

Housing and Residential Tenancies (Miscellaneous Provisions) Bill 2026

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Abstract

The [Housing and Residential Tenancies \(Miscellaneous Provisions\) Bill 2026](#) seeks to provide for additional requirements in respect of social housing eligibility, specifically in relation to making statutory arrangements for residency requirements. It also proposes to make provision in relation to the conduct of mediations, adjudications and Tribunal hearings by the Residential Tenancies Board and to increase the penalties for certain offences under the [Residential Tenancies Act 2004](#).



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Executive Summary

- The [Housing and Residential Tenancies \(Miscellaneous Provisions\) Bill 2026](#) was published on 3 June 2026.
- The Bill contains 3 Parts and 50 Sections. It combines elements from two previous General Schemes. These were the *Housing Miscellaneous Provisions Bill 2024* and the *Residential Tenancies (Amendment) (No 2) Bill*.
- The first main part of the Bill relates to Residency requirements for social housing eligibility and seeks to amend the [Housing \(Miscellaneous Provisions\) Act 2009](#). According to the [Explanatory Memorandum](#), these provide for the following:
 - 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 of the Housing (Miscellaneous Provisions) Act 2009, 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 of the [Housing and Residential Tenancies \(Miscellaneous Provisions\) Bill 2026](#), the housing authority concerned has not yet determined the application and related matters.

- The second main part of the Bill contains technical amendments to the *Residential Tenancies Act 2004* to enhance its implementation and the outcomes thereunder, with greater efficiencies for stakeholders including the Residential Tenancies Board (RTB) and the courts.
- The General Scheme of the original *Housing Miscellaneous Provisions Bill 2024* underwent pre-legislative scrutiny (PLS) by the Joint Committee on Housing, Local Government and Heritage on **23 April 2024**. The Committee issued a **report** in May 2024, which included 5 recommendations under 4 ‘key issues’ as identified / categorised by the Joint Committee.
- The General Scheme of the *Residential Tenancies (Amendment) (No 2) Bill 2025* underwent pre-legislative scrutiny (PLS) by the Joint Committee on Housing, Local Government and Heritage on **18 November 2025** and **2 December 2025**. The Committee issued a **report** in January 2026 and the Library and Research Service (L&RS) also published a **General Scheme Briefing Paper** in March 2025 which provides an in-depth overview of the policy and legislative context of this General Scheme.
- The L&RS has also published a **Bill Resource page** on this Bill [internal access only].

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Glossary and abbreviations

Table 1: Glossary and abbreviations

Term	Meaning
2004 Act	Residential Tenancies Act 2004
2009 Act	Housing (Miscellaneous Provisions) Act 2009
2015 Act	International Protection Act 2015
AHB	Approved Housing Body
Committee	Joint Committee on Housing, Local Government and Heritage
DHLGH	Department of Housing, Local Government and Heritage
EEA	European Economic Area
HAP	Housing Assistance Payment
IHREC	Irish Human Rights and Equality Commission
Larger landlord	A landlord of four or more tenancies or a corporate landlord
MABS	Money Advice and Budgeting Service
Minister	Minister for Housing, Local Government and Heritage
Part 4 Tenancy	A tenancy protected by the limitations set out in Part 4 of the Residential Tenancies Act 2004
RAS	Rental Accommodation Scheme
RIA	Regulatory Impact Assessment
RTB	Residential Tenancies Board
Smaller landlord	An individual landlord of three or fewer tenancies
SSHA	Summary of Social Housing Assessments

Introduction

The [Housing and Residential Tenancies \(Miscellaneous Provisions\) Bill 2026](#) was published on 3 June 2026 and is scheduled for Second Stage debate on 11 June 2026 in Dáil Éireann. The Bill contains 50 sections and 3 parts and combines elements from two previous General Schemes, the Housing Miscellaneous Provisions Bill 2024 and the Residential Tenancies (Amendment) (No 2) Bill.

Announcing the planned introduction of the [Housing and Residential Tenancies \(Miscellaneous Provisions\) Bill 2026](#) on the 8 June 2026, Minister for Housing, Local Government and Heritage, James Browne T.D. stated that:¹

“Residency requirements already exist in practice but are now being placed on a firm statutory basis. However, underpinning the policy on a statutory footing brings clarity to the eligibility of social housing supports for all applicants and will ensure consistency with immigration policy.

“This Bill should have little material effect on the numbers accessing social housing, given it is effectively existing policy. By placing it on a statutory footing it will ensure that successful applicants have a long-term right to reside in the State. The new habitual residency requirement will ensure all social housing applicants have a close link to the State and have made Ireland their home.”

Due to the evolution of the legislation, the Bill has two distinct parts:

- The first main part of the Bill relates to Residency requirements for social housing eligibility and seeks to amend the [Housing \(Miscellaneous Provisions\) Act 2009](#). According to the [Explanatory Memorandum](#), these provide for the following:²
 - 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 of the Housing (Miscellaneous Provisions) Act 2009, or under regulations made under that section, by a housing authority that:
 - the household is not qualified for social housing support,

¹ Department of Housing, Local Government and Heritage, ‘[New Bill to bring greater clarity on eligibility for social housing](#)’, 8 June 2026.

² Houses of the Oireachtas, ‘[Housing Residential Tenancies \(Miscellaneous Provisions\) Bill 2026 – Explanatory Memorandum](#)’ pg. 1, June 2026.

- 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 of the *Housing and Residential Tenancies (Miscellaneous Provisions) Bill 2026*, the housing authority concerned has not yet determined the application and related matters. The second main part of the Bill contains technical amendments to the *Residential Tenancies Acts 2004* to enhance its implementation and the outcomes thereunder, with greater efficiencies for stakeholders including the Residential Tenancies Board (RTB) and the courts.
- The second main part of the Bill contains technical amendments to the *Residential Tenancies Act 2004* to enhance its implementation and the outcomes thereunder, with greater efficiencies for stakeholders including the Residential Tenancies Board (RTB) and the courts.

Pre-legislative scrutiny (PLS)

The General Scheme of the *Housing (Miscellaneous Provisions) Bill 2024* was referred to the Joint Committee on Housing, Local Government and Heritage. One PLS hearing was held on the **23 April 2024** and included the following witnesses:

- Mr. Pat Dennigan and Mr. Mike Allen (Focus Ireland)
- Mr. Wayne Stanley and Ms. Rebecca Hamilton (Simon Communities of Ireland)
- Ms. Ann-Marie O'Reilly and Mr. Zak Murtagh (Threshold)
- Ms. Rose Wall and Ms. Mary Heavey (Community Law and Mediation)
- Mr. David Kelly, Mr. Vincent Colgan, Mr. Liam Murray, Ms. Sarah Neary, Mr. John Wickham and Ms. Dorothy Kellegher (Department of Housing, Local Government and Heritage).

The Joint Committee subsequently published its PLS findings in May 2024 in its **Report on the Pre-Legislative Scrutiny of the General Scheme of the Housing (Miscellaneous Provisions) Bill 2024**.

The General Scheme of the *Residential Tenancies (Amendment) (No 2) Bill 2025* underwent pre-legislative scrutiny (PLS) by the Joint Committee on Housing, Local Government and Heritage on **18 November 2025** and **2 December 2025**. The Committee subsequently issued a **report** in January 2026.

Cost implications

The Explanatory Memorandum does not refer to financial implications for the Exchequer arising from the Bill. No Regulatory Impact Assessment (RIA) has been published (at time of publication of this Digest) in respect of the Bill.

Purpose of proposed legislation

The Long Title of the Bill states that its purpose is to provide for the following:

- additional requirements, relating to residency in the State, to be satisfied in order to be eligible for social housing support;
- an appeal of certain decisions relating to social housing support;
- to make provision in relation to the conduct of mediations, adjudications and Tribunal hearings by the Residential Tenancies Board; and
- to increase the penalties for certain offences under the Residential Tenancies Act 2004.

Some of the policy and legislative background to residential tenancies aspect of this Bill have been examined in the Oireachtas Library & Research Service, [Policy and Legislative Briefing Paper: Residential Tenancies \(Amendment\) \(No 2\) Bill General Scheme Briefing Paper](#). It is recommended that readers consider that paper as a companion paper to this Bill Digest.

Background

Supply of social housing

The adequate supply of housing remains one of the key challenges facing the current Government. In November 2025, the Government launched a new housing plan called “[Delivering Homes, Building Communities](#)”, which aims to speed up the delivery of new homes and tackle homelessness. It sets a target to deliver a minimum of 300,000 new homes of all types across the country over the period 2025-2030.

The plan seeks to deliver an average of 12,000 new social homes per annum over its lifetime. The [2025 Programme for Government](#) contains a number of specific commitments in relation to social housing, including focussing social housing allocations on getting families out of long-term homelessness.³ The most recently reported homeless figures saw 17,548 people recorded as using emergency accommodation, 5,604 of whom were children.⁴

The numbers of social homes being added to the stock through build, acquisition and leasing in recent years are shown in Table 2 below. The highest output was recorded in 2023 at around 11,900 homes.

Table 2: Social Housing Delivery

Category	2022 Output	2023 Output	2024 Output	2025 Output
Build	7,428	8,094	7,833	9,088
Acquisition	947	1,829	1,501	786
Leasing	1,870	1,999	1,223	697
Total	10,245	11,922	10,557	10,571

Source: [Department of Housing, Local Government and Heritage](#) (2026)

³ Department of the Taoiseach, ‘[Programme for Government 2025 - Securing Ireland's Future](#)’ pg. 44, January 2025.

⁴ Irish Independent, ‘[Housing charities criticise new rent rules as homelessness figures rise to 17,548](#)’, May 2026.

Demand for social housing

The purpose of the annual **Summary of Social Housing Assessments** (SSHA) is to capture the total number of households qualified for social housing support across the country whose social housing need is not being met, in order to better understand the level of need for such support. It is a snapshot at a point in time of the housing lists of 31 local authorities. The latest count was carried out on 3 November 2025.⁵

In total, 61,719 households were assessed as qualified for social housing support as of 3 November 2025. The number of households qualified for social housing support increased by 1,778 households (3.0%) since the previous assessment on 4 November 2024.⁶

The majority of main applicants qualified for social housing continue to be Irish citizens (71.3%) (see Table 3 below). A total of 8,820 households or 14.3% of applicants are nationals of other countries within the EEA. The year 2025 saw an increase of 860 households with main applicants from non-EEA countries, bringing the total to 8,142 households, or 13.2% of total households. The basis of stay for the majority of households with non-EEA citizenship continues to be 'permission to remain in the State', with 58.2% of non-EEA households with this basis of stay. However, this has fallen from a level of 70.5% the previous year with 'refugee' increasing from 26.7% in 2024 to 39.2% in 2025.⁷

⁵ The Housing Agency (2026), '**Summary of Social Housing Assessments 2025**' pg. 12, April 2026.

⁶ The Housing Agency (2026), '**Summary of Social Housing Assessments 2025**' pg. 10, April 2026.

⁷ The Housing Agency (2026), '**Summary of Social Housing Assessments 2025**' pg. 46, April 2026.

Table 3: Nationality (main applicant) for 2023-2025

Nationality		<u>2023</u>		<u>2024</u>		<u>2025</u>	
		No. of HH	%	No. of HH	%	No. of HH	%
Irish citizen		43,817	74.5%	43,189	72.1%	43,991	71.3%
EEA citizen		8,822	15.0%	8,787	14.7%	8,820	14.3%
UK citizen		554	0.9%	683	1.1%	766	1.2%
Non-EEA citizen		5,631	9.6%	7,282	12.1%	8,142	13.2%
<i>Of which:</i>	<i>Permission to remain in the State</i>	4,196	74.5%	5,137	70.5%	4,737	58.2%
	<i>Refugee</i>	1,291	22.9%	1,946	26.7%	3,193	39.2%
	<i>Subsidiary protection status</i>	144	2.6%	199	2.7%	212	2.6%
Total		58,824	100.0%	59,941	100.0%	61,719	100.0%

Source: [The Housing Agency](#) (2026)

In terms of the main need for social housing support, ‘Unsuitable accommodation – particular household circumstances’ remained the main reason of need for social housing support in 2025, with 16,221 households (26.3%) with this basis of need (see Table 4 below). This was followed by ‘Requires Rent Supplement to provide for accommodation’ (19.3%), ‘Requirement for separate accommodation’ (17.5%) and ‘Homeless, institution, emergency accommodation or hostel’ (16.1%) which increased by 1,146 to 9,933 households between the 2024 and 2025 assessments.

Table 4: Nationality (main applicant) for 2023-2025

Main need for social housing support	<u>2024</u>		<u>2025</u>		<u>Change</u> <u>2024/2025</u>	
	No. of HH	%	No. of HH	%	No. of HH	%
Unsuitable – Particular Household Circumstances	15,980	26.7%	16,221	26.3%	241	1.5%
Requires Rent Supplement to provide for accommodation needs	12,792	21.3%	11,937	19.3%	-855	-6.7%
Requirement for separate accommodation	9,994	16.7%	10,783	17.5%	789	7.9%
Homeless, Institution, Emergency Accommodation or Hostel	8,787	14.7%	9,933	16.1%	1,146	13.0%
Overcrowded	3,590	6.0%	4,040	6.5%	450	12.5%
Intellectual disability	1,923	3.2%	2,101	3.4%	178	9.3%
Physical disability	1,824	3.0%	1,925	3.1%	101	5.5%
Mental health disability	1,615	2.7%	1,741	2.8%	126	7.8%
Unfit accommodation	1,597	2.7%	1,030	1.7%	-567	-35.5%
Sensory disability	566	0.9%	705	1.1%	139	24.6%
Unsustainable mortgage	734	1.2%	694	1.1%	-40	-5.4%
Medical or compassionate grounds	493	0.8%	555	0.9%	62	12.6%
Other form of disability	46	0.1%	54	0.1%	8	17.4%
Total	59,941	100.0%	61,719	100.0%	1,778	3.0%

Source: The Housing Agency (2026)

Social housing support

Social housing support is housing provided by a local authority or an Approved Housing Body (AHB) to people who are assessed as being unable to afford housing from their own resources. The determination is made according to 'eligibility criteria' and 'need'.

Local Authorities

According to The Housing Agency, local authorities are the main providers of social housing support in Ireland.⁸ The main purpose of the Housing Services Department in local authorities is to facilitate the provision of suitable, cost effective, quality accommodation and housing support for people who need it.

Housing support can be provided in a number of ways:⁹

1. A rented tenancy in a property owned and managed by the local authority
2. A rented tenancy leased (long term leasing) for 10-20 years by the local authority or Approved Housing Body
3. Housing Assistance Payment (HAP) where a local authority will make a monthly payment to a private landlord, subject to terms and conditions including rent limits, on a HAP tenant's behalf
4. Rental Accommodation Scheme (RAS) tenancy where the local authority arranges leases with private landlords for homes
5. A rented tenancy in homes owned and managed by an Approved Housing Body
6. Specific accommodation for homeless people, older people and Travellers
7. Adapting existing local authority homes to meet specific household needs
8. Grants to increase accessibility in private homes for people with disabilities and special needs.

Approved Housing Bodies

Approved Housing Bodies are independent non-profit making organisations that provide:

- Rented housing for people who cannot afford to buy their own homes, and
- Specialist housing, such as housing for older people or homeless people.

⁸ The Housing Agency, 'Social Housing Support Overview', website accessed 29/05/2026.

⁹ Ibid.

They are also known as voluntary housing associations or housing co-operatives. An AHB may provide housing by:¹⁰

- Building new houses
- Buying existing homes
- Leasing private houses

They use private finance to pay for housing development or to buy property. They also get State funding through local authorities to help provide housing.

Role of the Residential Tenancies Board

The RTB was established under **Part 8 of the Residential Tenancies Act 2004** (the ‘2004 Act’) and its remit derives from the 2004 Act. The RTB is the independent public body that regulates the private rental sector, funded by tenancy registration fees, dispute fees and Government funding.¹¹ The RTB does not play a part in the regulation of agreements that are directly led by a local authority. However, it does play a role in certain forms of social housing. As the 2004 Act applies to all people in receipt of the HAP and those involved with the RAS, these tenancies must be registered with and overseen by the RTB. Further, the **Residential Tenancies (Amendment) Act 2015** brought some tenancies of AHBs under the remit of the RTB.

The RTB functions include:

- Informing tenants and landlords about their rights and responsibilities;
- Ensuring landlords register tenancies and follow rental law, and maintaining a national register of all private rented residential tenancies and some AHB tenancies;
- Enforcing minimum standards in rented accommodation (this can affect AHB, HAP and RAS tenancies);
- Helping to resolve tenancy disputes; and
- Providing trusted data and insights to inform rental sector policy.¹²

To enable it to properly perform its functions, the RTB is currently empowered to:

¹⁰ Citizens Information, ‘**Approved housing bodies**’, website accessed 29/05/2026.

¹¹ Residential Tenancies Board, **Who we are**.

¹² Residential Tenancies Board, **Who we are**; Residential Tenancies Board, **RTB Statement of Strategy 2023-2025**.

- Establish, maintain, update and publish a register of private residential tenancies, including enforcing registration requirements.¹³
- Define and enforce a procedure for the registration of private residential tenancies, including the setting and collection of fees.¹⁴
- Exchange data with other public bodies.¹⁵
- Engage with parties to resolve disputes and complaints, including appointing authorised officers and decision makers, conducting investigations, determining and reporting on outcomes of investigations and disputes, imposing sanctions¹⁶ and having them confirmed in relevant courts and establishing procedural rules.¹⁷

As noted by the President of the RTB at the pre-legislative scrutiny hearing of the *Residential Tenancies (Amendment) (No 2) Bill*, the RTB performs quasi-judicial functions to enforce regulatory requirements, such as breaches of registration requirements.¹⁸ The RTB stated that the amendments proposed by that general scheme, and incorporated in this Bill would be welcomed:

“... the introduction of new financial penalties for breaches of registration requirements and rules on rent setting ... [will enable the RTB] to enforce regulatory requirements at a greater scale and pace. ... [G]iving the RTB the power to enter and inspect a premises with consent or under warrant to ascertain if a tenancy should be registered ... is a welcome development, as is the provision for greater data sharing with Revenue, which will enhance ... compliance work [of the RTB]. In line with our quasi-judicial functions, [the RTB] ... also welcome the ability to accept evidence from a member of An Garda Síochána or an officer of a housing authority in relation to disputes involving anti-social behaviour. This is a particularly important aspect of some of the disputes Giving the RTB access to the High Court, outside Circuit Court sitting times for urgent applications, will also support [the work of the RTB]... in cases of illegal eviction. ... Other changes to improve the efficiency of the RTB’s dispute

¹³ *Residential Tenancies Act 2004* Pt 7 Ch 1, 3.

¹⁴ *Residential Tenancies Act 2004* Pt 7 Ch 2.

¹⁵ *Residential Tenancies Act 2004* Pt 7 Ch 4.

¹⁶ If criminal proceedings are brought by the RTB against a landlord for improper conduct, a sanction may not be imposed on the landlord: *Residential Tenancies Act 2004* s. 148AG.

¹⁷ *Residential Tenancies Act 2004* Pt 7A.

¹⁸ Residential Tenancies Board, ‘*General Scheme of the Residential Tenancies (Amendment) (No. 2) Bill 2025: Discussion*’, *Joint Committee on Housing, Local Government and Heritage debate*, 18 November.

resolution services, which include shortening the notice period required for tribunal hearings will also allow ... [the RTB] to streamline the process.”¹⁹

Dealing with disputes in the private rental sector

Should self-resolution between the parties not work, under the 2004 Act the RTB provides three main dispute resolution services: mediation, adjudication, and an appeal to the RTB Tenancy Tribunal. Parties are expected to go through either the mediation or adjudication process first but the RTB may directly refer a matter to the Tenancy Tribunal under [section 94](#), without the matter proceeding through a prior mediation or adjudication process.²⁰

Mediation

The RTB provides a free telephone-based mediation service for registered landlords and tenants in the private rented sector, to help them find mutually agreeable solutions to their tenancy issues.

The mediation process does not involve examining evidence or determining who is right or wrong, but rather how parties can resolve the issue by working together. It is confidential and the outcomes are not published on the RTB website.

Once an agreement is reached, if neither party withdraws from the agreement within a 10-day 'cooling off' period, the agreement forms the basis for a binding Determination Order made under section 121 of the 2004 Act, enforceable in the District Court. If a mediation does not result in an agreement, a party may apply to have the dispute dealt with by a Tenancy Tribunal.²¹

Adjudication

Adjudication is a formal and (currently) confidential process under which an adjudicator determines a matter, based on evidence presented by both parties. The decision of the adjudicator is binding, as it forms the basis for preparing and issuing a Determination Order under section 121 of the 2004 Act. An adjudicator may adopt a decision as agreed by the parties to the dispute.²²

¹⁹ Residential Tenancies Board, '[General Scheme of the Residential Tenancies \(Amendment\) \(No. 2\) Bill 2025: Discussion](#)', *Joint Committee on Housing, Local Government and Heritage debate*, 18 November. 2025. The RTB also acknowledged that the scale and complexity of the changes will require operational adaptation, which should be manageable given a significant uplift in RTB funding (€22.8 million in total) announced in Budget 2026. This funding will be used to recruit sufficient staff and put through the IT system upgrades required to meet these expanded responsibilities and provide for contingences should they arise.

²⁰ Residential Tenancies Board, [Disputes process](#), website last accessed 08/06/2026.

²¹ Residential Tenancies Board, [Guide to mediation](#), website last accessed 08/06/2026.

²² Residential Tenancies Board, [Guide to adjudication](#), website last accessed 08/06/2026.

Tenancy Tribunal

Section 100 of the 2004 Act provides for an appeal to an RTB Tenancy Tribunal. The Tribunal hears the dispute and determines the matter, based on the evidence provided. Each case is heard on its facts involves a full re-hearing of the dispute unless the parties agree to limit it to certain issues. The Tribunal is not bound by previous decisions. Tribunal hearings are informal and do not require the parties to have legal representation. If a party intends to have legal representation at a Tribunal hearing, they must notify the RTB within 7 days of being notified of the hearing date. Costs will only be awarded in exceptional circumstances, after receiving consent of the RTB.²³

All Tenancy Tribunal decisions and Determination Orders are published on the [RTB website](#). They include the names of the parties to the case and the address of the rental property.

Section 123 of the 2004 Act provides for an appeal on a point of law to the High Court within 21 days of a Tenancy Tribunal determination.

Previous related legislation

- [Housing \(Miscellaneous Provisions\) Act 2009 \(as amended\)](#)
- [Affordable Housing Act 2021 \(No. 25\)](#)
- [S.I. No 84/2011 - Social Housing Assessment Regulations 2011](#)
- [Social Welfare Consolidation Act 2005](#)
- [International Protection Act 2015 \(as amended\)](#)
- [Children Act 2001 \(as amended\)](#)
- [Residential Tenancies Act 2004 \(as amended\)](#)

Regulatory Impact Analysis (RIA)

No Regulatory Impact Assessment has been published (at time of publication of this Digest) in respect of the Bill.

Public consultation

During pre-legislative scrutiny, a number of stakeholders spoke of the need to undertake adequate consultation with relevant stakeholder groups and experts in order to discuss the main issues arising from the Bill. In particular, it was considered important that the voices of

²³ Residential Tenancies Board, [Guide to tribunals](#), website last accessed 08/06/2026.

those working with migrant communities be heard as they are the most likely to be impacted by the legislation.²⁴

In response, officials from the Department of Housing, Local Government and Heritage mentioned that there had been a significant level of consultation with NGOs and that the Department had also engaged with the Irish Human Rights and Equality Commission (IHREC).²⁵

Significant consultation and engagement has also taken place between the Department of Housing, Local Government and Heritage and the Department of Justice, Home Affairs and Migration in relation to the interaction of the immigration system and local authority decision-making. This interaction includes existing operations under [Circular 41/2012](#) and matters relating to individual permissions, Stamps and conditionality.²⁶

²⁴ Houses of the Oireachtas, 'General Scheme of the Housing (Miscellaneous Provisions) Bill 2024: Discussion', April 2024.

²⁵ Houses of the Oireachtas, 'General Scheme of the Housing (Miscellaneous Provisions) Bill 2024: Discussion', April 2024.

²⁶ Department of Housing, Local Government and Heritage, 'New Bill to bring greater clarity on eligibility for social housing', 8 June 2026.

Policy and legislative context

Social housing eligibility

The social housing assessment carried out by local authorities follows a two-step process:²⁷

- First, an assessment is carried out to determine whether a household is **eligible** for social housing supports; and
- Second, a local authority then seeks to determine whether the household is **in need** of social housing supports.

Section 20 of the *Housing (Miscellaneous Provisions) Act 2009* provides that where a household applies for social housing support, the housing authority concerned shall, subject to and in accordance with regulations made for the purposes of this section, carry out a social housing assessment of the household's eligibility, and need for, social housing support.

S.I. No. 84/2011 - Social Housing Assessment Regulations 2011 (and subsequent amendments) details the types of requirements that must be considered by local authorities when making a determination on a household's eligibility for social housing support. These include:

- checking whether households are within certain income limits,
- if they have alternative accommodation that could reasonably be expected to be used instead to meet its housing need,
- if they have a local connection with the functional area of the housing authority, and
- that they don't have a significant history of rent arrears with a housing authority.

Applicants for social housing must also have a legal right to remain in the State on a long-term basis. The rules about access to social housing supports for non-Irish nationals are available in **Housing Circular 41/2012** which was introduced in December 2012. The **Housing and Residential Tenancies (Miscellaneous Provisions) Bill 2026** seeks to provide the statutory underpinning for the current policy position as set out in Circular 41/2012 by amending the **Housing (Miscellaneous Provisions) Act 2009**. Officials from the Department have previously stated that legal advice received over the last number of years has been that this policy needed to be underpinned in primary legislation.²⁸

²⁷ The Housing Agency, '**Social Housing Eligibility and Need**', website accessed 22/04/2025.

²⁸ Houses of the Oireachtas, '**General Scheme of the Housing (Miscellaneous Provisions) Bill 2024: Discussion**', April 2024.

The Circular advises that Irish and UK nationals should be considered for social housing support without any residency or employment requirements. For European Economic Area²⁹ (EEA) nationals, the Circular recommends that housing authorities consider applicants for assessment only if they are currently employed in the State or where they are not currently working or employed, that they are unable to work due to illness or accident, or currently registered as a job-seeker after having been employed for longer than one year.

For non-EEA nationals, the Circular states that different criteria be adopted depending on the circumstances of the applicant. An application from a non-EEA national married to/in civil partnership with an Irish citizen may be considered as part of a joint application for that household, provided he/she holds a valid Stamp 4. No specific length of prior residence is required.

A non-EEA national married to/in a civil partnership with an (non-Irish) EEA national can be considered to have the same rights and entitlements as afforded their EEA national spouse/civil partner in relation to accessing social housing supports (if their spouse satisfies the criteria for EEA nationals above).

Asylum seekers are not eligible to be considered for social housing support during their period in the asylum process. Refugees or persons granted subsidiary protection are eligible for consideration for social housing, alongside their spouses and family members approved for family reunification.

If a non-EEA national parent of an Irish citizen child that is emotionally and financially dependent upon the parent applies for social housing assistance, the housing authority may accept their application provided the non-EEA national has a Stamp 4 visa.

Finally, the Circular advises housing authorities on how to process applications for social housing by non-EEA national applicants who do not satisfy the above criteria. For this group, the Circular advises that housing authorities should only process applications where the applicant has either:

- An aggregate of five previous years of reckonable residence, with a current valid stamp **OR**
- Any length of previous valid residence in Ireland over the last five years, with a current valid stamp that would permit their continued residence for five of the previous eight years.

²⁹ The EEA includes EU countries and also Iceland, Liechtenstein and Norway.

Table 5: Requirements under Circular 41/2012

Category	Requirement
Irish and UK nationals	Should be considered for social housing support without any residency or employment requirements.
EEA nationals	Should be considered for assessment only if: • they are currently employed in the State, or • unable to work due to illness or accident, • currently registered as a job-seeker after having been employed for longer than one year.
Non-EEA nationals	Joint applications from spouses/civil partners, one of whom is an Irish citizen An application from a non-EEA national married to/in civil partnership with an Irish citizen may be considered as part of a joint application for that household, provided he/she holds a valid Stamp 4. No specific length of prior residence is required. Spouse / Civil Partner / Cohabitant Partner of EEA nationals A non-EEA national married to/in a civil partnership with an (non-Irish) EEA national can be considered to have the same rights and entitlements as afforded their EEA national spouse/civil partner in relation to accessing social housing supports (if their spouse satisfies the criteria above). Asylum seekers Asylum seekers are not eligible to be considered for social housing support during their period in the asylum process. Refugees or Subsidiary Protection status Refugees or persons granted subsidiary protection are eligible for consideration for social housing, alongside their spouses and family members approved for family reunification. Non-EEA nationals with Irish citizen child If a non-EEA national parent of an Irish citizen child that is emotionally and financially dependent upon the parent applies for

Category	Requirement
	social housing assistance, the housing authority may accept their application provided the non-EEA national has a Stamp 4 visa.
Other non-EEA nationals	For other non-EEA national applications that do not satisfy the above qualifications, to be eligible for social housing they must show compliance with the following criteria: • An aggregate of five previous years of reckonable residence, with a current valid stamp OR • Any length of previous valid residence in Ireland over the last five years, with a current valid stamp that would permit their continued residence for five of the previous eight years.

Source: Derived from [Circular 41/2012](#) and [Mercy Law Resource Centre](#)

Legal context

The administration of justice in public

[Article 34.1 of the Constitution](#) provides:

“Justice shall be administered in courts established by law by judges appointed in the manner provided by this Constitution, and, save in such special and limited cases as may be prescribed by law, shall be administered in public.”

[Article 37 of the Constitution](#) expands this by allowing a person or body, duly authorised by law, to exercise prescribed judicial functions and powers, in matters other than criminal matters.

In the 2021 Supreme Court case of [Zalewski v Workplace Relations Commission](#)³⁰ Justice O’Donnell held that legislation would be unconstitutional if it were to require a decision maker to determine a matter ‘otherwise than in public’, without giving the decision maker the option of conducting proceedings in public.³¹

The [Residential Tenancies \(Amendment\) \(No 3\) Bill 2024](#) was introduced in the Dáil on 24 July 2024. According to the Explanatory Memorandum to that Bill, a number of sections of the Bill proposed amendments to the 2004 Act to ensure that RTB hearings, in the context of

³⁰ [2021] IESC 24.

³¹ [Zalewski v Workplace Relations Commission](#) [2021] IESC 24 at [148] per O’Donnell J.

adjudication and sanctioning, can be heard in public to ensure compliance with Article 34 of the Constitution and the *Zalewski* judgment.³²

The Bill did not enter the second stage, having lapsed on 8 November 2024, on the dissolution of Dáil Éireann.³³

The Bill includes a number of amendments to the *Residential Tenancies Act 2004* (the ‘2004 Act’) first proposed in the lapsed *Residential Tenancies (Amendment) (No 3) Bill 2024*. These changes would ensure that determinations and hearings of the Residential Tenancies Board (RTB) may be held in public, aligning the 2004 Act with Article 34 of the Constitution and the *Zalewski* judgment.³⁴

The Constitution, property rights and rights to housing

There is no explicit right to housing in the Constitution. However, it is noteworthy that **Article 34(3) of the Charter of Fundamental Rights of the European Union** (the ‘Charter’) to which Ireland is bound provides:

“In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Union law and national laws and practices.”

However, this must be read in the context of Article 345 of the **Treaty on the Functioning of the European Union**, which provides:

“The Treaties shall in no way prejudice the rules in Member States governing the system of property ownership”.

³² **Explanatory Memorandum to the Residential Tenancies (Amendment) (No 3) Bill 2024**, p.5. It is noteworthy that the 2004 Act has a provision that currently requires the RTB Tribunal to conduct proceedings in public, unless it considers it appropriate to anonymise the parties to a dispute: see *Residential Tenancies Act 2004 s. 106*. However, the 2004 Act allows the Tribunal to make procedural rules (ss 109 and 148AF).

³³ **‘History of this Bill’**, Residential Tenancies (Amendment) (No 3) Bill 2024 (Bill 63 of 2024).

³⁴ See **Explanatory Memorandum to the Housing and Residential Tenancies (Miscellaneous Provisions) Bill 2026**; Department of Housing, Local Government and Heritage, **‘General Scheme of the Residential Tenancies (Amendment) (No. 2) Bill 2025: Discussion’**, *Joint Committee on Housing, Local Government and Heritage debate*, 18 November 2025 and **Explanatory Memorandum to the Residential Tenancies (Amendment) (No 3) Bill 2024**.

Over the years, Irish courts have heard and determined a number of matters that touched on a right to housing.³⁵ In the case of *O'Reilly v Limerick Corporation*,³⁶ the Supreme Court found that there was no constitutional right to be provided with a certain minimum standard of basic material conditions in order to protect their dignity and freedom as humans. It was found that the application of distributive justice was a matter for the government, not the courts.³⁷ In the case of *Doherty v South Dublin County Council*,³⁸ the Justice Charleton in the High Court held that the Court could not require a local authority to provide a certain standard of accommodation. However, the judge did consider the possibility of the State being obliged to provide a level of welfare to an individual to vindicate that person's right to life, but only if this obligation were consistent with the State's other financial and administrative commitments.³⁹ The manner in which a right is framed is important too as fundamental rights that derive from the Constitution, may apply to citizens, non-citizens and even non-residents. As explained by Chief Justice Keane, in the Supreme Court decision in *Re Article 26 and ss 5 and 10 of the Illegal Immigrants (Trafficking) Bill 1999*:⁴⁰

“[A] person who is not entitled to be in the State cannot enjoy constitutional rights which are coextensive with the constitutional rights of citizens and persons lawfully residing in the State. There would, however, be a constitutional obligation to uphold the human rights of the person affected which are recognised, expressly or by

³⁵ See C. Stafford, 'The Case for a Judicially Enforceable Right to Housing' in (2017) 16(1) *Hibernian Law Journal*, pp 42-62.

³⁶ [1989] ILRM 181.

³⁷ See G. Hogan, G. Whyte, D. Kenny and R. Walsh, *Kelly: The Irish Constitution* (5th ed. Bloomsbury, 2018) at [7.3.283], [7.3.284]. See also *MhicMhathúna v Attorney General* [1995] 1 IR 484; *Sinnott v Minister for Education* [2001] 2 IR 545; *TD v Minister for Education* [2001] 4 IR 259. However, in the case of *Re Art 26 and the Health (Amendment) (No 2) Bill 2004* [2005] IESC 7, the Supreme Court was prepared to concede that persons with exceptional needs might have a constitutional right to shelter, but this right was not found to exist in the circumstances. Moreover, in the High Court case of *CA v Minister for Justice and Equality* [2014] IEHC 532, Justice MacEochaidh made an obiter statement that where State action results in a breach of human rights and the only remedy is the expenditure of public money, the Court may be entitled to order the State to act.

³⁸ [2007] IEHC 4.

³⁹ See G. Hogan, G. Whyte, D. Kenny and R. Walsh, *Kelly: The Irish Constitution* (5th ed. Bloomsbury, 2018) at [7.3.307]; C. Stafford, 'The Case for a Judicially Enforceable Right to Housing' in (2017) 16(1) *Hibernian Law Journal*, pp 42-62.

⁴⁰ *Re Article 26 and ss 5 and 10 of the Illegal Immigrants (Trafficking) Bill 1999* [2000] 2 IR 360 at p 410. See also G. Hogan, G. Whyte, D. Kenny and R. Walsh, *Kelly: The Irish Constitution* (5th ed. Bloomsbury, 2018) at [7.3.33]; Ms Justice Aileen Donnelly, 'Vindicating the Rights of Non-Citizens and Stateless Persons: An Irish Perspective', delivered to the Scientific and Advisory Council of the Constitutional Court of the Republic of Kazakhstan on 6 December 2024.

implication, by the Constitution, although they are not co-extensive with the citizen's constitutional rights."

The concept of a implied constitutional right to housing was considered by Justice Barrett in the High Court in *EBS Ltd v Kenehan*,⁴¹ and then again by Justice Faherty in *Ulster Bank Ireland Ltd v Costelloe*.⁴² Justice Barrett stated:⁴³

"There is no express right to housing in Irish law; but that is not to say that a qualified, as yet unrecognised, un-enumerated right pertaining to housing may not at some point be recognised by the courts as existing in and under the Constitution."

That said, any such recognition of a derived right would be subject to the doctrine of separation of powers as explained in the judgment of Justice Walsh in *East Donegal Co-operative Livestock Mart Limited*:⁴⁴

"... interpretation or construction of an Act or any provision thereof in conformity with the Constitution cannot be pushed to the point where the interpretation would result in the substitution of the legislative provision by another provision with a different context, as that would be to usurp the functions of the Oireachtas."

A number of EU countries including Spain, Belgium and Sweden protect the right to housing in their constitutions and in India, an implied constitutional right to housing has been found to exist.⁴⁵ Over the past number of years, there have been a number of attempts to push for either an express constitutional right to housing or the creation of a statutory right to housing. Each of these attempts has failed, with the relevant government suggesting that such a right to housing would conflict with the constitutional rights that protect private property.⁴⁶

⁴¹ [2017] IEHC 604.

⁴² [2018] IEHC 289.

⁴³ *EBS Ltd v Kenehan* [2017] IEHC 604 at [13].

⁴⁴ [1970] IR 317 at 343. See also the judgment of Justice Laffoy in *O'Donnell (a minor) v South Dublin County Council* [2007] IEHC 204 and G. Hogan, G. Whyte, D. Kenny and R. Walsh, *Kelly: The Irish Constitution* (5th ed. Bloomsbury, 2018) at [7.3.86].

⁴⁵ C. Thomas, 'A constitutional right to housing has expressive value but would it force government to act?' *TheJournal.ie*, 8 June 2021; C. Stafford, 'The Case for a Judicially Enforceable Right to Housing' in (2017) 16(1) *Hibernian Law Journal*, pp 42-62.

⁴⁶ Between 2009 and 2019, at least thirteen Private Members' Bills designed to tackle the 'housing crisis' were rejected by the government of the day: H. Hogan, 'Constitutional Right to Housing – An Unanswered Call', *Bar of Ireland Viewpoints*, 28 May 2025. See, for example, debates on the following Private Members Bills: **No Consent, No Sale Bill 2019**; **Residential Tenancies (Prevention of Family Homelessness) Bill 2018**; **Anti-Evictions Bill 2018**; **Residential Tenancies (Greater Security of Tenure and Rent Certainty) Bill 2018**; **Social and Affordable Housing Bill 2016**; **Thirty-fifth Amendment of the Constitution (Right to a Home) Bill 2016**.

The Constitution protects property rights in two separate articles, [Article 40.3](#) and [Article 43](#).

[Article 40.3](#) provides for a general protection of the personal rights of the citizen against “unjust attack”, and this extends to the protection of private property. This is further bolstered by [Article 43](#), which provides specifically for the protection of the institution of private property, stating that “[t]he State acknowledges that man, in virtue of his rational being, has the natural right, antecedent to positive law, to the private ownership of external goods.” The interaction of these separate articles has been the subject of much debate and some confusion, but the courts now consider them to be mutually reinforcing and complementary.⁴⁷

That said, the right to private property is not absolute. The Constitution provides for numerous qualifications to the right. The text of [Article 43](#) provides that the right “ought, in civil society, to be regulated by the principles of social justice” and should be reconciled with “the exigencies of the common good.” Similarly, in the language of [Article 40.3](#), the measure complained of must constitute an “unjust attack” on the right.⁴⁸

In *Blake v Attorney General*,⁴⁹ the Supreme Court took the view that the Act unjustly imposed the cost of achieving a social good for one section of society (low-income tenants) on another section of society (landlords within the scope of the Act). This was done without compensation, and without an opportunity for appeal or review, or regard to the financial situation of the individual landlord. The Court held the Act to be unfair and arbitrary, and an unjust attack on the property rights of the landlords affected.⁵⁰

The courts, in recent times, have considered the term ‘unjust attack’ within the framework of a proportionality analysis. The proportionality test was first set out in *Heaney v Ireland*,⁵¹ and was adopted in the property rights context by the Supreme Court in *Re Part V of the Planning and Development Bill 1999*.⁵² Where a legislative provision is found to interfere with a constitutional right in furtherance of some collective good, to be constitutionally valid, the provision must:

⁴⁷ A view previously held by the courts was that Article 43 merely protected the institution of private property generally, and that a litigant should rely on Article 40.3 if challenging a breach of their own personal right to private property (see *Central Dublin Development Association v Attorney General* (1975) 109 ILTR 69). The modern view is that these articles inform one another, and do not establish entirely separate protections: See, e.g., *Re Article 26 and the Employment Equality Bill 1996* [1997] 2 IR 321.

⁴⁸ See *Heaney v Ireland* [1994] 3 IR 593 and *Re Part V of the Planning and Development Bill 1999* [2000] 2 IR 321.

⁴⁹ [1982] IR 117.

⁵⁰ *Blake v Attorney General* [1982] IR 117.

⁵¹ [1994] 3 IR 593.

⁵² [2000] 2 IR 321.

1. Be rationally connected to the objective and not be arbitrary, unfair or based on irrational considerations;
2. Impair the constitutional right to the least extent possible; and
3. Be such that its effects on rights are proportional to the objective.⁵³

As shown by the rent pressure zone legislation and the temporary ban on evictions during the COVID-19 crisis, the constitutional rights to protection of private property may be impinged upon by the Oireachtas, legitimately, especially in situations of emergency. This has been further emphasised in the security of tenure provisions in the *Residential Tenancies (Miscellaneous Provisions) Act 2026*.

Hogan and Keyes suggest that “the courts have largely deferred to the Oireachtas in identifying socially desirable outcomes, provided the means employed to achieve those outcomes are not arbitrary and are proportionate to the outcome sought to be achieved”.⁵⁴ In exploring how the courts have approached property rights in a number of cases, Hogan and Keyes contend that a “few key principles” may be discerned as follows:

- “...any interference with property rights must be to meet a clearly identified social goal.”
- “...the means proposed to achieve the objective must be rationally linked to the hoped-for outcome. The proposed measure cannot be based on arbitrary, discriminatory or otherwise irrational considerations.”
- “...what amounts to an “unjust attack” will depend on a detailed examination of the measures themselves, but as McMahon J. noted in *J & J Haire*, it encompasses measures that are retroactive, irrational or unreasonable, discriminatory, or lack fair procedures.”
- “...the courts are conscious of the fact that, in emergency situations, the State should be able to take radical measures to preserve the well-being of the population at large, and conscious that the other branches of government are particularly well placed to respond to that crisis as it emerges.”⁵⁵

⁵³ *Heaney v Ireland* [1994] 3 IR 593 and *Re Part V of the Planning and Development Bill 1999* [2000] 2 IR 321.

⁵⁴ H. Hogan and F. Keyes, ‘The housing crisis and the Constitution’ *Irish Jurist* vol. 65, 2021, pp.87-118.

⁵⁵ H. Hogan and F. Keyes, ‘The housing crisis and the Constitution’ *Irish Jurist* vol. 65, 2021, pp.87-118.

Legislative proposal

The Housing and Residential Tenancies (Miscellaneous Provisions) Bill 2026 contains 50 Sections in 3 Parts. Part 1 (sections 1-3) contains preliminary and general provisions. Part 2 (sections 4-9) amends the *Housing (Miscellaneous Provisions) Act 2009*. Part 3 (sections 10-50) amends the *Residential Tenancies Act 2004*.

Purpose of the Bill

The Long Title of the Bill describes its purpose, as set out in the section on the purpose of the proposed legislation earlier in this Bill Digest. The main purposes are:

- additional requirements, relating to residency in the State, to be satisfied in order to be eligible for social housing support;
- an appeal of certain decisions relating to social housing support;
- to make provision in relation to the conduct of mediations, adjudications and Tribunal hearings by the Residential Tenancies Board; and
- to increase the penalties for certain offences under the *Residential Tenancies Act 2004*.

How the Bill proposes to address the policy problem and legislative gap

There is currently no provision in the Housing Acts requiring residency as an eligibility criterion for social housing support. As discussed already in the policy and legislative context section, a Department Circular, *Housing Circular 41 / 2012* ‘Access to social housing supports for non-Irish nationals – including clarification re Stamp 4 holders’ has provided policy and guidance on this matter to date.

The proposed new statutory provisions will now provide a statutory basis for the requirement that an applicant must be lawfully resident in the State and have a right to reside that is not temporary or short term in nature. The legislation will also add a new requirement that applicants are habitually resident in the state, consistent with the provisions already in place for certain welfare supports in social protection legislation.

During pre-legislative scrutiny of the previous *Housing Miscellaneous Provisions Bill 2024*, officials from the Department of Housing, Local Government and Heritage stated that the legal advice over the last number of years has been that the policy set out in *Housing Circular 41 /*

2012 needed to be underpinned in primary legislation and that this legislation has been approved by the Government on that basis.⁵⁶

Principal provisions of the Bill

Part 1 – Preliminary and General

Part 1 of the Bill contains sections 1 to 3. **Sections 1** and **2** are standard legislative provisions and provide for the short title of the Act and commencement information, and definitions for certain terms used in the Act.

Section 1(4) provides that this Act, other than *section 29*, shall come into operation on such day or days as the Minister for Housing, Local Government and Heritage may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions. *Section 29* proposes to amend [section 103](#) of the *Residential Tenancies Act 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 and shall commence on the date of commencement of [section 44](#) of the *Planning and Development (Housing) and Residential Tenancies Act 2016*.

Section 3 provides that subsections (3) and (4) of [section 39A](#) of the *Residential Tenancies Act 2004* are repealed (which requires 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 – Amendments to Housing Miscellaneous Provisions Act 2009

Part 2 of the Bill contains sections 4 to 9.

Section 4 states the “Act of 2009” as being the *Housing (Miscellaneous Provisions) Act 2009*.

Section 5 amends [section 2](#) of the “Act of 2009”, in the definition of ‘household’, by the substitution of “subject to sections 18A” for “subject to sections 20 and 84”. As set out below, Section 6 of the Bill inserts a new section 18A which defines the meaning of ‘household’.

Section 6 amends the “Act of 2009” by the insertion of the following new section 18A:

“**18A.** In this Chapter—

‘habitually resident’ shall be construed in accordance with section 20A;

⁵⁶ Houses of the Oireachtas, ‘General Scheme of the Housing (Miscellaneous Provisions) Bill 2024: Discussion’, April 2024.

‘household’ means—

- (a) a person who lives alone,
- (b) 2 or more persons who live together, or
- (c) 2 or more persons who do not live together but who, in the opinion of the housing authority concerned, have a reasonable requirement to live together;

‘lawfully resident’ shall be construed in accordance with section 20A.”.

Section 8 of the Bill, which is discussed below, seeks to insert a new section 20A to set out residency requirements.

Section 7 amends [section 20](#) of the “Act of 2009” by the insertion of the following:

- a) by the deletion of subsection (1) which provides for the definition of a ‘household’, and
- b) in subsection (2), by the substitution of “subject to and in accordance with this section, regulations made for the purposes of this section, and section 20A” for “subject to and in accordance with regulations made for the purposes of this section”.

Section 8 provides for the residency requirements for social housing and the appeals process.

This section seeks to insert a **new section 20A** after [section 20](#) in the “Act of 2009” setting out the residency requirements and includes the following provisions:

Section 20A(1) of the 2009 Act provides that a household shall not be eligible for social housing support unless at the time of carrying out the social housing assessment:

- (a) subject to subsection (2), each member of the household is lawfully resident in the State,
- (b) each member of the household is habitually resident in the State,
- (c) in the case of—
 - i. a member of the household who is a person referred to in subsection (3)(c), that member meets the conditions specified in subsections (8), and
 - ii. a member of the household who is a person referred to in subsection (3)(i), that member meets the condition specified in subsection (9) or, where applicable, the condition specified in subsection (10),

and

- (d) 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.

Section 20A(2) of the 2009 Act provides that members of the household that are children (within the meaning of the [Children Act 2001](#)) are not required to meet the eligibility criteria set out under subsection 1(a) in relation to lawful residence in the State.

Section 20A(3) of the 2009 Act sets out the following criteria for members of a household to 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 provision 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 the permission to reside for the member of the family of a qualified person who does not himself or herself qualify for international protection;
- 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.

Section 20A(4) of the 2009 Act 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 a class or classes of persons, being persons:

- a) to whom such permission (other than a permission referred to in paragraphs (d) to (h) of subsection (3)) as may be specified by the Minister has been given, in accordance with the law of the State, to be or to remain in the State, and
- b) where considered appropriate, who have been lawfully resident for such period immediately preceding the giving of the permission referred to in paragraph (a), as may be specified by the Minister.

Section 20A(5) of the 2009 Act outlines the matters that the Minister for Housing, Local Government and Heritage shall consider, in his or her opinion appropriate when prescribing a class or class of persons under subsection (4). These include the following:

- a) the nature and purpose of the permission given to persons of the class concerned;
- b) any condition to which the persons of that class are subject, including
 - (i) any condition as to duration of stay and engagement in employment, business or a profession in the State, and
 - (ii) any condition referred to in subsection (1)(d);
- c) where the duration of stay referred to in paragraph (b)(i) is a period of less than two years, any period immediately preceding the permission referred to in paragraph (a) during which that class of persons have been lawfully resident.

Section 20A(6) of the 2009 Act outlines class or classes of persons that the Minister shall not prescribe under subsection (4). These include:

- a) a class of persons subject to a condition referred to in subsection (1)(d), as discussed above, or
- b) a class of persons in respect of whom a permission has been given under [section 60](#) of the International Protection Act 2015.

20A(7) of the 2009 Act sets out the criteria that the housing authority shall take into consideration when determining whether a member of the household is **habitually resident** in the State. These include, in particular, the following:

- a) the length and continuity of the member's residence in the State;
- b) the length and purpose of any absence, by the member, from the State;
- c) the nature and pattern of the member's employment;
- d) the member's main centre of interest;
- e) the future intentions of the member concerned as they appear from all the circumstances.

20A(8) of the 2009 Act 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](#). These include:

- a) being lawfully resident in the State for a period of at least 3 months immediately prior to the day the application for social housing support is made by the household concerned, and

b) is:

- (i) in employment or self-employed in the State,
- (ii) a family member (within the meaning of the Regulations of 2015) of a person to whom subparagraph (i) applies, or
- (iii) a person to whom subparagraph (i) or (ii), as the case may be, no longer applies but who continues to reside in the State in accordance with the Regulations of 2015.

20A(9) of the 2009 Act provides for conditions attached to persons under subsection (3)(i), which applies to persons who are a member of class of persons prescribed under subsection (4). They must on the day the application for social housing support is made, been:

- a) lawfully resident for a period, or periods comprising a total, of at least 5 years during the period of 8 years immediately preceding the day the application was made, or
- b) lawfully resident for a period, or periods comprising a total, of less than 5 years during the period of 8 years immediately preceding the day the application was made and is, on that day, resident in the State in accordance with a permission specified under subsection (4)(a) that is—
 - (i) in force, and
 - (ii) a permission to reside in the State for a period that enables a person to be, on the date of expiration of that permission, lawfully resident in the State for a period, or periods comprising a total, of at least 5 years during the 8 years immediately preceding such date of expiration.

20A(10) of the 2009 Act provides for conditions attached to connected family of persons under subsection (3)(i). The effect of this subsection is that the connected person may, instead of meeting a condition referred to in subsection (9), meet the condition that the member is on the day that the application is made resident in the State in accordance with a valid permission under subsection 4(a).

20A(11) of the 2009 Act provides that for the purposes of subsection 1 in relation to eligibility at the time of the social housing assessment, a member of a household shall not be considered to be habitually resident in the State where the member is:

- a) a person who has made an application under Regulation 25 or 26 of the [European Union \(Subsidiary Protection\) Regulations 2013 \(S.I. No. 426 of 2013\)](#) (in this section referred to as the ‘Subsidiary Protection Regulations’) where the application has yet to be determined under the Subsidiary Protection Regulations,
- b) a person who has been notified under section 3(3)(a) of the [Immigration Act 1999](#) that the Minister for Justice, Home Affairs and Migration proposes to make a deportation order where that notification is in force, whether or not that person has made

representations under section 3(3)(b) of that Act, where the Minister has not yet made a decision as to whether a deportation order is to be made in respect of such person,

- 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 [Immigration Act 1999](#), where the deportation order concerned is in force,
- d) a person the subject of a deportation order (within the meaning of [section 51](#) of the [International Protection Act 2015](#)), where the deportation order is in force,
- e) a person the subject of a return order (within the meaning of [section 51A](#) of the [International Protection Act 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 [S.I. 548/2015 European Communities \(Free Movement of Persons\) Regulations 2015](#)), where the removal order is in force,
- g) a person the subject of a notification under [Regulation 21\(1\)](#) of [S.I. 548/2015 European Communities \(Free Movement of Persons\) Regulations 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 [International Protection Act 2015](#)),
or
 - (ii) has made, or is deemed under the [International Protection Act 2015](#) to have made, an application under [section 15](#) of that Act which has been refused under [section 47](#) of that Act,

or
- i. a person who has been given permission to reside in the State under [section 60](#) of the [International Protection Act 2015](#), where the permission concerned is in force.

20A(12) of the 2009 Act sets out definitions for the purposes of this section.

Section 8 of the Bill also proposes to insert a **new section 20B** into the “Act of 2009” setting out the ‘social housing appeal’ process for determinations made by a housing authority and includes the following provisions:

Section 20B(1) of the 2009 Act 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
- 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.

This social housing appeal is subject to subsection (2). 20B(2) of the 2009 Act provides that an appeal does not apply to a household in receipt of social housing support. No definition is provided for in the Bill for 'social housing support' though one can be found in [section 19](#) of the *Housing (Miscellaneous Provisions) Act 2009*.

Section 20B(3) of the 2009 Act provides that a social housing appeal under paragraph (a) or (b) of subsection (1) shall be on one or more of the grounds specified in subsection (4) only, and under subsection (1)(c) shall be on one or more of the grounds specified in subsection (5) only.

Section 20B(4) of the 2009 Act provides for the grounds on which a household may appeal a decision under subsection (1)(a) or (b) that they are not qualified for social housing support or are no longer qualified for such support. These grounds are that the housing authority was in error in finding that:

- a) the household exceeded the maximum income threshold applicable to the household concerned,
- b) the accommodation occupied by the household at the time of carrying out the social housing assessment would meet its housing need,
- c) alternative accommodation was available to the household that would meet its housing need,
- d) the household was not eligible under section 20(5) for social housing support,
- e) a member of the household required under section 20A(1)(a) to be lawfully resident was not so lawfully resident,
- f) a member of the household required under section 20A(1)(b) to be habitually resident was not so habitually resident,
- g) a member of the household required under section 20A(1)(c) to meet a condition specified in that section did not meet that condition, or
- h) a condition specified in section 20A applied to a member of the household.

Section 20B(5) of the 2009 Act provides the grounds on which a household may appeal a decision under section 1(c) regarding that a particular form of social housing support is the appropriate form of such support. These grounds are that the housing authority was in error in:

- a) not taking into account social housing support that was previously provided by a housing authority or was in error in relation to the social housing support that was taken into account,
- b) its description and classification of the household's need,

- c) its description of the household's specific accommodation requirements according to a particular category of household need,
- or
- d) its description of the household's accommodation need based on the composition of the household.

Sections 20B(6) to 20B(17) of the 2009 Act set out further details in relation to the social housing appeals process such as in relation to timeframes, documentation, and decision making procedures. An appeals officer shall decide on cases within 28 days of receipt of the appeal and provide reasons for the decision.

Section 9 provides for transitional provisions.

Section 9(1) states that the transitional provisions shall apply to the following:

- a) an application for social housing support where, before the coming into operation of section 8, the housing authority concerned has not yet determined the application,
- b) a review in accordance with regulations made under section 20 of the Act of 2009 of a social housing assessment where, before the coming into operation of section 8, the housing authority has not yet concluded the review, and
- c) a summary under section 21 of the Act of 2009 (Summary of Social Housing Assessments) where, before the coming into operation of section 8, the housing authority has not yet completed the summary.

Section 9(2) provides that the housing authority may give notice in writing to the household to which an application, a review or a summary, referred to in subsection (1) relates:

- a) stating that the household shall complete and submit to the housing authority a form prescribed by the Minister for the purposes of demonstrating that each member of the household satisfies the new provisions in relation to residency under section 20A(1)(b) and (d) and where applicable (c), and
- b) specifying a period of not less than 21 days from the date of the notice within which the form shall be submitted to the housing authority.

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 a housing authority shall, in determining an application, concluding a review or completing a summary, referred to in subsection (1), take into consideration information submitted in accordance with a notice given under this section.

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 is a member of a household to which a notice is given under this section and, in purported compliance with that notice, the person:

- 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 offence under subsection (6) may be prosecuted by the housing authority who gave the notice concerned to the household referred to in that subsection.

Part 3 Amendments to Residential Tenancies Act 2004

The Bill proposes a number of amendments to the *Residential Tenancies Act 2004* (the ‘2004 Act’).

Section 10 defines the term ‘Act of 2004’ as used in the Bill to mean the *Residential Tenancies Act 2004*.

Section 11 would insert a new definition of ‘personal data’ into section 4(1) of the 2004 Act. The term would be taken to have the same meaning as defined and used in *Regulation (EU) 2016/679* (the General Data Protection Regulation, or ‘GDPR’).

Section 12 seeks to amend section 6 of the 2004 Act, which relates to the service of notices. At present, notices and documents may be served on and given to a person. The amendment would clarify that both notices and documents may also be ‘issued to’ people. This amendment covers the wording of section 121 of the 2004 Act, under which the Director of the Residential Tenancies Board (RTB) ‘prepares and issues’ determination orders; the Director does not ‘make’ or ‘serve’ determination orders.

Section 13 of the Bill would amend section 9 of the 2004 Act to increase the penalties for a person found guilty of an offence under the 2004 Act. Where the person is liable to summary conviction the maximum fine would be increased from €3,000 (a class B fine) to a class A fine (currently €5,000), and the maximum prison sentence would be extended from six (6) months to twelve (12) months. The daily penalty for a continuing offence would also be increased from a maximum of €250 (class E fine) to a class D fine, currently €1,000.⁵⁷ The increased maximum penalties would not have retrospective effect and would only apply to offences committed after the commencement of this provision.

Section 14 of the Bill seeks to amend section 12 of the 2004 Act, which relates to the obligations of landlords. The amendments affect the general obligation on landlords at the start of a tenancy (commencing on or after 1 March 2026) to furnish on the tenant information

⁵⁷ See further *Fines Act 2010*.

outlining the registration details of the dwelling and explaining how the rent for the dwelling was set, and to send a copy of that notice to the RTB. The notice must be sent to the RTB within one (1) month of the date of commencement of the tenancy and any failure to comply with these obligations would make the landlord guilty of an offence.

If the RTB reasonably believes that a landlord has committed an offence, it would be empowered to serve on the landlord a formal fixed penalty notice (in the prescribed form) of €100 (or such amount as is prescribed, up to €500). The landlord would not be obliged to pay the penalty. The RTB will not institute a prosecution for a period of 28 days from the date of the notice and, if paid in full within the 28-day period, the RTB will not initiate a prosecution at all. Once paid, a payment is not recoverable. The RTB would have to issue a receipt and remit the amount paid to the Exchequer. If the landlord does not pay the fixed penalty within 28 days of the notice, the RTB may institute proceedings against the landlord for the offence. A landlord subject to a prosecution for an offence under this section may rely on a defence that the fixed penalty amount was paid within 28 days of the date of the fixed penalty notice.

These amendments would only apply to tenancies created after the provision has commenced.

The section would also clarify that the obligation to serve notice is not applicable to a landlord of a tenancy linked to social housing support provided by an approved housing body (AHB) referred to in section 3(4) of the 2004 Act or a tenancy linked to a cost rental dwelling, under [section 28 of the Affordable Housing Act 2021](#).⁵⁸

Section 15 of the Bill would insert a new section 22B into the 2004 Act, after section 22A, to empower the RTB to issue a fixed payment notice to avoid the need to prosecute an offence under sections 19(6A), 19(6C) or 22(4). These offences relate to a failure to comply with the statutory obligations relating to the setting of rent, and the serving of notices on the application of an exemption to the rent setting obligations and the setting of a new rent after a rent review.

The provision is similar to that proposed in section 14 of the Bill. It would provide that if the RTB has reasonable grounds for believing that a relevant offence has taken place, it may serve a formal fixed payment notice (in the prescribed form) of €200 (or such amount as is prescribed for the relevant offence, up to €1,000) on the alleged offender. The alleged offender would not be obliged to pay the penalty. The RTB will not institute a prosecution for a period of 28 days from the date of the notice and, if paid in full within the 28-day period, the RTB will not initiate a prosecution at all. Once paid, a payment is not recoverable. The RTB would have to issue a receipt and remit the amount paid to the Exchequer. If the alleged offender does not pay the fixed penalty within 28 days of the notice, the RTB may elect to institute proceedings for the offence. A person subject to a prosecution for a relevant offence

⁵⁸ Cost rental landlord obligations are outlined in [section 31 of the Affordable Housing Act 2021](#).

may rely on a defence that the fixed penalty amount was paid within 28 days of the date of the fixed penalty notice.

This section would only apply to the setting of rent and the serving of notices after the provision comes into effect.

Section 16 of the Bill seeks to amend section 56 of the 2004 Act to clarify that in a case where a valid contract of sale has been entered into for a dwelling, an affected tenant may only be compensated by way of damages, and any direction made by the RTB to give the tenant possession of the dwelling will not have effect. A valid contract for sale would only include a sale by a small landlord (an individual landlord of not more than three dwellings).

The **Explanatory Memorandum to the Residential Tenancies (Amendment) (No 3) Bill 2024** (p. 3) provides:

“The aim is to limit the interference of these new provisions with the conveyancing process and to provide balanced tenancy protections for both tenants and landlords and respect the constitutionally protected property rights of landlords.”

There appears to be a small typographical error in paragraph (a)(iii) of this proposed section of the Bill - reference to “section 18”, should be a reference to “section 118”.

Section 17 of the Bill seeks to amend section 64A of the 2004 Act, referred to as the ‘slip rule’. The proposed amendment applies to rent arrears warning notices (under section 67(3) of the 2004 Act), a notice of termination made by a tenant to a landlord (under section 68(3) of the 2004 Act) for a failure to comply with a tenancy obligation by the landlord and a notice of termination made by the landlord to the tenant (under section 34 of the 2004 Act) where the landlord has a valid ground for termination. The amendment would have the effect of extending the rule by specifying that the RTB may validate a relevant notice of termination, or an accompanying statutory declaration or statement, where it is affected by a slip or omission within the document or where the slip or omission occurred during the service of a relevant document and it is an immaterial slip or omission and the document is otherwise compliant.

The same amendment was proposed in the General Scheme of the Residential Tenancies (Right to Purchase) Bill 2023 (the ‘2023 General Scheme’) and again in the General Scheme of the Residential Tenancies (No 2) Bill 2025. During its pre-legislative scrutiny (‘PLS’) of the 2023 General Scheme, the then Joint Committee on Housing, Local Government and Heritage (the ‘2023 Committee’) sought clarity about the number of errors that could be rectified in one document using the slip rule.⁵⁹

⁵⁹ Although expressing support of the expansion of the slip rule, the representative from the Institute of Professional Auctioneers and Valuers (IPAV) stated that this provision in the Bill needed to be amended to “...make clear that one slip or omission contained within the document can be cured by the slip rule where appropriate to do so”. The representative noted that from the current provision it is not clear if slip

During the PLS hearings, stakeholders expressed concerns regarding the expansion of the slip rule to include statements and statutory declarations. Threshold, in their presentation to the 2023 Committee, noted that statutory declarations are documents that have a legal standing, and contended that they should be treated with a higher standard, stating:

“...strict compliance with the formalities of ending a tenancy is the least a tenant can expect when being evicted from their home. We find the proposal to apply the slip rule to statutory declarations particularly worrying. Statutory declarations are an established mechanism for ensuring veracity across the legal landscape. Threshold does not feel that amendments which allow for a lax approach to be taken around compliance are permissible in any context, not least in that of landlord and tenant law in the private residential sector”.⁶⁰

In the [Report on Pre-Legislative Scrutiny of the General Scheme of the Residential Tenancies \(Right to Purchase\) Bill 2023](#), the 2023 Committee asked the Department to “clarify in the legislation whether the slip rule applies to multiple errors or just one error” and recommended that the Department “provide clear guidance for adjudicators on what is an acceptable application of the slip rule varying by document type”.⁶¹

In the [Report on Pre-Legislative Scrutiny of the General Scheme of the Residential Tenancies \(Amendment\) \(No. 2\) Bill 2025](#) (p. 20) the Joint Committee on Housing Local Government and Heritage (the ‘Committee’) noted the differing views on the expansion of the ‘slip rule’ presented by stakeholders during PLS hearings. A representative of the Irish Property Owners Association told the Committee that the proposed amendment to slip rule made ‘perfect sense’ as a ‘tiny’ mistake should not affect the validity of the notice of termination. Threshold on the other hand, were vehemently opposed to any expansion of the ‘slip rule’. In their opening statement they stated that allowing errors in statutory declarations to be corrected after the fact would undermine the integrity of the notification process.⁶²

This proposed amendment would only affect notices, statements and statutory declarations served after the date of commencement of the provision.

or omission should be understood in the singular or plural: IPAV, [General Scheme of the Residential Tenancies \(Right to Purchase\) Bill: Discussion](#), Joint Committee on Housing, Local Government and Heritage, 5 December 2023.

⁶⁰ Threshold, [General Scheme of the Residential Tenancies \(Right to Purchase\) Bill: Discussion](#), Joint Committee on Housing, Local Government and Heritage, 5 December 2023.

⁶¹ See recommendations 9 and 10 of the Houses of the Oireachtas 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, p. 18.

⁶² Houses of the Oireachtas Joint Committee on Housing, Local Government and Heritage, [Report on Pre-Legislative Scrutiny of the General Scheme of the Residential Tenancies \(Amendment\) \(No. 2\) Bill 2025](#), December 2023, p. 20.

Section 18 of the Bill would amend subsection 65(4) of the 2004 Act to extend the maximum termination notice period that a landlord may specify in a notice of termination relating to a tenancy of less than six months in duration (a ‘non-Part 4 tenancy’), from 90 days to 120 days.

At present, the minimum termination notice period for a non-Part 4 tenancy is the same as the maximum, 90 days. The [Explanatory Memorandum to the Housing and Residential Tenancies \(Miscellaneous Provisions\) Bill 2026](#) explained that the proposed amendment was recommended by the RTB to ensure a higher level of fairness by minimising practical compliance difficulties for landlords.

This proposed amendment would only affect notices served after the date of commencement of the provision.

Section 19 of the Bill would amend section 66(2A) of the 2004 Act. The proposed amendment applies to rent arrears warning notices (under section 67(3) of the 2004 Act), a notice of termination made by a tenant to a landlord (under section 68(3) of the 2004 Act) for a failure to comply with a tenancy obligation by the landlord.

The amendment would extend the circumstances in which the RTB may allow a landlord or tenant to serve a valid remedial notice to situations where the RTB finds that the original notice was invalid due to an immaterial defect not just in the notice, but also if the immaterial defect was in a statement or statutory declaration accompanying the original notice or a notification related to the original notice. The way in which the amendment is drafted would only allow for the service of a ‘remedial notice’, not a remedial notification, statement or statutory declaration.

This proposed amendment would only affect notices (and accompanying documents) served after the date of commencement of the provision.

Sections 20 and 21 of the Bill seek to amend sections 71(1)(c) and 72 of the 2004 Act by increasing the minimum notice period to be given to a sub tenant of a notification of termination of the head tenancy, and of a non-contentious termination of the sub-tenancy, from 28 days to 90 days. These provisions would bring the minimum termination notice period applicable to sub tenancies into line with the minimum notice period to be served on a tenant of a non-Part 4 tenancy.

The proposed amendments would only affect notices served after the date that the provisions come into effect.

Sections 21(1)(c), 22, 27, 33, 37 and 48 of the Bill seek to amend sections 72(3), 78(1)(n), 99(4), 109(2)(d), 123(6)(b)(i) and 176(3) of the 2004 Act to update the statutory language, to reflect that the Director of the RTB ‘prepares and issues’ determination orders under section 121 of the 2004 Act; the Director does not ‘make’ them.

Sections 23 to 26 and 28 of the Bill propose various amendments to Chapter 4 of Part 6 of the 2004 Act, covering the work of mediators and adjudicators of the RTB. Amendments in sections 23(1)(a), 25(1)(c) and 28 of the Bill all reflect the need for the RTB and its officers to

administer justice in public, as held by the Supreme Court in the case *Zalewski v An Adjudication Officer and the Workplace Relations Commission*.⁶³ The provisions remove the general statutory requirement for mediators and adjudicators to maintain the confidentiality of the proceedings, while still ensuring that particulars are kept confidential when the subject of mediation proceedings.

The proposed amendments provide for 10 working days, rather than 10 calendar days, as a ‘cooling-off period’ for parties to a mediation or adjudication agreement. It is also proposed that the Director of the RTB must prepare and issue a determination order as soon as practicable after a mediation agreement is reached between the parties.

Section 25(1)(b) of the Bill proposes to insert new subsections 97(8) and 97(9) into the 2004 Act after subsection 97(7). When a matter relates to alleged anti-social behaviour or a danger posed to a dwelling under sections 76 and 77 of the 2004 Act, these would allow an adjudicator to receive and consider evidence from a person that could be affected. Where the adjudicator believes on reasonable grounds that an alleged failure, behaviour or breach has occurred and a person would be deterred or prevented from giving evidence, by violence or threat of violence, the adjudicator may receive as evidence a statement from a member of the Gardaí or an officer of a housing authority.

The proposed amendments would only affect an action that takes place after the date that the relevant provision comes into effect.

Section 29 of the Bill seeks to amend section 103 of the 2004 Act, to allow a One-Person Tribunal to request the RTB to refer a particular complaint or dispute to a Three-Person Tribunal. However, as the affected subsections of section 103 were inserted into the 2004 Act by section 44 of the *Planning and Development (Housing) and Residential Tenancies Act 2016* (the ‘2016 Act’), any amendments will not come into effect until section 44 of the 2016 Act has been commenced.

Section 30 of the Bill seeks to make amendments to section 104 of the 2004 Act. It would shorten the minimum notice period that the RTB would have to give the disputing parties from 21 days to 10 days before the proposed hearing date. This amendment would only affect notices served after the date of commencement of the provision.

The section also proposes that where the Tribunal hears a dispute that has been referred to it under section 94 or 96(2) or an appeal under section 100, it must consider any advice provided by the *Money Advice and Budgeting Service* (MABS), under section 67(3A) of the 2004 Act, when making its determination.

Section 31 of the Bill would insert new subsections 105(1A) and 105(1B) into the 2004 Act, after subsection 105(1). When a matter relates to alleged anti-social behaviour or a danger posed to a dwelling under sections 76 and 77 of the 2004 Act, these new subsections would

⁶³ [2021] IESC 24.

allow the Tribunal to receive and consider evidence from a person that could be affected. Where the Tribunal believes on reasonable grounds that an alleged failure, behaviour or breach has occurred and a person would be deterred or prevented from giving evidence, by violence or threat of violence, the Tribunal may receive as evidence a statement from a member of the Gardaí or an officer of a housing authority.

The proposed amendment would only affect a matter referred to the Tribunal after the date that the provision comes into effect.

Section 32 of the Bill seeks to substitute a new section 106 into the 2004 Act. The new section would require that all proceedings heard by the Tribunal must be conducted in public unless the Tribunal determines (in accordance with section 109 of the 2004 Act) that, due to the existence of special circumstances, the part or all of the hearings should be conducted otherwise than in public. This section reflects the need for the RTB and its officers to administer justice in public, as per *Zalewski v An Adjudication Officer and the Workplace Relations Commission*.⁶⁴

The section also proposes to clarify that it would be an offence for a person to knowingly or recklessly publish any personal data of a party to proceedings that are not held in public, but officers of the RTB acting in good faith and in line with their functions would be immune from prosecution.

The proposed amendment would only affect a matter or complaint referred to the RTB after the date that the provision comes into effect.

Section 34 of the Bill would remove the general statutory obligation of confidentiality from adjudicators for adjudications that have been arranged after the provision comes into effect. This reflects the need for the RTB and its officers to administer justice in public, as per *Zalewski v An Adjudication Officer and the Workplace Relations Commission*.⁶⁵

Section 35 of the Bill would amend section 115 of the 2004 Act by adding a new subsection (2A) after subsection (2) and adding a new subsection (6) after subsection (5). In line with proposed section 16 of the Bill, this section proposes to limit the capacity of the Tribunal to make a declaration allowing the tenant to return or continue in possession of the dwelling where the landlord has entered into a valid contract of sale for the dwelling. A valid contract for sale would only include a sale by a small landlord (an individual landlord of not more than three dwellings).

The provision would also limit the amount that an adjudicator or the Tribunal may direct to be paid to a party to a dispute including costs and expenses to the jurisdictional limit of the Circuit Court in an action for tort (**currently €75,000 for actions other than personal injury actions**).

⁶⁴ [2021] IESC 24.

⁶⁵ [2021] IESC 24.

Section 36 of the Bill seeks to insert a new subsection (9) after section 121(8) of the 2004 Act which would empower the Director of the RTB to formally notify the parties, to correct any mistake (including any omission) of an administrative or clerical nature in a determination order issued after the date of commencement of the provision.

Section 37 of the Bill would amend section 123 of the 2004 Act. The provision would align the circumstances when determination orders become binding, irrespective of the dispute resolution mechanism used by the parties. For both mediation and adjudication, a determination order would be binding after the relevant cooling off period or immediately where no cooling off period applies, unless the matter is referred or appealed to the Tribunal. If the relevant provisions in Chapter 4 of Part 6 of the 2004 Act are amended by sections 23 and 26 of the Bill, the relevant cooling off period for a mediation determination or an adjudication agreement will be 10 working days, the same as for an adjudication determination under section 100(2) of the 2004 Act.

Under this provision, in appeal cases from a determination of the Tribunal on a point of law to the High Court, the High Court would be empowered to enforce an existing, or a variation of an existing, determination order. The High Court could also direct the Director of the RTB to prepare and issue a fresh determination order, amend part of a determination order and/or rehear the matter in whole or part, with a mind to issuing a fresh determination order. The High Court would also be empowered to make ancillary order which may include orders affecting possession of the dwelling or payment of rent. The RTB would be empowered to furnish any information to the register of the High Court to assist the Court, including, if requested, the personal public service number of any party. The High Court would also be empowered to extend the statutory period of 21 days within which a party may make an appeal on a point of law to the High Court should an affected party apply for an extension citing a good and substantial reason, and circumstances, outside of the control of the applicant, resulted in the need for an extension.

Finally, where part or all of an adjudication or Tribunal hearing is not held in public on foot of special circumstances, this provision would require the RTB to redact relevant personal data of the parties concerned from the published determination order.

Section 38 of the Bill proposes amendments to section 124 of the 2004 Act affecting enforcement of determination orders in the District Court. The proposed changes would limit the grounds under which the District Court could refuse enforcement. The District Court would be obliged to make an order if it is satisfied that a determination order is issued to the alleged defaulting party (respondent) and that the respondent has failed to comply with one or more terms of the determination order.

The provision would specify that where the applicant is not the RTB, the respondent would need to give the RTB at least 10 working days' notice of an intention to oppose an application for enforcement in the District Court on grounds that the determination order has not been issued or it ought to be cancelled. This would not affect the RTB's right to attend and be heard in the District Court proceedings. The proposed provision also aims to clarify that the money

limit for the District Court proceedings are the same as those in the Circuit Court for an action for tort (**currently €75,000 for actions other than personal injury actions**).

The proposed amendments would only affect an application to the District Court made after the date that the provision comes into effect.

Section 39 of the Bill seeks to substitute a new section 125(4) into the 2004 Act that would be necessary should section 38 of the Bill be brought into effect. It would apply to circumstances where the determination order requires a dwelling to be vacated after the service of a valid notice of termination, served because the tenant failed to pay rent due. The provision would continue to allow the District Court, prior to hearing or considering evidence, to require the tenant to lodge in court or pay to the applicant the rent due and continuing to be due as a result of the continued occupation of the dwelling.

The proposed amendment would only affect an application to the District Court made after the date that the provision comes into effect.

Sections 40 to 42 of the Bill would amend sections 137(6), 137A and 138 of the 2004 Act to allow the RTB to increase all its registration fees and its late registration fees in line with inflation, and to clarify that tenancies registered by Approved Housing Bodies may be subject to late registration fees. Section 42 would also update the base fees (subject to inflation) listed in section 138 of the 2004 Act to reflect the base fees introduced by amendments to sections 137 and 137A of the 2004 Act by the **Residential Tenancies (Amendment) Act 2019**. The proposed sections would also correct technical errors affecting cross-references in these sections.

Neither predecessor of this Bill (the **Residential Tenancies (Amendment) (No 3) Bill 2024** nor the General Scheme of the Residential Tenancies (Amendment) (No 2) Bill 2025) included equivalent provisions affecting fees. Therefore, these represent new policy initiatives that have not been the subject of pre-legislative scrutiny.

Section 43 of the Bill aims to amend section 144 of the 2004 Act to empower the RTB to issue a fixed payment notice to avoid the need to prosecute an offence of failing to comply with a ‘further notice’ to register a dwelling with the RTB.

The structure of the provision is similar to that proposed in sections 14 and 15 of the Bill. It would provide that if the RTB has reasonable grounds for believing that a relevant offence has taken place, it would be able to serve a formal fixed payment notice (in the prescribed form) of €100 (or such amount as is prescribed for the particular offence, up to €500) on the alleged offender. The alleged offender would not be obliged to pay the penalty. The RTB would not institute a prosecution for a period of 28 days from the date of the notice and, if paid in full within the 28-day period, the RTB would not initiate a prosecution at all. Once paid, a payment would not be recoverable. The RTB would have to issue a receipt and remit the amount paid to the Exchequer. If the alleged offender did not pay the fixed penalty within 28 days of the notice, the RTB would be able to elect to institute proceedings for the offence. A person

subject to a prosecution for a relevant offence would be able to rely on a defence that the fixed penalty amount was paid within 28 days of the date of the fixed penalty notice.

This section would only apply to a notice served after the provision comes into effect.

Section 44 of the Bill would amend section 144A of the 2004 Act to remove an obligation on the RTB to prosecute a landlord for an offence of a failure to comply with a ‘further notice’ requiring the landlord to inform the RTB of a change in rent, to allow the RTB to update the Register. The proposed amendment would make the decision to prosecute discretionary. The proposed section would also empower the RTB to issue a fixed payment notice on a landlord in a similar manner to that proposed in sections 14, 15 and 43 of the Bill.

It would provide that if the RTB has reasonable grounds for believing that a relevant offence has taken place, it would be able to serve a formal fixed payment notice (in the prescribed form) of €100 (or such amount as is prescribed for the particular offence, up to €500) on the alleged offender. The alleged offender would not be obliged to pay the penalty. The RTB would not institute a prosecution for a period of 28 days from the date of the notice and, if paid in full within the 28-day period, the RTB would not initiate a prosecution at all. Once paid, a payment would not be recoverable. The RTB would have to issue a receipt and remit the amount paid to the Exchequer. If the alleged offender did not pay the fixed penalty within 28 days of the notice, the RTB would be able to elect to institute proceedings for the offence. A person subject to a prosecution for a relevant offence would be able to rely on a defence that the fixed penalty amount was paid within 28 days of the date of the fixed penalty notice.

This section would only apply to a notice served after the provision comes into effect.

Section 45 of the Bill seeks to amend section 145 of the 2004 Act. Under the current provision the RTB is empowered to enter and inspect premises where an application to register a tenancy has been made. It does not currently cover situations where no application for registration has been made. The proposed provision would extend the power of the RTB to enter and inspect any premises, at all reasonable times, for the purposes of forming an opinion as to whether the premises are the subject of a tenancy, whether the premises or a tenancy should have been registered, and whether relevant particulars have been provided and are accurate. The proposed power to enter and inspect would be made subject to the consent of the occupier or a warrant from the District Court. The power would also be limited to circumstances in which the RTB has reasonable grounds for believing that there has been a failure to comply with the statutory registration requirements.

Section 46 of the Bill seeks to amend section 148AG of the 2004 Act to reflect the proposed introduction of fixed payment notices (in place of criminal proceedings) for certain offences.⁶⁶ The amendment to subsection (1) would mean that if a sanction is imposed, the RTB would be

⁶⁶ See the [Explanatory Memorandum to the Housing and Residential Tenancies \(Miscellaneous Provisions\) Bill 2026](#).

prohibited from issuing a fixed payment notice. In a reverse situation (under subsection (2)), where a fixed payment notice has been issued, the RTB would no longer be able to impose a sanction.

Section 47 of the Bill aims to amend section 161 of the 2004 Act to empower a Deputy Director of the RTB to act in the capacity of Director whenever the Director is unable to perform the role or when the office of Director is vacant. Any statutory function performed by a Deputy Director in the capacity of the Director would be deemed to be function performed by the Director.

Currently, there is no provision in the 2004 Act to cover a situation where the Director is not able to perform the role or where the role of Director is vacant. The Director may delegate any statutory functions, but this would require a positive act of delegation, and the Director continues to be accountable for the performance of those functions.

Section 49 of the Bill would involve an amendment to Schedule 2 of the 2004 Act to expand the RTB's powers of investigation and sanction by providing that the 'improper conduct' by a landlord would include a failure by a landlord at the start of a tenancy (commencing on or after 1 March 2026) to serve a notice on the tenant outlining the registration details of the dwelling and explaining how the rent for the dwelling was set, or a failure to send a copy of that notice to the RTB within one (1) month of the date of commencement of the tenancy. However, if section 14 of the Bill came into effect, where the tenancy is linked to social housing support provided by an approved housing body (AHB) or a tenancy linked to a cost rental dwelling, under [section 31 of the Affordable Housing Act 2021](#), any such failure by the landlord would not be 'improper conduct'.

Section 50 of the Bill represents another proposed amendment to align the 2004 Act with the constitutional requirement for the RTB to administer justice in public, as identified in the case of [Zalewski v An Adjudication Officer and the Workplace Relations Commission](#).⁶⁷ At present, an oral hearing that is conducted in relation to an investigation or sanctioning by an officer of the RTB must be held "otherwise than in public". The proposed amendments to Schedule 3 of the 2004 Act would require an oral hearing to be conducted in public, unless the officer of the RTB determines, that due to the existence of special circumstances the hearing, or part of it, should be conducted otherwise than in public.

The proposed amendment would also provide that it would be an offence for a person to knowingly or recklessly publish any personal data of a party to oral hearings that are not held in public, but officers of the RTB acting in good faith and in line with their functions would be immune from prosecution.

This section would only apply to oral hearings conducted after the provision comes into effect.

⁶⁷ [\[2021\] IESC 24](#).

Implications and implementation issues

Eligibility for assessment

A number of stakeholders such as Irish Human Rights and Equality Commission (IHREC) and the Mercy Law Resource Centre have raised concerns around the inclusion of habitual and lawful residency as a prerequisite to social housing eligibility assessment. IHREC states that it appears that the legislation is proposing to put the policy position in [Housing Circular 41/2012](#) on access to social housing supports for non-Irish nationals on a statutory footing, as well as adding habitual residence as a requirement.⁶⁸

IHREC claims that the Circular has proven problematic in that it does not fully reflect current law and its application has resulted in the unlawful exclusion of certain cohorts of people from accessing social housing supports.⁶⁹

“We have concerns that the habitual residence condition as it is applied under social welfare law, and the lawful residency requirement under the Circular, have a discriminatory and disproportionate effect on structurally vulnerable groups and ethnic minority communities.”

Some stakeholders such as Mercy Law Resource Centre and Threshold have also raised concerns around the need for all members of a household to meet the eligibility criteria and the unintended consequences that this might potentially create.^{70,71} According to the Mercy Law Resource Centre:⁷²

“the rigid requirement that all family members in a household can demonstrate lawful and habitual residence in the State, rather than facilitating discretion on the part of the decision maker, could result in determinations relating to housing rights of families that are disproportionate and which do not align with common sense and reason.”

⁶⁸ Irish Human Rights and Equality Commission, ‘[Submission to the Minister for Housing, Local Government and Heritage on the General Scheme of the Housing \(Miscellaneous Provisions\) Bill 2024](#)’ pg. 8, June 2024.

⁶⁹ Irish Human Rights and Equality Commission, ‘[Submission to the Minister for Housing, Local Government and Heritage on the General Scheme of the Housing \(Miscellaneous Provisions\) Bill 2024](#)’ pg. 10, June 2024.

⁷⁰ Mercy Law Resource Centre, ‘[Submission to the Joint Oireachtas Committee on Housing, Local Government and Heritage on the General Scheme of the Housing \(Miscellaneous Provisions\) Bill 2024](#)’ pg. 4, May 2024.

⁷¹ Threshold, ‘[Threshold’s Observations on the General Scheme of Housing \(Miscellaneous Provisions\) Bill 2024](#)’, April 2024.

⁷² Mercy Law Resource Centre, ‘[Submission to the Joint Oireachtas Committee on Housing, Local Government and Heritage on the General Scheme of the Housing \(Miscellaneous Provisions\) Bill 2024](#)’ pg. 4, May 2024.

According to these stakeholders, some of the unintended consequences may include families losing entitlement to social housing supports, such as the housing assistance payment, or being forced to live in overcrowded and unsuitable accommodation.

During pre-legislative scrutiny, the Department of Housing, Local Government and Heritage (DHLGH) stated that at present a social housing assessment would include all household members. This is because one household member could for instance already have a property and so the whole household needs to be assessed together. For this reason, they see the proposal as consistent with the existing process.⁷³

Section 8 of the Bill now provides, under a new subsection 20A(2) of the 2009 Act, that the [lawful residency requirements](#) shall not apply to a member of a household who is a child. However, all members of the household must be [habitually resident](#).

Appeals process

As part of the PLS process, a number of stakeholders such as Threshold, Simon Communities of Ireland, Mercy Law Resource Centre, Focus Ireland and Community Law & Mediation raised concerns previously about the absence of an appeals process provided for in the Bill. It was stated by the Simon Communities of Ireland that this stands in contrast to provisions such as those found under the [Social Welfare Consolidation Act 2005](#) (and subsequent amendments) where if an applicant is unsatisfied with the outcome of their application for a social welfare payment, they may appeal to the [Social Welfare Appeals Office](#).⁷⁴

Such a process has now been included in the Bill under section 8. However, as set out under the new subsection 20B(2) which section 8 proposes to insert into the 2009 Act, this appeal process does not apply to a household in receipt of social housing support. Further clarity might be useful in terms of why this provision is needed.

Impact on access to emergency accommodation

During the PLS process, a number of stakeholders such as Mercy Law Resource Centre, Simon Communities of Ireland, Threshold and Community Law & Mediation, have expressed concerns about the conflation of social housing eligibility criteria with eligibility for homeless services by local authorities and as a consequence the need to ensure that the Bill does not impact on eligibility for homeless services.⁷⁵

⁷³ Houses of the Oireachtas, '[General Scheme of the Housing \(Miscellaneous Provisions\) Bill 2024: Discussion](#)', April 2024.

⁷⁴ Houses of the Oireachtas, '[General Scheme of the Housing \(Miscellaneous Provisions\) Bill 2024: Discussion](#)', April 2024.

⁷⁵ Houses of the Oireachtas, '[General Scheme of the Housing \(Miscellaneous Provisions\) Bill 2024: Discussion](#)', April 2024.

According to the Mercy Law Resource Centre, this conflation most commonly occurs through a stated requirement that a person must be on the social housing waiting list of that local authority in order to be considered for access to emergency accommodation. The Simon Communities of Ireland also report that there is a practice among local authorities of denying or creating a hierarchy of access to emergency accommodation based on entitlement to social housing, particularly based on ‘local connection.’ They have called for it to be explicitly stated in primary legislation that *“any limitation of access to social housing support does not have any impact on the humanitarian support of emergency accommodation.”*⁷⁶

During pre-legislative scrutiny, the DHLGH indicated that homeless assessments carried out under the *Housing Act 1988* are not impacted by this legislation as it is a separate process. They stated that it’s a matter for a local authority to determine if a person is homeless and that includes whether the person has alternative accommodation.⁷⁷

Compatibility with EU law

As part of the PLS process, a number of stakeholders such as Community Law and Mediation⁷⁸, the Simon Communities of Ireland⁷⁹, and Mercy Law Resource Centre⁸⁰, have previously raised concerns about the compatibility of the legislation with EU law in relation to areas such as the habitual residence test. In their view, the proposals do not fully reflect EU freedom of movement of law, in that they fail to distinguish between EEA citizens exercising free movement rights as workers, as against those exercising free movement rights generally. They also believe that the list of categories of persons deemed legally resident in the State is incomplete and does not reflect people who have arrived to reside in the country under other European case law.

⁷⁶ Simon Communities of Ireland, ‘[Submission to the Joint Oireachtas Committee on Housing, Local Government and Heritage on the General Scheme of the Housing \(Miscellaneous Provisions\) Bill 2024](#)’ pg. 5, April 2024.

⁷⁷ Houses of the Oireachtas, ‘[General Scheme of the Housing \(Miscellaneous Provisions\) Bill 2024: Discussion](#)’, April 2024.

⁷⁸ Community Law and & Mediation, ‘[Opening Statement](#)’, April 2024.

⁷⁹ Simon Communities of Ireland, ‘[Submission to the Joint Oireachtas Committee on Housing, Local Government and Heritage on the General Scheme of the Housing \(Miscellaneous Provisions\) Bill 2024](#)’ pg. 2, April 2024.

⁸⁰ Mercy Law Resource Centre, ‘[Submission to the Joint Oireachtas Committee on Housing, Local Government and Heritage on the General Scheme of the Housing \(Miscellaneous Provisions\) Bill 2024](#)’ pg. 12, May 2024.

Pre-legislative scrutiny

Overview of pre-legislative scrutiny (PLS)

The General Scheme of the *Housing (Miscellaneous Provisions) Bill 2024* was referred to the Joint Committee on Housing, Local Government and Heritage. One PLS hearing was held on the **23 April** 2024 and included the following witnesses:

- Mr. Pat Dennigan and Mr. Mike Allen (Focus Ireland)
- Mr. Wayne Stanley and Ms. Rebecca Hamilton (Simon Communities of Ireland)
- Ms. Ann-Marie O'Reilly and Mr. Zak Murtagh (Threshold)
- Ms. Rose Wall and Ms. Mary Heavey (Community Law and Mediation)
- Mr. David Kelly, Mr. Vincent Colgan, Mr. Liam Murray, Ms. Sarah Neary, Mr. John Wickham and Ms. Dorothy Kellegher (Department of Housing, Local Government and Heritage).

The Joint Committee subsequently published its PLS findings in May 2024 in its **Report on the Pre-Legislative Scrutiny of the General Scheme of the Housing (Miscellaneous Provisions) Bill 2024**.

The Joint Committee's PLS report made 5 recommendations in total related to various parts of the General Scheme of the Bill. These are detailed in Table 7 below.

Table summary of PLS recommendations

This section seeks to assess the extent to which the Committee's recommendations have been addressed in the Bill, as presented for Second Stage. To do this, a traffic light system is used by the L&RS, indicating whether a key issue is accepted and reflected in the Bill, whether a consistent or unclear approach is used, and whether the recommendation has not been accepted or is not reflected in the Bill. Where relevant, an additional categorisation is used for recommendations that were not implemented in the Bill, but where additional considerations are present. This traffic light approach represents the L&RS's own, independent analysis of the Bill, and a key to this dashboard is shown in Table 6.

Table 6: Key to traffic light dashboard comparing the Bill as published with Committee PLS recommendations

L&RS categorisation of the Department's response in the Bill to the Committee's key issue	Traffic light dashboard used in Table summary of PLS recommendations to highlight impact of the Committee's PLS conclusion
Key issue has clearly been accepted and is reflected in the Bill	
The Bill may be described as adopting an approach consistent with the key issue or the impact of the key issue is unclear	
Key issue has not been accepted or implemented in the Bill	
Recommendation has not been implemented in the Bill, but additional considerations are present	

Table 7: Traffic light dashboard comparing the Bill as published with Committee PLS recommendations.

Commentary/recommendation as per Committee report	Whether addressed (either in whole or in part) in the Bill ⁸¹	
Key Issue 1: Lack of an appeals process and the complexity of the Habitual Residency Condition Requirement		
The Committee recommends that a robust and independent appeals mechanism be included in the legislation. Given the complex nature of assessing habitual residency, this appeals process should not be operated by local authorities; rather, it should be centrally operated in order to ensure that a level of expertise can be built up over time.		The Bill puts in place a new statutory appeals mechanism for local authority decisions relating to social housing eligibility and assessment. (s20B) of the Bill - <i>social housing assessment decision appeals</i> provides that the chief executive of the local authority will appoint an appeals officer who did not make the original determination and who is in a more senior role. The appeals officer shall be independent in the performance of his or her functions. They can confirm the original determination, vary the original determination or set aside the determination and, where the appeals officer considers it appropriate, make an alternative determination. Detailed guidance will be issued supported by ongoing local authority information and practice information sharing, workshops etc. in collaboration with the Housing agency.

⁸¹ The response text in this column is taken directly from the Department of Housing, Local Government and Heritage's email communication to the L&RS on 9 June 2026. The response was received from the Department following the routine request, as part of the preparation of Bill Digests, from the L&RS to Departments in respect of Bills that have undergone PLS and the extent to which the resulting Bill has adopted the recommendations made by the relevant Joint Committee.

Commentary/recommendation as per Committee report	Whether addressed (either in whole or in part) in the Bill ⁸¹	
		The Department and the Housing Agency will work closely to ensure a standardised approach to the implementation of the new provisions. Ongoing monitoring of the volume of appeals and outcomes will be monitored.
Key Issue 2: Habitual Residency Condition Requirement as a precursor to eligibility assessment rather than an element of eligibility assessment		
The Committee recommends further clarity be provided in the legislation as to whether residency and the Habitual Residency Condition (HRC) are to be an additional eligibility criterion, or form a precursor to an eligibility assessment.		The determination of lawfully residency and habitual residency will be an additional eligibility criterion and will be done as part of the overall assessment process. It will not be a precursor to an eligibility assessment. Section 8 of the Bill inserts 20A ‘Residency requirements’ which requires that each member of the household is lawfully resident in the State and each member of the household is habitually resident in the State. Children are exempt from the requirement to be assessed under the lawfully resident criteria for the purposes of social housing support.
The Committee recommends that if residency and the HRC are to form a separate prerequisite assessment, then due consideration must be given in legislation to ensure that it meets the requirements of fair procedure and natural justice.		The determination of lawfully residency and habitual residency will be an additional eligibility criterion and will be done as part of the overall assessment process. It will not be a prerequisite to an eligibility assessment.

Commentary/recommendation as per Committee report	Whether addressed (either in whole or in part) in the Bill ⁸¹
Key Issue 3: Application of eligibility criteria to all members of a household	
The Committee recommends that, given the potential number of people it would exclude from eligibility for social housing support, the requirement for all members of a household to be reckonably and habitually resident should be dropped.	 Under Section 20A(1), 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 in the State and each member of the household is habitually resident in the State. Under 20A(2), Children are exempt from the requirement to be assessed under the lawfully resident criteria for the purposes of social housing support. Under 20A(9), non-EU nationals (who have not been granted refugee status, subsidiary protection or permission to remain) or programme refugees, who have a prescribed permission from the Minister for Housing, Local Government and Heritage with the consent of the Minister for Justice, Home Affairs and Migration, must be lawfully resident for a period comprising a total of at least five years during the period of eight years immediately preceding application, or periods comprising a total of less than five years during the period of eight years and a current lawful permission that extends to potentially permit five years, or have indefinite permission to remain in the State. Under 20A(10), once the main applicant meets the five years or potential for five years criteria, his/her ‘connected member’ may be considered as part of a joint application provided on the day the

Commentary/recommendation as per Committee report	Whether addressed (either in whole or in part) in the Bill ⁸¹
	application is made, they are resident in the State in accordance with a permission that is in force. A ‘connected member’ in this context means a member of a household who is one of the following in relation to another member of the household - a spouse of the main applicant, a civil partner or a cohabitant. ‘Connected members’ of successful International protection applicants, EEA nationals availing of their right to enter and reside in the State, Irish Citizens and British Citizens may also be considered as part of a joint application provided on the day the application is made, they are resident in the State in accordance with a permission that is in force (as specified under section 4). All members of the household must be habitually resident.
Key Issue 4: Impact of proposed legislation on eligibility for homeless services	
A provision should be included in the legislation setting out explicitly that the HRC for the purposes of social housing does not and should not affect an individual’s or a household’s eligibility for access to emergency accommodation.	! The Government intends to bring forward committee stage amendments in relation to certain sections of the Housing Act 1988 and the Housing (Miscellaneous Provisions) Act 2009 relating to the provision of homeless services.

Source: Compiled by the L&RS.

Table 8 below also shows the status of two related PLS recommendations made by the Joint Committee on Housing, Local Government and Heritage in its scrutiny of the [Residential Tenancies \(Amendment\) \(No. 2\) Bill 2025](#).

Table 8: Traffic light dashboard comparing the Bill as published with Committee PLS recommendations.

Commentary as per Committee report		Whether addressed (either in whole or in part) in the Bill
Recommendation 5		
5. The Committee recommends that a definition of ‘at risk of homelessness’ should be included in the Housing Act 1988 , to ensure that the proposed hardship provisions in the Bill are applied consistently.		Being addressed in other legislation [as per DHLGH response in February 2026]. Further update awaited from DHLGH.
Recommendation 8		
8. The Committee recommends that, notwithstanding the funding announced in Budget 2026, the Residential tenancies Board should be fully funded and resourced to enable it to carry out its expanded responsibilities under the Bill.		Addressed [as per DHLGH response in February 2026].

Source: Compiled by the L&RS.