



Number 39 of 2021

Residential Tenancies (Amendment) Act 2021



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RESIDENTIAL TENANCIES (AMENDMENT) ACT 2021

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ACTS REFERRED TO

Planning and Development, and Residential Tenancies, Act 2020 (No. 27)

Residential Tenancies (Amendment) Act 2019 (No. 14)

Residential Tenancies Act 2004 (No. 27)

Residential Tenancies and Valuation Act 2020 (No. 7)



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RESIDENTIAL TENANCIES (AMENDMENT) ACT 2021

An Act to provide for the conversion of certain residential tenancies to residential tenancies of unlimited duration; to make provision in relation to the setting of rents in rent pressure zones; to make provision in relation to the payment of fees in respect of the registration of certain tenancies; for those purposes to amend the Residential Tenancies Act 2004; and to provide for matters connected therewith.

[11th December, 2021]

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act “Principal Act” means the Residential Tenancies Act 2004.

Amendment of section 6 of Principal Act

2. Section 6 of the Principal Act is amended, in subsection (1), by the substitution of “this Act, section 4 of the Residential Tenancies and Valuation Act 2020, section 10 or 11 of the Planning and Development, and Residential Tenancies, Act 2020 or *section 5 of the Residential Tenancies (Amendment) Act 2021*” for “this Act, section 4 of the Residential Tenancies and Valuation Act 2020 or section 10 or 11 of the Planning and Development, and Residential Tenancies, Act 2020”.

Amendment of section 19 of Principal Act

3. (1) Section 19 of the Principal Act is amended—
 - (a) by the substitution of the following subsection for subsection (4):

“(4) (a) The setting (in this subsection referred to as the ‘next setting’) of a rent under the tenancy of a dwelling in a rent pressure zone at any time after the commencement of *section 3 of the Residential Tenancies (Amendment) Act 2021* shall neither—

 - (i) result in such increase in rent as would cause the new rent under the tenancy to exceed the old rent by more than the relevant percentage, nor
 - (ii) result in such increase in rent as would cause the ratio of the new rent under the tenancy to the old rent to exceed the ratio of the current HICP value to the previous HICP value.

(b) In this subsection—

‘current HICP value’ means the HICP value published by the Board in accordance with subsection (4C) relating—

- (a) to the month immediately preceding the month in which the next setting takes place, or
- (b) in a case in which the HICP value relating to the month first-mentioned in paragraph (a) is not so published on or before the next setting, to the month immediately preceding that month;

‘new rent’ means, in relation to the tenancy of a dwelling, the rent under the tenancy set at the next setting;

‘old rent’ means, in relation to the tenancy of a dwelling—

- (a) the rent under that tenancy set at the previous setting, or
- (b) where that tenancy is a new tenancy, the rent under the tenancy (immediately preceding the new tenancy) of that dwelling set at the previous setting;

‘previous HICP value’ means—

- (a) in relation to a previous setting that took place before the commencement of *section 3* of the *Residential Tenancies (Amendment) Act 2021*, the HICP value published by the Board in accordance with subsection (4C) relating to the month in which the previous setting took place,
- (b) in relation to a previous setting that takes place on or after such commencement—
 - (i) the HICP value published by the Board in accordance with subsection (4C) relating to the month immediately preceding the month in which the previous setting took place, or
 - (ii) in circumstances where the HICP value referred to in subparagraph (i) was not so published by the time the previous setting took place, the HICP value so published relating to the month immediately preceding the month first-mentioned in that subparagraph;

‘previous setting’ means, in relation to the next setting of a rent under the tenancy of a dwelling, the most recent setting (before the next setting) of the rent under—

- (a) that tenancy of the dwelling, or
- (b) where the next setting relates to a new tenancy of that dwelling, the tenancy of that dwelling immediately preceding the new tenancy;

‘relevant percentage’ means, in relation to the setting of the rent under the tenancy of a dwelling—

- (a) 2 per cent of the old rent in respect of each year that has elapsed since the previous setting, and
 - (b) as respects any additional period that has elapsed between the previous setting and the next setting that is shorter than a year, such percentage as bears to 2 per cent the same proportion that that period bears to a year.
- (c) For the purposes of this subsection, a tenancy immediately precedes a new tenancy if—
- (i) it expired at any time—
 - (I) during the period of 2 years prior to the creation or coming into being of the new tenancy, or
 - (II) in the case of a new tenancy to which subparagraph (i) of paragraph (a) of subsection (5) applies, during the period of one year prior to the creation or coming into being of the new tenancy,
 - and
 - (ii) no other tenancy was created or came into being during the period between the expiration of that tenancy and the creation, or coming into being, of the new tenancy.”,
- (b) the deletion of subsections (4A) and (4B),
- (c) in subsection (4C), by the substitution, in paragraph (a), of “subsection (4)” for “the method set out in subsection (4B)”,
- (d) in subsection (4D), by—
- (i) the substitution of “subsections (4) and (4C)” for “subsections (4A) to (4C)”,
 - (ii) the insertion, in paragraph (b), of “and” after “subsection (4C)(b).”,
 - (iii) the substitution, in paragraph (c), of “table.” for “table, and”, and
 - (iv) the deletion of paragraph (d),
- (e) in subsection (5), by the substitution of “Subsection (4) does not apply” for “Subsections (4) and (4A) do not apply”,
- (f) in subsection (6), by the substitution of “subsections (3) and (4)” for “subsections (3), (4) and (4A)”,
- (g) in subsection (6A), by the deletion of “or, as the case may be, (4A)”, and
- (h) in subsection (7), by the deletion of the definition of “new date”.
- (2) The Minister shall—

- (a) not earlier than 12 months and not later than 15 months after the commencement of this section, conduct a review of the operation of subsection (4) of section 19 of the Principal Act, and
- (b) not later than 3 months after the commencement of that review, make a report in writing to each House of the Oireachtas of his or her findings and conclusions resulting from that review.

Amendment of Principal Act consequent upon section 3

4. The Principal Act is amended—

- (a) in section 22, by the substitution, in paragraph (g) of subsection (2A), of “section 19(4)” for “section 19(4A)” in each place that it occurs, and
- (b) in Schedule 2, by the substitution, in paragraph (a), of “subsection (4) or (5B) of section 19” for “subsection (4), (4A) or (5B) of section 19”.

Provision for tenancies of unlimited duration

5. (1) Part 4 of the Principal Act is amended—

- (a) in section 28, by the substitution of the following subsection for subsections (1) and (2):
 - “(1) Where a person has been in occupation of a dwelling under a tenancy for a continuous period of 6 months and the condition specified in subsection (3) is satisfied, that tenancy shall, subject to Chapter 3, continue in existence for a period of unlimited duration from the date on which the first-mentioned period expires.”,
 - (b) in section 34, by the deletion of paragraph (b), and
 - (c) by the deletion of Chapters 4 and 5.
- (2) Subject to *subsections (3) and (4)*, Part 4 of the Principal Act shall have effect in relation to tenancies of dwellings created, or that came into being, before the commencement of this section as if this section and *section 6* had not been enacted.
- (3) (a) A landlord under a tenancy of a dwelling—
- (i) created, or that came into being, under the Principal Act before the commencement of this section, and
 - (ii) in existence on such commencement,
- may, by notice, in writing and in such form as shall be specified by the Board, inform the tenant under the tenancy that the landlord consents to the tenancy continuing in existence for a period of unlimited duration and, upon receipt by the tenant of such notice, that tenancy shall, subject to Chapter 3, continue in existence for a period of unlimited duration from the date of the notice, and accordingly Part 4 of the Principal Act as amended by *paragraphs (b) and (c)* of *subsection (1)* and *section 6* shall have effect in relation to that tenancy.

- (b) A form specified in accordance with *paragraph (a)* shall include an explanation of the effect of the giving of a consent under that paragraph in relation to a tenancy of a dwelling.
- (4) Where a Part 4 tenancy or further Part 4 tenancy of a dwelling—
- (a) was created, or came into being, before the commencement of this section, and
- (b) expires on or after such commencement,
- then, upon its so expiring and unless a valid notice of termination in respect of the tenancy was served under paragraph (a) or (b) of section 34 or section 36 of the Principal Act before its so expiring, a new tenancy of that dwelling shall stand created and that new tenancy shall, subject to Chapter 3, continue in existence for a period of unlimited duration.
- (5) This section shall come into operation on the day that falls 6 months after the date of the passing of this Act.

Amendment of Principal Act consequent upon section 5

6. (1) The Principal Act is amended—
- (a) in section 3, by the insertion, in subsection (3), of “(other than a Part 4 tenancy)” after “does not include a tenancy”,
- (b) by the substitution of the following section for section 29:
- “29. For the purposes of this Act, each of the following is a Part 4 tenancy:
- (a) a tenancy that continues in existence by virtue of subsection (1) (inserted by *subsection (1)* of *section 5* of the *Residential Tenancies (Amendment) Act 2021*) of section 28;
- (b) a tenancy that continues in existence in accordance with *subsection (3)* of *section 5* of the *Residential Tenancies (Amendment) Act 2021*;
- (c) a new tenancy referred to in *subsection (4)* of *section 5* of the *Residential Tenancies (Amendment) Act 2021*.”,
- (c) in section 30, by the substitution of the following subsection for subsection (1):
- “(1) Subject to subsections (2) and (3), the terms of a Part 4 tenancy shall—
- (a) in the case of a tenancy that continues in existence by virtue of subsection (1) (inserted by *subsection (1)* of *section 5* of the *Residential Tenancies (Amendment) Act 2021*) of section 28, be those of the tenancy of which it is a continuation,
- (b) in the case of a tenancy that continues in existence in accordance with *subsection (3)* of *section 5* of the *Residential Tenancies*

(Amendment) Act 2021, be those of the tenancy of which it is a continuation, and

- (c) in the case of a new tenancy of a dwelling referred to in *subsection (4) of section 5 of the Residential Tenancies (Amendment) Act 2021*, be those of the tenancy of that dwelling immediately preceding the new tenancy.”,

and

- (d) in section 64B, by the insertion of the following subsection:

“(1A) (a) For the purposes of this Chapter—

- (i) a new tenancy referred to in *subsection (4) of section 5 of the Residential Tenancies (Amendment) Act 2021* of a dwelling created immediately following the expiration of a relevant Part 4 tenancy of that dwelling, and

- (ii) that relevant Part 4 tenancy,

shall be treated as one tenancy, and references in this Chapter to duration of tenancy shall be construed accordingly.

- (b) For the purposes of this Chapter—

- (i) a new tenancy referred to in *subsection (4) of section 5 of the Residential Tenancies (Amendment) Act 2021* of a dwelling created immediately following the expiration of a relevant further Part 4 tenancy of that dwelling,

- (ii) that relevant further Part 4 tenancy, and

- (iii) any Part 4 tenancy or further Part 4 tenancy of the dwelling concerned immediately preceding that relevant further Part 4 tenancy,

shall be treated as one tenancy, and references in this Chapter to duration of tenancy shall be construed accordingly.

- (c) In this subsection—

‘relevant Part 4 tenancy’ means a Part 4 tenancy that—

- (a) came into being before the commencement of *section 5 of the Residential Tenancies (Amendment) Act 2021*, and

- (b) expired on or after such commencement; and

‘relevant further Part 4 tenancy’ means a further Part 4 tenancy that—

- (a) came into being before the commencement of *section 5 of the Residential Tenancies (Amendment) Act 2021*, and

- (b) expired on or after such commencement.”.

- (2) This section shall come into operation on the day that *section 5* comes into operation.

Amendment of section 134 of Principal Act

7. (1) Section 134 of the Principal Act is amended—
- (a) in paragraph (b) of subsection (3), by the substitution of “subsections (3B) and (4)” for “subsection (4)”, and
 - (b) by the insertion of the following subsection:
 - “(3B) A fee shall not be payable in respect of an application to register a further Part 4 tenancy in accordance with paragraph (b) of subsection (1) (inserted by paragraph (a) of subsection (1) of section 22 of the Residential Tenancies (Amendment) Act 2019) of section 134 if—
 - (a) an application to register the tenancy was made in accordance with Part 7 before the commencement of paragraph (a) of section 23 of the Residential Tenancies (Amendment) Act 2019, and
 - (b) the fee in respect of that application is paid not later than one month after such commencement.”.
- (2) This section shall come into operation on such day as the Minister for Housing, Local Government and Heritage may by order appoint.

Short title and collective citation

8. (1) This Act may be cited as the Residential Tenancies (Amendment) Act 2021.
- (2) This Act shall be included in the collective citation the Residential Tenancies Acts 2004 to 2021.