



The Residential Tenancies (No.2) Act 2021 (RTA(2) 2021) New Information for Landlords and Tenants

The RTA(2) 2021 was enacted and apart from section 6, came into operation on 9 July 2021. Section 6 which deals with rent setting came into operation on 16 July 2021.

The RTA(2) 2021

What do landlords & tenants need to know?

1. THERE ARE NEW RULES AS TO THE AMOUNT LANDLORDS CAN SEEK FOR A DEPOSIT AND/OR ADVANCE RENT PAYMENTS TO SECURE A TENANCY.

- There are now limits on the amount landlords can require anyone to pay to secure a tenancy:
 - A deposit cannot exceed more than one month's rent; and
 - An advance payment of rent cannot exceed one month's rent.

In other words, landlords cannot ask anyone to pay more than the equivalent of 2 months' rent in total to secure a tenancy.

- There is an exception to these new rules for students who occupy Student Specific Accommodation (SSA). A student is defined as a person registered as a student with a relevant provider (within the meaning of the Qualifications and Quality Assurance (Education and Training) Act 2012). They may pay more than one month's rent in advance if they wish to do so and with the agreement of the accommodation provider.
- If a landlord seeks from a person the payment of an amount which is more than the equivalent of 2 month's rent, that person can take a case to the RTB for dispute resolution. Information on the RTB Dispute Resolution Service can be found on [page 8] and on www.rtb.ie.
- During a tenancy, any advance rent payment cannot exceed an amount equivalent to 1 month's rent.
- The RTB has an Investigations and Sanctions unit dedicated to investigating certain potential breaches of the Residential Tenancies Act 2004 by a landlord. The breaches of the law that the RTB can investigate are referred to as

“Improper Conduct”. Improper conduct has been extended to include the seeking by a landlord of an advance payment of an amount more than the equivalent of 2 month’s rent.

- If it is found that a landlord has engaged in Improper Conduct, a sanction of a written caution and/or a sanction of up to €15,000 and a further €15,000 in costs can be imposed by an independent Decision Maker on the landlord. For further information on what can be investigated and how to inform the RTB of potential Improper Conduct please see <https://www.rtb.ie/legislation-change/investigations-and-sanctions>.

2. THERE ARE NEW RULES ON NOTICE PERIODS SPECIFIC TO STUDENT SPECIFIC ACCOMMODATION.

- Students who are residing at Student Specific Accommodation are only required to give 28 days’ notice to the provider of Student Specific Accommodation, if they want to terminate the tenancy arrangement. These students may give a longer period of notice if they wish, but there is no requirement in law to do so.
- Providers of Student Specific Accommodation must also provide a minimum of 28 days’ notice to end a tenancy agreement with a student tenant and are obliged to provide longer notice periods in accordance with Table 1 of section 66 of the Residential Tenancies Act 2004, as amended, in respect of tenancies of a longer duration than 6 months.
- Sample notices of termination for Student Specific Accommodation are available on www.rtb.ie.

3. THERE IS A NEW METHOD FOR LANDLORDS TO CALCULATE HOW TO SET RENTS IN A RENT PRESSURE ZONE (RPZ).

- Prior to the coming into operation of section 6 of the RTA (2) 2021, rents in RPZs could not increase by more than 4% annually. From 16 July 2021, section 6 provides that any rent increase in a RPZ cannot exceed general inflation, as recorded by Harmonised Index of the Consumer Price (HICP) and to be published in the RTB HICP Table on www.rtb.ie.
- The new ‘HICP rules’ under section 6 provide for any rent increase in an RPZ. When reviewing a rent amount, a landlord is strongly advised to use the RTB Rent Pressure Zone Calculator to ensure that any maximum rent increase calculated is not exceeded.

- It is important to note that rent setting occurs on the date that the prescribed notice of rent review is served on the tenant giving a minimum 90 days' notice of the date the rent will become payable. Further information and examples can be found further below in this document or on www.rtb.ie.
- Section 6 requires, the RTB to establish and maintain a Rent Pressure Zone Calculator and to publish a table of HICP values to assist both landlords and tenants understand how to lawfully set rents in RPZs. The RTB has created an easy-to-use Rent Pressure Zone Calculator to calculate any increase in rent in a RPZ for display on www.rtb.ie.
- Calculations are based on the new Rent Pressure Zone Calculator calculating the percentage increase in HICP values between the date the rent was last set and the date the new rent is 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 calculator may indicate that no rent increase is allowed. 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. Further information can be found in the FAQ below.
- A landlord is not permitted to impose a rent increase that is greater than the amount determined by the calculator.
- The RTB calculator will permit landlords to print off the calculations with a date stamp included and a related table of HICP values. Calculations should be confirmed and verified on the same date that the notice is served on the tenant. For further information, please refer to the FAQ below.
- These new HICP rent setting rules and the use of the Rent Pressure Zone Calculator apply to all private rented tenancies including tenancies and licenses in Student Specific Accommodation (SSA).
- Where a landlord is relying on an exemption from the RPZ rent increase restriction, he or she is required to send a notice to the RTB.
- All Local Electoral/Local Authority Areas that have been previously designated as a Rent Pressure Zone (RPZ) remain designated until 31 December 2024.
- The administrative areas of Cork City Council, Dublin City Council, Dún Laoghaire Rathdown County Council, Fingal County Council and South Dublin County Council were due to expire as RPZs on 31 December 2024. This expiry is now extended to 31 December 2024.

- The RTB has an Investigation and Sanctions unit dedicated to investigating certain potential breaches by a landlord of the Residential Tenancies Act 2004. The breaches of the Act that the RTB can investigate are referred to as “Improper Conduct”. Improper conduct has been extended to include where a landlord does not comply with the new RPZ rent increase restriction linked to HICP inflation.
- The rules around the frequency that landlords can serve rent review notices have been extended for a further 3 years until 31 December 2024. For tenancies outside of RPZs, landlords can serve a rent review notice every 24 months from the date the rent was last set. For tenancies inside a RPZ, reviews can occur every 12 months from the date the rent was last set.

FREQUENTLY ASKED QUESTIONS

SECURITY DEPOSIT AND RENT AMOUNT IN ADVANCE

What is a security deposit?

A security deposit is a sum of money that is paid by a tenant to the landlord usually before a tenancy commences or on the date of commencement of the tenancy. This deposit is held by the landlord and is returned at the end of the tenancy to the tenant, once no rent arrears, bills, or charges are due nor damage beyond normal wear and tear has occurred. The security deposit is considered the lawful property of the tenant until the landlord establishes a right to it.

What are the new rules that apply to deposit and rent amounts at the beginning of/during a tenancy?

The landlord can ask that you pay a deposit and rent in advance. However, any advance rent payment cannot exceed one month’s rent and any deposit cannot exceed one month’s rent. In other words, a tenant cannot be asked to pay more than two month’s rent in advance to secure a tenancy.

During a tenancy, the maximum rent amount payable in advance is one month’s rent.

If a landlord seeks more than the permitted amount they would be in breach of their legal obligations and liable to sanction or dispute resolution by the RTB.

Can I pay additional rent in advance if the dwelling is allocated as Student Specific Accommodation?

Yes, there is an exception to these new rules for students who occupy student specific accommodation. They may pay more than one month’s rent in advance if they wish to do so, and the accommodation provider agrees.

I am trying to secure a tenancy and the landlord is asking that I pay a deposit and rent in advance that is greater than the equivalent of two months' rent, what are my rights?

If the landlord tries to charge you more or says that you will not get the tenancy if you do not pay more, you can refer a dispute to the Residential Tenancies Board (RTB).

A dispute can be lodged when a landlord is in breach of this new obligation even where the tenancy has yet to commence. Tenants should seek, wherever possible, to obtain the landlord's contact details from the first conversation in case an issue arises.

Decision makers in dispute resolution have discretion to award up to and including €20,000 in damages for breach of obligations.

Please refer to the dispute resolution section on [page 8.]

Can a landlord face sanction if they seek a deposit and rent in advance that is greater than two month's rent?

Yes, the RTB has an investigations and sanctions unit dedicated to investigating certain potential breaches of the Residential Tenancies Act 2004 by a landlord. The breaches of the law that the RTB may investigate are referred to as "Improper Conduct". The new legislation has expanded the types of improper conduct that the RTB can investigate to include where a landlord breaches the new deposit and advance rent rules and seeks the equivalent of more than two months' rent in advance.

If it is found that a landlord has engaged in Improper Conduct, a sanction of a written caution and/or a sanction of up to €15,000 and a further €15,000 in costs can be imposed by an independent Decision Maker on the landlord.

For further information on what can be investigated and how to inform the RTB of a potential Improper Conduct please see <https://www.rtb.ie/legislation-change/investigations-and-sanctions>.

NEW NOTICE PERIOD RULES FOR STUDENT SPECIFIC ACCOMMODATION

I am a tenant renting student specific accommodation, how much notice do I have to give the accommodation provider to end the agreement?

Students are required to give 28 days' notice to the provider of student specific accommodation if they want to terminate the tenancy arrangement. Students may give a longer period of notice if they wish but there is no requirement in law to do so.

Does the provider of student specific accommodation only have to give their tenants 28 days' notice to vacate?

No, the period of notice that providers of student specific accommodation must give depends on the length of the tenancy or licence (in accordance with Table 1 of Section 66 of Residential Tenancies Act 2004) and whether or not the student has breached her/his obligations. If there has been no breach of obligation, the minimum notice period a provider must give is 28 days.

I have received a notice of termination that appears invalid, do I have any rights?

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.

If a tenant receives a notice of termination that they believe is invalid they must lodge a dispute resolution application to the RTB within 28 days of receiving the notice.

For more information on the RTB dispute resolution services available please refer to [page 8].

SETTING THE RENT AMOUNT FOR A TENANCY

Do the existing Rent Pressure Zones still apply?

Yes, all existing Rent Pressure Zone (RPZ) remain in operation until 31 December 2024.

A list of all current RPZs can be found on the RTB's website, www.rtb.ie. Landlords and tenants will find a Rent Pressure Zone Calculator that permits them to enter an address and confirm if it is in a RPZ.

How often can a landlord review the rent when their tenancy is located within a RPZ?

Rent reviews for tenancies located inside a RPZ can occur every 12 months from the date the rent was last set. This is the date that the tenancy commenced or the date the landlord previously set the rent by serving the notice of rent review. Landlords must use the Rent Pressure Zone Calculator to calculate the maximum permissible rent increase on the same day that they serve the notice of rent review on the tenant.

How often can a landlord review the rent when their tenancy is located outside of a RPZ?

The RTA(2) 2021 extends the existing rules in relation to the permissible frequency of rent reviews for tenancies located outside of RPZs. Until midnight 31 December 2024, it will remain the case that where a tenancy is located outside of a RPZ, the rent cannot be reviewed more than once every 2 years.

What is the Harmonised Index of the Consumer Price (HICP)?

The Harmonised Index of Consumer Prices (HICP) measure the changes over time in the prices of consumer goods and services acquired by households. They give a comparable measure of inflation as they are calculated according to harmonised definitions.

The RTB will maintain and publish a table of HICP values on www.rtb.ie.

What are the new rules on how I set the rent?

Prior to the coming into operation of section 6 of the RTA(2) 2021, rents in RPZs could not increase by more than 4% annually. From 16 July 2021, section 6 provides that the amount of any rent increase in a RPZ cannot exceed the percentage rise, if any, in HICP values (i.e. HICP inflation) during the period between rent settings. Further information is available on the RTB's website www.rtb.ie.

When setting the rent, a landlord must use the RTB Rent Pressure Zone Calculator to help identify the percentage difference (if any) between the HICP value on the date the rent was last set and the HICP value that applies on the date the new rent is set.

Rent increases in a RPZ shall not exceed any rent increase calculated by the RTB's Rent Pressure Zone calculator, with reference to the Table of HICP values published by the RTB. This means that any rent increase in a RPZ cannot exceed general inflation.

Will the RTB have an easy tool for landlords to use to calculate the percentage difference, if any, between relevant HICP values and to apply that percentage to the current rent amount to calculate any permissible rent increase in a RPZ?

Yes, section 6 requires the RTB to establish and maintain a Rent Pressure Zone Calculator and to publish a table of HICP values to help assist both landlords and tenants understand how to lawfully set rents in RPZs.

The RTB has developed a Rent Pressure Zone Calculator for display on www.rtb.ie for landlords and tenants to calculate the percentage difference which will be applied to rents when reviewing rent amounts. The calculator also allows landlords to print off the calculations with a date stamp included and the related table of HICP values.

The calculator shall compare the HICP value contained in the HICP table published by the RTB on or most recently before the date that the rent was last set, with the HICP value contained in the HICP table published by the RTB on or most recently before the date that any new rent increase is being calculated.

Any difference between the two HICP values shall be calculated as a percentage by the RPZ calculator.

The calculator shall produce the amount of the maximum permissible rent increase, if any.

A landlord is not permitted to impose a rent increase that exceeds the maximum permissible rent increase that is calculated by the Rent Pressure Zone Calculator.

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.

What information do I need for the new RPZ calculator?

When using the new RPZ calculator the user will need to enter:

- the date that the rent was last 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 last set
(this is the rent amount payable since the commencement of the tenancy or since the serving of a valid notice of rent review).

Landlords should use the Rent Pressure Zone Calculator and sign and serve the notice of rent review on the same date to avoid any inadvertent invalidation any notice of rent review. HICP values can change from day-to-day.

The calculator will produce the amount of the maximum permissible rent increase.

A landlord is not permitted to impose a rent increase that exceeds the maximum permissible rent increase that is calculated by the Rent Pressure Zone Calculator. 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.

Do the existing rent exemptions still apply?

Yes, exempt properties include properties that have not been rented for a period of two years prior to the immediate tenancy commencement date, and those that have undergone a 'substantial change in the nature of the accommodation'. For further information on exemptions and to access the Notice of Exemption from RPZ Rent Restriction visit www.rtb.ie.

Can I access the full set of HICP values for reference?

Yes, the RTB will publish a table of HICP values to assist with the lawful setting of rents in RPZs and will establish and maintain the new Rent Pressure Zone Calculator.

If a dispute arises about the rent amount being set, what options are available?

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.

It is important that if a tenant receives a notice of rent review and a dispute arises that they lodge their dispute application on time with the RTB. Tenants must submit an application within 28 days of receipt of the notice of rent review or at any time prior to the new rent amount becoming payable.

Decision makers in dispute resolution have discretion to award up to and including €20,000 in damages for breach of obligations.

It is important to note that tenants who wish to dispute a notice of rent review must submit an application via RTB dispute resolution process as outlined on [page 8].

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 done 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 website.

The key benefit of this resolution type is that case parties do not have to leave their home and they do not have to interact physically 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, the tenancy continues successfully. If you are interested in Telephone Mediation, please email disputes@rtb.ie or visit the RTB website here for more information.

Adjudication

The fee for adjudication is €15 for an online application 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 take place in 7 regional centres nationwide. 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 website www.rtb.ie

Tenancy Tribunal

If you or a case party is unhappy with the outcome of either mediation or adjudication, they can refer the case to a three-person tenancy tribunal, who are appointed to review the case and evidence from the beginning 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 www.rtb.ie

RTB INVESTIGATION & SANCTION POWERS

On 1st July 2019, the RTB gained powers to investigate certain breaches of rental law by landlords called Improper Conduct. The breaches that the RTB can investigate include:

- where the landlord has not registered the tenancy or updated the RTB on changes in the registration;
- where rent has been reviewed unlawfully in a Rent Pressure Zone;
- where a landlord does not comply with the new restrictions on the amount of any deposit or advance rent payable to secure a tenancy.
- where a notice of termination was issued and it transpired that the ground for termination was not genuine; or,
- where the landlord did not offer the tenant a chance to return to the property if the reason for termination of the tenancy that was stated in the notice of termination no longer exists and the criteria set out in legislation applies.

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 Residential Tenancies Act (as amended). The Investigations and Sanctions Unit uses information submitted to the RTB under the Residential Tenancies Act, including registration data and RPZ exemption data, both, to identify potential breaches.

A potential breach of rental law as outlined above can be brought to the attention of the Investigations and Sanctions Unit in one of three ways;

1. By calling the dedicated unrecorded phone line on 0818 776297 or 01 6753724
2. By emailing RTB at investigations@rtb.ie
3. By making a formal complaint.

The formal complaint form and more information about the Investigations and Sanctions process can be found at <https://www.rtb.ie/legislation-change/investigations-and-sanctions>