

Guidance for landlords and tenants on rent arrears as a result of the Planning and Development, and Residential Tenancies, Act 2020¹

Background*

PART A

Part 3 (Residential Tenancies) of the Planning and Development, and Residential Tenancies, Act 2020 (the PDRTA) was introduced into law on 19 December 2020. On 30 March 2021, the Residential Tenancies Act 2021 introduced an amendment to the PDRTA to extend the application of the tenancy protections for a further three months from 13 April 2021 to 12 July 2021.

The PDRTA was enacted to provide for temporary modifications to the operation of the Residential Tenancies Act 2004. During the period from 11 January to 12 July 2021 and subject to certain conditions, a 90-day (rather than the usual 28 days) termination notice period applies, where a tenant is in rent arrears due to Covid-19 and is at risk of losing their tenancy. The earliest termination date allowed in such circumstances is 13 July 2021. Rent increases are prohibited for relevant tenancies until 13 July 2021, with no backdating allowed.

Further information and guidance on what steps are required for landlords and tenants under the Residential Tenancies of the Planning and Development, and Residential Tenancies, Act 2020 are contained in this document.

Part B and C at the end of this document contain the sample templates for the rent arrears warning notice and Notice of Termination.

New Rent Arrears Procedure

There is a new 10-step process which outlines the new rules and requirements under the PDRTA for both landlords and tenants relating to tenancy terminations due to rent arrears during the period of 11 January up to and including 12 July 2021. Failure to adhere to these steps will lead to a Notice of Termination being deemed invalid.

Please note that if the tenant meets the criteria below and subject to the new landlord rights under the PDRTA, he or she is not required to vacate their accommodation before the 13 of July 2021 and is not required to pay an increase in rent during the period up to and including 12 July 2021.

A tenant meeting the requirements can fill out the Self-Declaration Form at any time and follow the necessary procedures to benefit from the new PDRTA protections.

A landlord meeting the criteria for the new landlord rights under the PDRTA can fill out the Self-Declaration Form at any time and follow the necessary procedures to benefit from the new PDRTA protections.

The tenant and landlord Self-Declaration Forms can be found [here](#).

¹ This is not a legal document and should refer to the Residential Tenancies Acts 2004 to 2020. This is intended as a guide only. The RTB accepts no responsibility for inaccuracies, errors or omissions.

*Revised April 2021 to reflect the provisions of the Residential Tenancies Act 2021.

Step 1: A landlord must issue a warning notice to the tenant to pay back the rent arrears

Where a tenant has fallen into rent arrears, they should contact their landlord to see if the issue can be resolved or a mutually satisfactory agreement can be reached.

Please see further information and examples of agreement templates to aid tenants and landlords in reaching their own payment plans [here](#).

If it is not possible to resolve the issue of arrears, the landlord can proceed to serve a written rent arrears warning notice to give the tenant **a minimum of 28 days to pay the rent arrears**.

A landlord must serve a written rent arrears warning notice; an email or text message will not suffice. The warning notice must set out the full amount of rent arrears owed by the tenant and explain that failure to pay 100% of the rent owed within the time provided will result in a Notice of Termination being served.

The RTB has a sample warning notice for rent arrears to support landlords which can be found [here](#). The RTB would strongly encourage that you use this notice.

Step 2: Landlords must serve a copy of the written rent arrears warning notice to the RTB

Landlords must provide a copy of the 28-day written rent arrears warning notice that was served on the tenant to the RTB. The 28-day period will count from the date that both the tenant and the RTB have received the warning notice, so landlords are encouraged to send both notices at the same time.

Please note that failure to submit a copy of the warning notice to the RTB will invalidate any related Notice of Termination.

Step 3: RTB will write to the landlord and tenant upon receipt of the warning notice

The RTB will write to the landlord acknowledging receipt of the written rent arrears warning notice and will provide information on the new landlord rights under the PDRTA.

The RTB will also write to the tenant confirming that the RTB received a copy of the written rent arrears warning notice that was served on them. In writing to the tenant, the RTB will also provide information on income supports, availability of advice from MABS, a link to the Self-Declaration Form and relevant requirements to benefit from the new protections under the PDRTA.

Step 4: Where applicable, the tenant completes and submits a Self-Declaration Form to the RTB and sends a copy to their landlord and follows the procedures under the PDRTA

The new PDRTA protections are in place from 11 January 2021 to 12 July 2021 inclusive (or, if later, until the expiry of any 90-day notice of termination served on the ground of rent arrears during that period).

Where a tenant had not made a declaration under the RTVA on or before 10 January 2021, the new PDRTA protections can apply to a tenant if they follow the procedures and make a Self-Declaration that during the period from 1 August 2020 to 12 July 2021, 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);

and

as a result, is at significant risk of losing his or her tenancy.

Additional procedures for tenants to follow under the PDRTA:

- At the same time as making the written Self-Declaration to the RTB, a tenant must serve a notice on the RTB requesting assistance to obtain advice from the Money Advice and Budgeting Service (MABS); and
- **Within 5 days of making his or her Self-Declaration**, a tenant must serve a notice on his or her landlord seeking a consultation to make an arrangement to pay their rent due.

A tenant should retain proof that they have served a notice in writing on their landlord and the RTB, for example, postal record slips or emails.

Where the PDRTA protections do not apply:

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

The new protections shall cease to apply where:

- a tenant has failed or refused to comply with an agreement for payment of rent due under the tenancy;
- a tenant has failed or refused to provide information to the RTB or MABS which may be required for the purpose of MABS providing advice to a tenant;
- the application of the PDRTA protections would cause undue financial hardship to your landlord.

The tenant must include material or relevant information/documentation with the Self-Declaration Form:

Where a tenant is sending a Self-Declaration form to the RTB and the landlord, the tenant must provide such information or copies of documents which may be material or relevant to the question of whether or not, during the period from 1 August 2020 to 12 July 2021, the tenant 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);

and

as a result, is at significant risk of losing his or her tenancy.

Where a tenant complies with these obligations (and subject to new landlord rights outlined above):

- **that tenancy cannot be ended before 13 July 2021;**
- **the tenant must be provided with a minimum of 90 days' notice to end the tenancy; and**
- **their rent cannot be increased in respect of the period from 11 January 2021 to 12 July 2021 inclusive. New rent can take effect from 13 July 2021.**

The tenant must send an original copy of the Self-Declaration Form to the RTB at rentarrears@rtb.ie or PO Box 47, Clonakilty, County Cork. The tenant must also send a true copy of the Self-Declaration to their landlord. A true copy is a photocopy of the original document. However, in order for the document to be a true copy, it must also be signed, dated and state that the document is a true copy.

The RTB recommends use of certified or registered post unless the landlord consents to the declaration being sent electronically. Tenants are strongly advised to keep a copy of the form for their records and as

evidence of its submission to the RTB and their landlord. A landlord may dispute the validity of a Self-Declaration via the RTB's Dispute Resolution service.

Once the declaration form is received, the RTB will issue an acknowledgement letter to both the tenant and the landlord.

Step 5: Where a tenant has previously served a Self-Declaration Form under the RTVA in respect of the previous Emergency Period from 1 August 2020 to 10 January 2021

As explained above, where a tenant has previously served a valid Self-Declaration Form under the RTVA, a tenant might also need to comply with additional obligations under the PDRTA to benefit from the new protections until 12 July 2021. A tenant might need to fulfil certain obligations by **no later than midnight on 15 January 2021:**

- where a tenant has not already engaged with the RTB for assistance in obtaining MABS advice in relation to paying their rent due, he or she required to complete and serve a notice on the RTB by midnight 15 January 2021;
- where a tenant has not yet made an arrangement with his or her landlord for the payment of their rent due, he or she is required by midnight 15 January 2021 to complete and serve a notice on the RTB and to serve this further notice on their landlord to request a consultation to make an arrangement for the payment of the rent due.

Please note that it is **not** required that the rent payment arrangement be agreed by midnight 15 January 2021.

The tenant should retain proof that they have served a notice in writing on the RTB and their landlord, for example, postal record slips or emails.

Please note that where a tenant has already been in touch with the RTB for assistance to obtain advices for the Money Advice and Budgeting Service (MABS) and has a working rent payment arrangement in place with his or her landlord, the new PDRTA protections automatically apply. This means that any notice of termination relating to rent arrears under that tenancy cannot take effect before 13 July 2021 and rent increases cannot apply in respect of the period from 11 January to 12 July 2021 inclusive. New rent can take effect from 13 July 2021.

Step 6: RTB to assist tenant in obtaining MABS Advice

As explained above, where a tenant serves a Self-Declaration Form on the RTB, they must also serve a notice in writing on the RTB requesting assistance to obtain advice from MABS. Failure to do this will result in the protections not being applied.

Upon receipt of such a notice from a tenant, the RTB shall assist the tenant in obtaining advice from MABS.

Step 7: Landlord may serve a Self-Declaration Form

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:

- I. 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
- II. 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

- III. the tenant has failed or refused to comply with the terms of an agreed rent payment arrangement with the landlord; or
- IV. 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:

- a) he or she is a relevant person; or
- b) the rent in respect of the tenancy is the landlord's sole or main income; or
- c) 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 July 2021.

A landlord is a '**relevant person**' under the PDRTA if during the period from 1 August 2020 to 12 July 2021, 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).

The landlord must include material or relevant information/documentation with the Self-Declaration Form:

- Where a landlord sends a Self-Declaration form to the RTB and the tenant, he or she must provide such information or copies of documents which may be material or relevant to the question of whether or not the landlord meets the Grounds (i) – (iv) above.

The landlord must send an original, signed and dated copy of the Self-Declaration Form to the RTB at rentarrears@rtb.ie or PO Box 47, Clonakilty, County Cork. The landlord must also post a true copy of the Self-Declaration to their tenant. A true copy is a photocopy of the original document. However, in order for a document to be a true copy, it must also be signed, dated and state that the document is a true copy.

The RTB recommends use of certified or registered post unless the tenant consents to the declaration being sent electronically.

If a landlord Self-Declaration Form is received, the RTB will issue an acknowledgement letter to both the tenant and the landlord confirming receipt.

Step 8: Service of Notice of Termination

Landlord who has not received a Self-Declaration form from their tenant: If a tenant has not sent the landlord a Self-Declaration setting out that their rent arrears are a direct consequence of Covid-19, the landlord can proceed to serve a Notice of Termination for rent arrears based on the standard 28-day notice period. They can serve this once the 28-day warning notice has expired.

By law, from 1 August 2020, if Notice of Termination are served on tenants who: have not paid rent arrears during the minimum 28-day warning period and have not submitted a Self-Declaration Form to their landlord and the RTB, the notice period to end the tenancy is a minimum of 28 days.

Landlord who has received a Self-Declaration Form from their tenant: If a tenant has submitted their Self-Declaration Form confirming that Covid-19 has impacted their ability to pay rent, **that tenancy cannot be terminated until on or after 13 July 2021 and the tenant must be given a minimum 90 days' notice.** Please note that it is still open to a landlord to serve a valid Notice of Termination; however, the termination date must be on or after 13 July 2021.

Please also note that where a landlord has received a Self-Declaration Form from their tenant, no rent increase can take effect until the day after the expiry of the emergency period, i.e., 13 July 2021.

However, the protections of the PDRTA may not apply in certain circumstances where the tenant has not complied with their obligations (discussed above at Step 4 and 5). It is also open to a landlord to serve a Self-Declaration Form where they meet the requirements of the PDRTA (discussed above at Step 7).

Step 9: Landlords must serve a copy of the Notice of Termination to the RTB

A landlord must also send a copy of the Notice of Termination they have served on their tenant for rent arrears to the RTB (by email to rentarrears@rtb.ie or by post) on the same day they serve it on their tenant. Please note that if the landlord does not send the copy of the Notice of Termination to both the tenant and RTB, the Notice of Termination will be invalid.

Sample Notice of Termination for rent arrears can be found [here](#).

Step 10: RTB will contact the tenant informing them of their resolution options

Upon receipt of the Notice of Termination for rent arrears, the RTB shall notify the tenant in writing of his or her right to refer a tenancy termination dispute to the RTB for resolution within 28 days of receipt of the Notice of Termination. Tenants will also be reminded of their rights and responsibilities under the Residential Tenancies Act 2004, as amended regarding rental payments.

Tenants should ensure to keep copies of notices received, a copy of the Self-Declaration Form and proof that it was issued to their landlord and to the RTB. Tenants should also keep copies of the notice served on the RTB to receive advice from MABS, any relevant MABS advice, and the notice served on their landlord seeking to consult for the purpose of entering an agreement to pay rent arrears.

For more information and support regarding these new steps, please contact the RTB at www.rtb.ie.

PART B – SAMPLE WARNING NOTICE FOR RENT ARREARS

To: (insert name of tenant(s))

This notice relates to your tenancy of the dwelling at:

(insert address of rented dwelling)

(Town, County, Eircode)

(Insert Registration Number RT)

Current rent amount: (insert rent amount)

Rent is paid: Weekly Monthly Annually

You have failed to pay rent in accordance with your obligations under the Residential Tenancies Acts 2004 to 2020.

As of today, the (insert date) you owe rent arrears of € (insert amount).

(Please ensure the correct amount of arrears due at the time the warning notice is served is provided).

Failure to pay 100% of the monies owed by the expiry of the 28 days* entitles me to terminate your tenancy by serving a Notice of Termination on you.

This warning notice is served on: (insert date)

Signed:

(signature of Landlord or Authorised Agent)

Dated: (insert date)

Copying*: The Residential Tenancies Board by post to PO Box 47, Clonakilty, County Cork or by email to rentarrears@rtb.ie.

**Note: in accordance with section 67 of the Residential Tenancies Act 2004 as Amended, tenants should be given a minimum 28 days to pay the rent arrears.*

**Note: Landlords must submit a copy of the written rent arrears warning notice that was served on the tenant to the RTB. The 28-day period will count from the date that both the tenant and the RTB have received the warning notice, so landlords are encouraged to send both notices at the same time. Please note that failure to submit a copy of the warning notice to the RTB will invalidate any related Notice of Termination.*

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>

PART C – SAMPLE NOTICE OF TERMINATION FOR RENT ARREARS

To: (insert name of tenant(s))

Your tenancy at the dwelling of: (insert address of rented dwelling: Town, County, Eircode)

(Insert Registration Number RT)

will terminate on: (insert date)

(Please see Step 8 (Service of Notice of Termination) for the termination notice period relevant to your tenancy. Note: In respect of a Notice of Termination, for counting purposes, day 1 of the notice period begins on the day immediately following the date of service of the notice. The RTB recommends that you give additional days when calculating the required notice period to ensure sufficient notice is provided).

You must vacate and give up possession of the dwelling on or before the termination date.

The reason for the termination of the tenancy is due to the breach of tenancy obligations in that you have failed to pay rent on the dates it fell due for payment.

You have the whole of the 24 hours of the termination date to vacate and give up possession of the above dwelling.

Any issue as to the validity of this notice or the right of the landlord to serve it, must be referred for dispute resolution to the Residential Tenancies Board under Part 6 of the Residential Tenancies Acts 2004 to 2020 within 28 days from the date of receipt of it. This means that if you wish to dispute the validity of this notice, you must submit a dispute resolution application to the RTB within 28 days of receiving this notice.

This notice is served on: (insert date)

Signed:

(insert signature of Landlord or Authorised Agent)

Dated: (insert date)

Copying*: The Residential Tenancies Board by post to PO Box 47, Clonakilty, County Cork or by email to rentarrears@rtb.ie.

***Note:** You must serve a copy of the Notice of Termination on the Residential Tenancies Board on the same date as you serve it on the tenant(s). If you do not do this, then the Notice of Termination shall be deemed to be invalid.

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>