



Rialtas na hÉireann  
Government of Ireland

# Residential Tenancies (Amendment) Act 2021:

## What this Means for Landlords and Tenants

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# 1 Residential Tenancies (Amendment) Act 2021

## Introduction

The Residential Tenancies (Amendment) Act 2021 (the “2021 Amendment Act”) was enacted on 11 December 2021. All of the 2021 Amendment Act apart from sections 5, 6 and 7, came into force on that day.

The key changes in the 2021 Amendment Act relate to:

- (a) **Rent setting in Rent Pressure Zones** (“RPZs”) – from now, for tenancies in RPZs, setting the rent at the start of a tenancy and pursuant to a rent review is capped at 2% per annum pro rata, where HICP inflation is higher (see below). This change came into effect on 11 December 2021 (section 3 of the 2021 Amendment Act).
- (b) **Tenancies of unlimited duration** – all new tenancies created on or after 11 June 2022 will become tenancies of unlimited duration after 6 consecutive months in occupation under the tenancy, without a valid notice of termination having been served. A landlord will still have the right to terminate a tenancy on the specific grounds provided in the Residential Tenancies Act 2004 (as amended) (the “RTA 2004”). Transitional measures are provided in the 2021 Amendment Act in relation to the conversion of existing tenancies to tenancies of unlimited duration over time (section 5 of the 2021 Amendment Act).
- (c) **Temporary registration fee waiver** – from a date to be decided in Q1 2022, all tenancies will be required to be registered annually with the Residential Tenancies Board (“RTB”). There will be temporary fee waivers for certain tenancies (section 7 of the 2021 Amendment Act).

Detailed guidance will be provided on [www.rtb.ie](http://www.rtb.ie) in relation to tenancies of unlimited duration and the temporary fee waiver, closer to the time when they come into operation.

**This guidance note explains the new changes introduced by the 2021 Amendment Act in relation to setting rent in RPZs.**

## Background

Section 19(1) of the RTA 2004 prohibits any rent being set that exceeds market rent.

From 16 July 2021, the Residential Tenancies (No. 2) Act 2021 introduced a new method for landlords to calculate how to set rent in an RPZ. Prior to that Act, rents in RPZs could not be increased by more than 4% annually. The Residential Tenancies (No. 2) Act 2021 provided that any rent increase in an RPZ could not exceed general inflation, as recorded by the Harmonised Index of the Consumer Price (“HICP”) and published in the RTB HICP Table on [www.rtb.ie](http://www.rtb.ie)

This measure was aimed at improving the operation of the residential rented sector and protecting tenants, particularly during a sustained period of constrained supply in the private rental accommodation sector which has been negatively impacted by Covid-19.

## Method for Landlords to Calculate Rent Increases in an RPZ (from 16 July 2021 to 10 December 2021)

Prior to the 2021 Amendment Act, calculations were based on the RTB Rent Pressure Zone Calculator producing a percentage increase in HICP values between the date the previous rent was set and the date the new rent was set and applying that percentage to the current/ most recent rent amount, to produce the maximum permissible rent increase in line with any HICP inflation.

The RTB Rent Pressure Zone Calculator has been updated to incorporate the 2% p.a. pro rata cap, referred to directly below.

## Revised Method for Landlords to Calculate Rent Increases in an RPZ taking into account the new cap from 11 December 2021

With effect from 11 December 2021, section 3 of the 2021 Amendment Act amends the rules around setting the rent for a tenancy in an RPZ. These rules apply both to setting the rent at the start of the tenancy and during the tenancy by way of rent review (subject to the exemptions explained below). In summary, while the previous rules prohibited any rent increase in an RPZ from exceeding general inflation (as recorded by HICP), there is now a new condition that provides that the rent previously set, cannot increase by more than 2% per annum pro rata, where HICP inflation is higher. Section 19 of the RTA 2004 is amended for this purpose.

This new cap on rent increases in RPZs is considered necessary given the prevailing high level of inflation (5.4% in the year to end November 2021 per CSO data).

### Practical examples

Examples of how the rent increase restrictions apply in practice are set out below. You might wish to use the RTB Rent Pressure Zone Calculator to better understand these examples.

#### Example 1

A rented property is located in an RPZ. A tenant moved in on 11 December 2020 and a rent of €1,800 was set. The landlord is entitled to review the rent following 12 months from the tenancy commencement date and proceeds to enter the relevant details in to the RTB Rent Pressure Zone Calculator on 11 December 2021. The calculator informs the landlord that the maximum increase in rent permissible is €36. This is because the new rules that have been introduced state that rents cannot increase by more than 2% per year pro rata, where HICP inflation is higher. As the HICP inflation for the period of time between the rent first being set and then being set pursuant to the rent review is 5.2%, the 2% per year pro rata cap applies. The new maximum rent for the property is €1,836, which represents a 2% per year pro rata increase ( $€1,800 \times 2\% \text{ p.a.}$ ).

#### Example 2

A rented property is located in an RPZ. A tenant moved in on 11 December 2016 and a rent of €1,400 per month was set. Five years later, on 11 December 2021, the landlord decides to review the rent and proceeds to enter the relevant details in to the RTB Rent Pressure Zone Calculator. The calculator informs the landlord that the maximum increase in rent permissible is €92. This is because the new rules that have been introduced state that rents cannot increase by more than 2% per annum pro rata, where HICP inflation is higher. As the HICP inflation for the 5-year period between the rent first being set and reviewed is 6.6%, this applies as it is lower than the cap of 2% per annum pro rata (2% per annum for 5 years = 10%). The new maximum rent for the property is €1,492, which represents a 6.6% increase in accordance with HICP inflation ( $€1,400 \times 6.6\% = €92$ ).

## General information on rent setting

It is important to note that rent setting occurs on the date that the prescribed notice of rent review is served, i.e. issued to the tenant giving a minimum 90 days' notice of the date the rent will become payable.

A copy of the prescribed notice of rent review can be found on [www.rtb.ie](http://www.rtb.ie)

A landlord is not permitted to impose a rent increase that is greater than the amount determined by the RTB Rent Pressure Zone Calculator, which can be found on the RTB's website [www.rtb.ie](http://www.rtb.ie)

A rent review can only occur once every 12 months in an RPZ and once every 24 months outside an RPZ. A rent review occurs on the date the rent review notice is served. If there has been a substantial change in the nature of the accommodation, a rent review may be permitted more frequently. Visit [www.rtb.ie](http://www.rtb.ie) for further details.

## RTB Rent Pressure Zone Calculator

The RTB is required to establish and maintain a Rent Pressure Zone Calculator.

When using the new Rent Pressure Zone Calculator, the user will need to enter:

- the date that the rent was previously set (this is the date that the tenancy commenced or the date the landlord previously set and served the notice of rent review); and
- the amount of rent previously set (this is the rent amount payable since the commencement of the tenancy or since the rent was last set pursuant to a rent review).

Landlords should use the RTB Rent Pressure Zone Calculator when setting rents to which the RPZ rent control applies. They should sign and serve (issue) any notice of rent review on the same date as reviewing the rent. Landlords should also save a screenshot or print a copy of the calculation made on the RTB Rent Pressure Zone Calculator.

The calculator may indicate that no rent increase is allowed. In addition, and irrespective of the calculation made, there is no obligation on a landlord to increase the current rent amount and there is no legal obstacle to a rent reduction.

## Exemptions to RPZ rent increase restriction (HICP/2% p.a. pro rata cap)

There are exemptions to the rules on setting the rent in RPZs, as mentioned above. These exemptions are outlined below and where they apply the rent set must not exceed "market rent".

"Market rent" is the rent a willing tenant not already in occupation would give and a willing lessor would take on the basis of vacant possession and having regard to the other terms of the tenancy and the letting values of properties of a similar size, type and character to the rented property and situated in a comparable area.

### Start of a tenancy:

The HICP/2% p.a. pro rata cap in RPZs, do not apply to tenancies where:

1. The property has not been rented for a period of two years prior to the immediate tenancy commencement date. Thereafter, all rent reviews must adhere to the RPZ rent increase restrictions.
2. The property is, or is in, a protected structure or a proposed protected structure and the property has not been rented for a period of 12 months prior to the immediate tenancy commencement date.

### Rent reviews:

The HICP/2% p.a. pro rata cap in RPZs do not apply to rent reviews where there has been a 'substantial change' in the nature of the accommodation.

For there to be a 'substantial change' one of the following criteria must apply:

1. The works carried out to the property concerned consist of a permanent extension to the property that increases the floor area by an amount equal to not less than 25% of the floor area of the property as it stood immediately before the commencement of those works, or
2. Result in the BER rating being improved by not less than 7 building energy ratings, or
3. Result in any 3 or more of the following:
  - (i) the internal layout of the property being permanently altered;
  - (ii) the property being adapted to provide for access and use by a person with a disability, within the meaning of the Disability Act 2005;
  - (iii) a permanent increase in the number of rooms in the property;
  - (iv) the BER being improved by not less than 3 building energy ratings, where the property has a BER of D1 or lower; or
  - (v) the BER being improved by not less than 2 building energy ratings, where the property has a BER of C3 or higher.

In addition, to qualify for the exemption from the RPZ rent increase restriction, the works carried out and identified under the exemptions above, cannot solely consist of works carried out for the purposes of complying with a landlord's obligations under 12(1)(b) of the RTA 2004, including to meet the minimum standards for residential rental accommodation.

If a landlord wants to rely on one of the above exemptions for the purposes of a rent review, he or she must fill in the prescribed Notice of Exemption from RPZ Rent Restrictions, attach relevant supporting documentation and send it to the RTB within one month of the rent review notice being served. This Notice can be found on the RTB's website [www.rtb.ie](http://www.rtb.ie)

### Sanctions where a landlord does not comply with the new RPZ rent increase restrictions

The RTB has an Investigation and Sanctions unit dedicated to investigating certain potential breaches by a landlord of the RTA 2004.

The breaches of the RTA 2004 that the RTB can investigate are referred to as "Improper Conduct". Improper Conduct includes where a landlord does not comply with the RPZ rent increase restrictions.

Where it is found that Improper Conduct has occurred, the result can be a sanction of a caution, and/or a fine of up to €15,000 and up to €15,000 costs against the landlord. Any monetary sanction imposed is paid to the exchequer.

The Investigations and Sanctions unit can start an investigation either as a result of information received from members of the public or as a result of information gathered from records that the RTB has access to under the RTA 2004, including registration data and RPZ exemption data.

A potential breach of rental law as outlined above can be brought to the attention of the Investigations and Sanctions unit by:

- (a) calling the dedicated unrecorded phone line on 0818 776297 or 01 6753724;
- (b) emailing the RTB at [investigations@rtb.ie](mailto:investigations@rtb.ie); or
- (c) making a formal complaint.

The formal complaint form and more information about the Investigations and Sanctions process can be found on the RTB's website [www.rtb.ie](http://www.rtb.ie)

## 2 RTB Dispute Resolution Services

### RTB Dispute Resolution Services

The RTB encourages tenants and landlords to discuss problems promptly, keep lines of communication open and respect each other's positions. If the problem cannot be resolved, registered landlords and all tenants can apply to the RTB for dispute resolution.

### Telephone Mediation

Mediation is a free service offered by the RTB that allows two or more disputing parties to resolve their conflict in a mutually agreeable way with the help of a neutral third party, a mediator. Mediation is usually carried out by telephone, which is a faster and more convenient option. The aim of mediation is to give landlords and tenants a shared understanding of the issue, so they can work towards reaching a mutually satisfactory outcome and agreement. The mediation process is not based on 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's website [www.rtb.ie](http://www.rtb.ie)

The key benefit of telephone mediation is that case parties do not have to go to a specific venue to partake in the mediation and they do not have to meet face to face with other case parties. Over 70% of cases which enter telephone mediation result in an agreement. Types of mediation agreements that the RTB regularly see are - rental payment plans being put in place, agreement of a new termination date, or a lowered rent amount due to the changing circumstances of the tenant, however, with the tenancy continuing successfully. If you are interested in telephone mediation, please email [disputes@rtb.ie](mailto:disputes@rtb.ie) or visit the RTB's website, for more information.

### Adjudication

The fee for adjudication is €15 for an online application for dispute resolution and €25 for a paper application. This involves a hearing before an independent adjudicator, where both the landlord and tenant present their evidence and the adjudicator makes a binding decision. Adjudication hearings are currently taking place virtually via MS Teams, as well as in person. Although adjudication proceedings and the adjudicator's report are confidential, it is important to remember that the Determination Order will be published on the RTB website and will list the names of the case parties and the rental property address. For more information on adjudication, please visit the RTB's website [www.rtb.ie](http://www.rtb.ie)

### Tenancy Tribunal

If a case party is unhappy with the outcome of either mediation or adjudication, the case can be referred to a three-person tenancy tribunal, who are appointed to review the case and evidence again and make a final decision. The fee for lodging an appeal to a tenancy tribunal is €85 if submitted online and €100 if submitted by paper. Tribunal reports are published in full on the RTB website. More information on tribunals can be found on the RTB's website [www.rtb.ie](http://www.rtb.ie)



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