that FAQs are developed by the Department to understand the various circumstances in which this legislation is applied.
3. The Committee recommends that Head 7(3) make provision for the 90 days not to apply where the tenant submits in writing that they are not interested in bidding for the property.
4. The Committee recommends that, in the legislation and regulations attaching this Bill, there should be a standardised process set out to ensure there is an official record of the bid, through for example, a statutory declaration.
5. The Committee recommends that safeguards are incorporated into the conveyancing to ensure counteroffers are *bona fide*.
6. The Committee recommends that a mechanism is set out in legislation and in regulations for a tenant to transfer their right to bid within the 90-day period to an eligible agency, such as a local authority or AHB.
7. The Committee asks that any new functions arising from this legislation are evaluated for resource allocation to the relevant bodies.
8. The Committee asks that any discrepancies in language between landlord and tenant obligations are reviewed.



## 4.2 KEY ISSUE 2: THE ‘SLIP RULE’

Head 10 relates to the application of what is known as the ‘slip rule’, which is a catch-all at the RTB’s level which allows a casual omission or harmless error concerning, for example, notices to quit, which can be cured by the understanding of the adjudicator or Tribunal that there was no malice intended, rather it was a simple mistake or omission when trying to comply with the formalities. The General Scheme extends the slip rule to use by an adjudicator or Tribunal in respect of rent arrears warning notices, notices of termination and any accompanying statement or statutory declaration as required. Head 22 similarly refers to a slip or omission in Determination Orders or its issuance.

Threshold argued that the formalities around notices to quit and statutory declarations are not particularly onerous, therefore the extension of the slip rule is unnecessary. It warned that this extension of the slip rule would allow for more notices of termination to be declared valid under the guise that defects within them are largely inadvertent in nature, when the RTB has provided templates which act as a safeguard against such errors occurring. It commented that the extension of the slip rule to statutory declarations, an established mechanism for guaranteeing legal veracity, beyond *prima facie* careless omissions, is significant as it would depreciate the value of a statutory declaration, creating real world implications for private renters. Threshold emphasised the role of statutory declarations as an important creature in what they are and seek to achieve in respect of veracity and law. Regardless, Threshold noted that it sees all kinds of problems with the witnessing of statutory declarations as it is viewed as a box-ticking exercise among landlords. Contrarily, IPAV welcomes Head 10 as a provision to avoid notices being declared invalid on the basis of minor technicalities. It requested, however, that it is clarified whether the slip rule applies to multiple errors or just one error, as section 64A of the Residential Tenancies Act is often interpreted by adjudicators and Tribunal members as the latter.

The Committee queried the Department on the impact of the extension of the slip rule. For example, the Committee notes that when tenants receive notices of termination in the private rental sector, usually a key part of homelessness prevention by their supporting organisation is to check whether the notice is valid. If it is not, it sometimes buys the tenant invaluable time, which means they are able to find somewhere new to

live and do not become homeless. The Department maintained that the slip rule is used very infrequently, citing sample figures from the RTB which illustrated that the rule was used in notices of termination in nine cases in 2023 and six in 2022. In any case, the Department noted that disputes have been found invalid by adjudicators due to similar slips occurring in documents that are required to accompany a notice of termination, such as statements, declarations and rent arrears warning notices. The Department illustrated by example that such errors could involve a name being listed as “Paddy Murphy” rather than “Patrick Murphy”. In the Bill, it will be at the discretion of the adjudicator whether a slip is immaterial to validity.

The Committee is similarly concerned that, as documents such as affidavits have legal standing, the extension of the slip rule may have unintended consequences for the correct administration of law. The Committee believes a statutory declaration is of a different order to a letter, therefore documents of a higher order should have a higher threshold of what is an acceptable slip. As such, the Committee asks the Department to provide clear guidance on what would be an acceptable application of the slip rule. For example, the slip rule should not be applied to the absence of a signature on a statutory declaration as it is one of the most important parts of the document to demonstrate the legal witness. Therefore, certain categories of slip should be established, and guidance produced for adjudicators.

## RECOMMENDATIONS

1. The Committee asks that the Department clarify in the legislation whether the slip rule applies to multiple errors or just one error.
2. The Committee recommends that the Department provide clear guidance for adjudicators on what is an acceptable application of the slip rule varying by document type.

## 4.3 KEY ISSUE 3: FUNCTIONING OF THE RTB

Article 34.1 of the Constitution, along with the recent Supreme Court decision of *Zalewski* held that the RTB is required to administer justice in public except in special and limited cases. Heads 16, 20, 23 and 26, which provide for private RTB adjudication in ‘special circumstances’, were drafted in response to this decision. To facilitate this,

the Board of the RTB may make new procedural rules with the consent of the Minister to provide for such special circumstances. The Department explained that the Supreme Court was clear that the Constitution provides that bodies such as the Workplace Relations Commission (WRC) should carry out their work in public. It stated that the RTB wants it provided in law that it will now carry out its adjudication in public, as well as publication of adjudication reports for the first time, thereby increasing transparency and opening adjudication hearings to public scrutiny for the first time. Using the example of the WRC, the Department noted that if there is sensitive information involved which should not be made public, it will be at the discretion of the adjudicator as to whether, for example, the information is redacted or whether the hearing should take place in private.

Threshold explained that *Zalewski* is a complex decision with ramifications for quasi-judicial bodies across the board relating to the administration of justice in public. It asked that any new procedural rules devised must be clear and not afford adjudicators too wide a discretion to qualify certain types of disputes for private hearings. Similarly, Head 23 allows the RTB to withhold the publication of determination orders in special circumstances, which it is of the view could have serious social consequences, therefore it is essential that new procedural rules are clear in nature. Additionally, there must be robust oversight of decisions made in private. The Committee agrees that clear written guidance from the Department is needed to prevent a legal challenge to the Supreme Court ruling. Similarly, IPAV requested that there is clarification if adjudication hearings will continue to be held remotely or if public hearings may only take place in person.

The Committee notes that Head 3 refers to the service of notices or documents by electronic means. The Committee believes that it would not be appropriate for a landlord to contact a tenant regarding a tenancy agreement, which is akin to other contractual agreements, by social media, for example. Instead, the email address of the tenant would be more appropriate. Consideration must also be given in this section for different technological abilities and the manner in which the landlord and tenant have communicated throughout the tenancy. Head 3 must also clarify that notices copied to the RTB can also be served electronically.

The Committee notes that Head 18 reduces the notice period given to the parties to a dispute of the holding of a hearing by a Tribunal from 21 days to 10 days. Threshold expressed concern that 10 days is insufficient to prepare, seek legal advice or arrange time off work for parties in a dispute. Similarly, IPAV submitted that some landlords also have difficulty getting representation for a hearing within 10 days. The Committee understands this measure will disadvantage both parties to a dispute.

## RECOMMENDATIONS

1. Regarding special circumstances in which private RTB adjudication takes place, the Committee recommends that the new procedural rules providing for these special circumstances have clear written guidance and robust oversight is provided for decisions made in private.
2. The Committee asks that the Department clarify how remote RTB hearings will be affected by the requirement for public hearings to take place.
3. As the tenancy agreement is akin to other contractual agreements, the Committee recommends that Head 3, regarding the service of notices of documents by electronic means, specifies that the landlord will contact the tenant electronically by email in the first instance.
4. The Committee recommends that Head 3 specifies that notices of termination that are copied to the RTB can also be served electronically.
5. The Committee recommends that Head 18, which reduces the notice period given to the parties to a dispute of the holding of a hearing by a Tribunal from 21 days to 10 days, is deleted.

## 5. RECOMMENDATIONS

### RECOMMENDATIONS

1. The Committee recommends that the title of the legislation is amended to reflect the intention of this legislation, that is the right of first refusal or invitation to bid, not a right to purchase.
2. The Committee asks that FAQs are developed by the Department to understand the various circumstances in which this legislation is applied.
3. The Committee recommends that Head 7(3) make provision for the 90 days not to apply where the tenant submits in writing that they are not interested in bidding for the property.
4. The Committee recommends that, in the legislation and regulations attaching this Bill, there should be a standardised process set out to ensure there is an official record of the bid, through for example, a statutory declaration.
5. The Committee recommends that safeguards are incorporated into the conveyancing to ensure counteroffers are *bona fide*.
6. The Committee recommends that a mechanism is set out in the legislation and in regulations for a tenant to transfer their right to bid within the 90-day period to an eligible agency, such as a local authority or AHB.
7. The Committee asks that any new functions arising from this legislation are evaluated for resource allocation to the relevant bodies.
8. The Committee asks that any discrepancies in language between landlord and tenant obligations are reviewed.
9. The Committee asks that the Department clarify in the legislation whether the slip rule applies to multiple errors or just one error.
10. The Committee recommends that the Department provide clear guidance for adjudicators on what is an acceptable application of the slip rule varying by document type.
11. Regarding special circumstances in which private RTB adjudication takes place, the Committee recommends that the new procedural rules providing

for these special circumstances have clear written guidance and robust oversight is provided for decisions made in private.

12. The Committee asks that the Department clarify how remote RTB hearings will be affected by the requirement for public hearings to take place.

13. As the tenancy agreement is akin to other contractual agreements, the Committee recommends that Head 3, regarding the service of notices of documents by electronic means, specifies that the landlord will contact the tenant electronically by email in the first instance.

14. The Committee recommends that Head 3 specifies that notices of termination that are copied to the RTB can also be served electronically.

15. The Committee recommends that Head 18, which reduces the notice period given to the parties to a dispute of the holding of a hearing by a Tribunal from 21 days to 10 days, is deleted.

## 6. APPENDIX 1: ORDERS OF REFERENCE

### a. FUNCTIONS OF THE COMMITTEE – DERIVED FROM STANDING ORDERS [DSO 95; SSO 71]

(1) The Adil may appoint a Departmental Select Committee to consider and, unless otherwise provided for in these Standing Orders or by order, to report to the Dáil on any matter relating to—

- (a) legislation, policy, governance, expenditure and administration of—
  - (i) a Government Department, and
  - (ii) State bodies within the responsibility of such Department, and
- (b) the performance of a non-State body in relation to an agreement for the provision of services that it has entered into with any such Government Department or State body.

(2) A Select Committee appointed pursuant to this Standing Order shall also consider such other matters which—

- (a) stand referred to the Committee by virtue of these Standing Orders or statute law, or
- (b) shall be referred to the Committee by order of the Dáil.

(3) The principal purpose of Committee consideration of matters of policy, governance, expenditure and administration under paragraph (1) shall be—

- (a) for the accountability of the relevant Minister or Minister of State, and
- (b) to assess the performance of the relevant Government Department or of a State body within the responsibility of the relevant Department, in delivering public services while achieving intended outcomes, including value for money.

(4) A Select Committee appointed pursuant to this Standing Order shall not consider any matter relating to accounts audited by, or reports of, the Comptroller and Auditor General unless the Committee of Public Accounts—

- (a) consents to such consideration, or
- (b) has reported on such accounts or reports.

(5) A Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann to be and act as a Joint Committee for



the purposes of paragraph (1) and such other purposes as may be specified in these Standing Orders or by order of the Dáil: provided that the Joint Committee shall not consider—

- (a) the Committee Stage of a Bill,
- (b) Estimates for Public Services, or
- (c) a proposal contained in a motion for the approval of an international agreement involving a charge upon public funds referred to the Committee by order of the Dáil.

(6) Any report that the Joint Committee proposes to make shall, on adoption by the Joint Committee, be made to both Houses of the Oireachtas.

(7) The Chairman of the Select Committee appointed pursuant to this Standing Order shall also be Chairman of the Joint Committee.

(8) Where a Select Committee proposes to consider—

- (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 133, including the compliance of such acts with the principle of subsidiarity,
- (b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,
- (c) non-legislative documents published by any EU institution in relation to EU policy matters, or
- (d) matters listed for consideration on the agenda for meetings of the relevant Council (of Ministers) of the European Union and the outcome of such meetings,

the following may be notified accordingly and shall have the right to attend and take part in such consideration without having a right to move motions or amendments or the right to vote:

- (i) members of the European Parliament elected from constituencies in Ireland,
- (ii) members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and

- (iii) at the invitation of the Committee, other members of the European Parliament.

(9) A Select Committee appointed pursuant to this Standing Order may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department consider—

- (a) such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and
- (b) such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select: Provided that the provisions of Standing Order 130 apply where the Select Committee has not considered the Ombudsman report, or a portion or portions thereof, within two months (excluding Christmas, Easter or summer recess periods) of the report being laid before either or both Houses of the Oireachtas.

#### **b. SCOPE AND CONTEXT OF ACTIVITIES OF COMMITTEES (AS DERIVED FROM STANDING ORDERS) [DSO 94; SSO 70]**

1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders;

(2) such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil/Seanad;

(3) it shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under DSO 125(1) and SSO 108(1); and

(4) it shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—

- (a) a member of the Government or a Minister of State, or
- (b) the principal office-holder of a State body within the responsibility of a Government Department or
- (c) the principal office-holder of a non-State body which is partly funded by the State,

Provided that the Committee may appeal any such request made to the Ceann Comhairle, whose decision shall be final.

(5) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice to the Business Committee by a Chairman of one of the Select Committees concerned, waives this instruction.

### **c. POWERS OF COMMITTEES (AS DERIVED FROM STANDING ORDERS) [DSO 96; SSO 72]**

Unless the Dáil/Seanad shall otherwise order, a Committee appointed pursuant to these Standing Orders shall have the following powers:

(1) power to invite and receive oral and written evidence and to print and publish from time to time—

- (a) minutes of such evidence as was heard in public, and
- (b) such evidence in writing as the Committee thinks fit;

(2) power to appoint sub-Committees and to refer to such sub-Committees any matter comprehended by its orders of reference and to delegate any of its powers to such sub-Committees, including power to report directly to the Dáil/Seanad;

(3) power to draft recommendations for legislative change and for new legislation;

(4) in relation to any statutory instrument, including those laid or laid in draft before either or both Houses of the Oireachtas, power to—

(a) require any Government Department or other instrument-making authority concerned to—

- (i) submit a memorandum to the Joint Committee explaining the statutory instrument, or
- (ii) attend a meeting of the Joint Committee to explain any such statutory instrument: Provided that the authority concerned may decline to attend for reasons given in writing to the Joint Committee, which may report thereon to the Dáil, and

(b) recommend, where it considers that such action is warranted, that the instrument should be annulled or amended;

(5) power to require that a member of the Government or Minister of State shall attend before the Joint Committee to discuss—

- (a) policy, or

(b) proposed primary or secondary legislation (prior to such legislation being published),

for which he or she is officially responsible: Provided that a member of the Government or Minister of State may decline to attend for stated reasons given in writing to the Joint Committee, which may report thereon to the Dáil: and provided further that a member of the Government or Minister of State may request to attend a meeting of the Joint Committee to enable him or her to discuss such policy or proposed legislation;

(6) power to require that a member of the Government or Minister of State shall attend before the Joint Committee and provide, in private session if so requested by the attendee, oral briefings in advance of meetings of the relevant EC Council (of Ministers) of the European Union to enable the Joint Committee to make known its views: Provided that the Committee may also require such attendance following such meetings;

(7) power to require that the Chairperson designate of a body or agency under the aegis of a Department shall, prior to his or her appointment, attend before the Select Committee to discuss his or her strategic priorities for the role;

(8) power to require that a member of the Government or Minister of State who is officially responsible for the implementation of an Act shall attend before a Joint Committee in relation to the consideration of a report under DSO 197/SSO 168;

(9) subject to any constraints otherwise prescribed by law, power to require that principal office-holders of a—

(a) State body within the responsibility of a Government Department or

(b) non-State body which is partly funded by the State,

shall attend meetings of the Joint Committee, as appropriate, to discuss issues for which they are officially responsible: Provided that such an office-holder may decline to attend for stated reasons given in writing to the Joint Committee, which may report thereon to the Dáil/Seanad; and

(10) power to—

(a) engage the services of persons with specialist or technical knowledge, to assist it or any of its sub-Committees in considering particular matters; and

(b) undertake travel;

Provided that the powers under this paragraph are subject to such recommendations as may be made by the Working Group of Committee Chairmen under DSO 120(4)(a)/SSO 107(4)(a).

## 7. APPENDIX 2: COMMITTEE MEMBERSHIP

### 7.1 DEPUTIES



Francis Noel Duffy  
*Green Party*



Joe Flaherty  
*Fianna Fáil*



Thomas Gould  
*Sinn Féin*



Emer Higgins  
*Fine Gael*



Steven Matthews  
Cathaoirleach  
*Green Party*



Paul McAuliffe  
Leas-Cathaoirleach  
*Fianna Fáil*



Cian O'Callaghan  
*Social Democrats*



Richard O'Donoghue  
*Independent*



Eoin Ó Broin  
*Sinn Féin*



## 7.2 SENATORS



Victor Boyhan  
*Independent*



John Cummins  
*Fine Gael*



Mary Fitzpatrick  
*Fianna Fáil*



Rebecca Moynihan  
*Labour*



Mary Seery Kearney  
*Fine Gael*

### Notes:

1. Deputies nominated by the Dáil Committee of Selection and appointed by Order of the Dáil of 30 July 2020.
2. Senators nominated by the Seanad Committee of Selection and appointed by Order of the Seanad on 18 September 2020.
3. The Dáil Committee of Selection nominated Deputy Joe Flaherty to replace Deputy Jennifer Murnane O'Connor on 2 February 2021.

## 8. APPENDIX 3: MEETING TRANSCRIPTS

- [5 December 2023](#)
- [7 December 2023](#)

## 9. APPENDIX 4: OPENING STATEMENTS & SUBMISSIONS

### 9.1 OPENING STATEMENTS

- [Mr Maurice Deverell, IPOA Spokesperson, Irish Property Owners Association](#)
- [Ms Ann-Marie O'Reilly, National Advocacy Manager, Threshold](#)
- [Mr Pat Davitt, CEO, Institute of Professional Auctioneers and Valuers](#)
- [Ms Catherine Comer, Principal Officer, Rental Market Unit, Department of Housing, Local Government and Heritage](#)

### 9.2 SUBMISSIONS

- [Threshold](#)
- [Housing Agency](#)
- [County and City Management Association](#)
- [Institute of Professional Auctioneers and Valuers](#)







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