

Self-Declaration Form for Landlords*

Before completing a Self-Declaration form, please read the information below.

Landlords have been granted new rights under the Planning and Development, and Residential Tenancies, Act 2020 (the PDRTA). A landlord may serve a Self-Declaration form upon a tenant and the RTB in certain circumstances (identified below) and, as a result, the protections under the PDRTA shall not or will no longer apply to a tenant. In July 2021, the Residential Tenancies (No.2) Act 2021 introduced an amendment to the PDRTA to extend the application of the tenancy protections for a further six months from 13 July 2021 to 12 January 2022.

The protections under Part 3 of the PDTRA do not apply in the following circumstances:

- where on 10 January 2021, a tenant is in rent arrears of an amount equal to 5 months' rent or more; or
- where a tenant does not serve a notice on the RTB seeking assistance to obtain MABS advice.

Where the PDRTA protections do not apply, the usual termination procedures apply with a 28 day notice of termination to be given by a landlord when terminating a tenancy on the grounds of rent arrears.

The protections under Part 3 of the PDRTA cease to apply to a tenant where the landlord serves a written declaration to the RTB, and copies it to the tenant, stating that:

- on the date of making the landlord declaration, the amount of rent owed by the tenant equals the value of 5 months' rent or more; or
- the tenant has failed or refused to provide the RTB or MABS with information or documentation required for the purpose of the tenant obtaining timely MABS advice; or
- the tenant has failed or refused to comply with the terms of an agreed rent payment arrangement with the landlord; or
- the application of the protections under the PDRTA to the tenant would cause **undue financial hardship** to the landlord.

The landlord is required to provide appropriate supporting information in his or her declaration, i.e. information which may be material or relevant to the question of whether or not any of the requirements under (i) to (iv) above are fulfilled.

Under the PDRTA, **undue financial hardship** would arise for the landlord where:

- he or she is a **relevant person**; or
- the rent in respect of the tenancy is the landlord's sole or main income; or
- the rented property is subject to a mortgage and the landlord is unlikely to be able to pay that mortgage if the rent due remains unpaid during the period from 11 January 2021 to 12 January 2022.

A landlord is a '**relevant person**' under the PDRTA if during the period from 1 August 2020 to 12 January 2022, he or she is in receipt of (or was entitled to receive):

- Illness Benefit for Covid-19 absence; or
- the Temporary Wage Subsidy or any other social welfare payment or State support paid as a result of loss of earnings due to Covid-19 (this includes the rent supplement or a supplementary welfare allowance).

Where a landlord is sending a Self-Declaration to the RTB and the tenant, the landlord must include with material or relevant to the Appendix 2, page 7.

- The landlord must submit Part A + Part B (original) + copies of 'material or relevant information' to the RTB.
- The landlord must issue Part B ('True copy') + copies of 'material or relevant information' to the tenant.

*Revised July 2021 to reflect the provisions of the Residential Tenancies (No.2) Act 2021.

Important notes

- ▶ **It is a criminal offence not to tell the truth on this form. You should be sure that the information you provide is correct. A person who makes a false declaration can be fined up to €4,000 and/or imprisoned for up to 6 months.¹**
- ▶ The landlord must send the original copy of 'Part A: Landlord Contact Details,' 'Part B: Self-Declaration Form' to the Residential Tenancies Board (RTB) at PO Box 47, Clonakilty, County Cork or by email at rentarrears@rtb.ie. The landlord must also send to the RTB such information or documentation which is material or relevant to the Self-Declaration form (See above and **Appendix 2** for further information).
- ▶ A true copy of the 'Part B: Self Declaration Form' must also be sent to your tenant. The easiest way to serve a true copy is to photocopy Part B: Self-Declaration Form. On the true copy, please write "*I declare this is a true copy*" in block print and sign and date it. The landlord must also send to their tenant such information or documentation which is material or relevant to the Self-Declaration form (See above and **Appendix 2** for further information).
- ▶ Both the Self-Declaration and the true copy forms must be signed and dated.
- ▶ Please note, it is not a requirement to send a copy of 'Part A: Landlord Contact Details' (page 3) to the tenant. These details are used by the RTB to contact the Landlord.
- ▶ You should keep any proof that you have sent the declaration and **material or relevant information and documentation** to your tenant, e.g. by using registered post.
- ▶ Please see **Appendix 3 for sample letters that a landlord may use to serve the Self-Declaration form.**
- ▶ Subject to the tenant's consent to the use of electronic correspondence, a landlord can email a true copy of the Self-Declaration form to his or her tenant. Otherwise, a landlord can use the postal service.
- ▶ If you have a dispute with your tenant, you may be required to prove the Self-Declaration and **material or relevant information and documentation** was sent to both the RTB and the tenant. It is your responsibility, as the landlord, to prove this.
- ▶ The RTB will send you and your tenant an acknowledgement that it has received a declaration. It is important that you keep your own proof that you have sent it.
- ▶ By law, this declaration does not need to be witnessed. However, if you wish to do so, a witness can also sign the declaration.

¹ Pursuant to Section 9 of the Residential Tenancies Act 2004 (as amended).

Part A: Landlord Contact Details

Please ensure that you fill in all details on this page and so that the Residential Tenancies Board can contact you in relation to the documentation.

Please note: It is not a requirement to send a copy of 'Part A: Landlord Contact Information' page to the tenant.

First Name

Surname

Address

County

Eircode

Phone Number

Email

Part B: Self-Declaration Form

This declaration may be made in accordance with the Planning and Development, and Residential Tenancies, Act 2020 (the PDRTA).

Before making this declaration, please refer to the Guidance on the PDRTA on www.rtb.ie to satisfy yourself that the protections under that Act should not apply to the tenant; for example, where a tenant fills in a Self-Declaration to avail of the PDRTA protections would cause the landlord **“Undue Financial Hardship”**. **Please read the summary in Appendix 1, page 6 in relation to the definition of “Undue Financial Hardship”**.

It is a criminal offence to make a misleading declaration and you should be sure that the contents of your declaration are correct. A person who commits a criminal offence shall be liable on summary conviction to a fine not exceeding €4,000 and/ or imprisonment for a term not exceeding 6 months².

This declaration does not need to be witnessed although it is open to you to have a witness sign it or to bring it your solicitor for the same purpose.

First Name

Surname

Rental Address

County

Eircode

Registered Tenancy (RT) Number

Tenant Details

Tenant First Name

Tenant Surname

Tenant Company Name (if relevant)

I , the landlord of the above address, being aged 18 years and upwards, declare that for the purposes of the Planning and Development, and Residential Tenancies, Act 2020 that one of the following Grounds 1 - 4 applies to me³ (*tick as appropriate*):

² Pursuant to Section 9 of the Residential Tenancies Act 2004 (as amended).

³ Section 11(2)(c) of the Planning and Development, and Residential Tenancies Act 2020.

1. **Ground 1:** My tenant has not paid rent for 5 months or more, or, for such periods which total 5 months or more; or
2. **Ground 2:** My tenant has failed or refused to provide the RTB or the Money Advice and Budgeting Service (MABS) with information required for the purpose of the tenant obtaining advice from MABS; or
3. **Ground 3:** My tenant has failed or refused to comply with an arrangement to pay rent arrears owed in respect of the tenancy at the dwelling; or
4. **Ground 4:** That the application of the protections under Part 3 of the Planning and Development, and Residential Tenancies, Act 2020 to the tenant would cause “undue financial hardship” to me, the landlord.

For the purposes of Ground 4 “undue financial hardship”, the following grounds apply to me:

- ▶ I am a “relevant person” within the meaning of the Planning and Development, and Residential Tenancies, Act 2020 (See above for further information); or
- ▶ The rent in respect of the tenancy of the dwelling concerned is my sole or main income; or
- ▶ I am unlikely to be able to pay the mortgage on the dwelling under tenancy if the rent remains unpaid from 11 January to 12 January 2022.

I confirm that I understand it is a criminal offence for me to make this declaration if it is false or misleading.

I further confirm that I understand that I have an obligation to serve a true copy of this declaration on my tenant. I understand that if I do not serve a true copy of this declaration on my tenant this declaration may be deemed invalid.

Where I am relying on Ground 4 (“Undue Financial Hardship”) on the grounds that I am a “relevant person”, I confirm that having read and understood the definition “relevant person” in the Planning and Development, and Residential Tenancies, Act 2020, (a summary of the list of relevant persons is set out in **Appendix 1** (page 6), I am a “relevant person” for the purposes of the Planning and Development, and Residential Tenancies Act 2020.

Signed

Dated [date declaration was dated]

The RTB respects your privacy and is committed to complying with Data Protection law. For information on how the RTB handle your personal data, please refer to the RTB Privacy Statement at <https://www.rtb.ie/privacy-statement>.

Further information

Note / Appendix 1

Summary of “Undue Financial Hardship” and “Relevant Person”

Undue Financial Hardship:

Section 11 (4) of the Planning and Development, and Residential Tenancies, Act 2020 provides “Undue Financial Hardship” means that:

- ▶ A landlord must be a “relevant person” within the meaning of the Planning and Development, and Residential Tenancies, Act 2020 (See below for further information); **or**
- ▶ The rent in respect of the tenancy of the dwelling concerned is a landlord’s sole or main income; **or**
- ▶ A landlord is unlikely to be able to pay the mortgage on the property if the rent remains unpaid from 11 January 2021 to 12 January 2022.

Relevant Person:

Section 11 (6) of the Planning and Development, and Residential Tenancies, Act 2020 provides that a landlord may be a “relevant person” (within the meaning of “undue financial hardship”) where the landlord is currently (or at any stage between 1 August 2020 and 12 January 2022) in receipt of (or entitled to receive):

- ▶ Illness Benefit for Covid-19 absence, **or**
- ▶ the Temporary Wage Subsidy, **or**
- ▶ any other social welfare payment or State support paid as a result of loss of earnings due to Covid-19 (this includes the rent supplement or a supplementary welfare allowance).

Please note: This is a summary of the definition of “undue financial hardship” and “relevant person” only. The purpose of the summary is to assist you in determining if you are a relevant person but it is your responsibility to satisfy yourself that you are a “relevant person”.

The following links might be of further assistance to you:

- ▶ Section 11 of the Planning and Development, and Residential Tenancies, Act 2020: www.rtb.ie
- ▶ Section 5 of the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020: <http://www.irishstatutebook.ie/eli/2020/act/1/section/5/enacted/en/html#sec5>

Note / Appendix 2

Include material or relevant information/documentation in/with the Self-Declaration form:

- ▶ As noted above, where a landlord is sending a Self-Declaration form to the RTB and the tenant, the landlord must provide in/with the Self-Declaration form such information or documentation which may be **material or relevant** to the question of whether or not the landlord meets the requirements of Grounds 1, 2, 3 or 4.
- ▶ Failure to include information or documentation which is material or relevant may result in the Self-Declaration form being held to be false or misleading, which is an offence punishable by a fine of up to €4,000 and/or imprisonment for up to 6 months.
- ▶ The landlord should submit copies of relevant information or documentation only. A landlord should keep original information or documentation safely as it may be required at a later date, for example, in Dispute Resolution.
- ▶ Please note, it is not a requirement to send a copy of 'Part A: 'Landlord Contact Details' to the tenant. These details are used by the RTB to contact the landlord.
- ▶ The onus is on the landlord to black out any personal contact details or other sensitive information within the documentation provided with the Self-Declaration form.
- ▶ It is also the responsibility of the landlord to ensure that they obtain all necessary consents from third parties, referred to within information/documentation that is provided in/with the Self-Declaration form, before submitting such information or documentation to the RTB and the tenant.
- ▶ The following examples may be considered as information or documentation which is material or relevant:
 1. Rent Arrears Payment Plan agreed between the landlord and the tenant;
 2. Proof of receipt of, or entitlement to, illness benefit for Covid-19 absence at any time during the period from 1 August 2020 to 12 January 2022;
 3. Proof of receipt of, or entitlement to, the Temporary Wage Subsidy on or after 1 August 2020;
 4. Proof of receipt of, or entitlement to, any other social welfare payment paid for loss of earnings due to Covid-19 at any time during the period from 1 August 2020 to 12 January 2022;
 5. Bank account statements, as may be relevant;
 6. Proof that rent in respect of the rented dwelling concerned is a landlord's sole or main income;
 7. Proof that a landlord is unlikely to be able to pay the mortgage on the property if the rent remains unpaid from 11 January 2021 to 12 January 2022;
 8. Such other information as the landlord may consider material or relevant to the question of the landlord meeting the requirements of Grounds 1, 2, 3 or 4.

Note / Appendix 3

A letter template to issue to your tenant with a true copy of your Self-Declaration form

A true copy of 'Part B: Self-Declaration' form must be served on your tenant. You may use the letter template below when serving your tenant with the declaration. **When sending a true copy to your tenant we would suggest that you send a copy of the declaration and sign and date this document and keep it for your own record.**

Dear [Insert name of tenant],

Pursuant to section 11 of the Planning and Development, and Residential Tenancies, Act 2020, I have served a Declaration on the RTB stating that:

(Please omit any text below that is not relevant to your Self-Declaration form)

- 1. My tenant has not paid rent for 5 months or more, or, for such periods which total 5 months or more; or*
- 2. My tenant has failed or refused to provide the RTB or the Money Advice and Budgeting Service (MABS) with information required for the purpose of the tenant obtaining advice from MABS; or*
- 3. My tenant has failed or refused to comply with an arrangement to pay rent arrears owed in respect of the tenancy at the dwelling; or*
- 4. The application of the protections under Part 3 of the Planning and Development, and Residential Tenancies, Act 2020 to the tenant would cause "undue financial hardship" to me, the landlord.*

I am serving a true copy of the said declaration on you.

Yours sincerely,

[Insert Name]

[insert Date]

Onus of proof

If you are making a declaration in writing (and not by email) the Residential Tenancies Board (RTB) recommends that you retain proof of postage. You can do so by way of registered post. It is a matter for you as the landlord to ensure that you have proof that your declaration was served. If you subsequently have a dispute with your tenant, you may be required to prove that the declaration was sent to both the RTB and your tenant. It will be a matter for you as the landlord to prove this and the RTB, as part of its independent dispute resolution function, will take no responsibility for providing your Self-Declaration form to a decision maker appointed to resolve any dispute arising in your case.

The RTB may send you an acknowledgement that it has received a declaration and also write to your tenant that it has received a declaration. The RTB has no obligation to do so and this may not constitute conclusive proof that a declaration has been properly served.