



Rialtas na hÉireann
Government of Ireland

Residential Tenancies (No.2) Act 2021:

What this Means for Landlords and Tenants

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1 Introduction

Introduction

The Residential Tenancies (No.2) Act 2021 (RTA(2) 2021) (Act No.17 of 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 Government is acutely aware that the Covid-19 pandemic, with the rise in unemployment, has continued to affect the ability of many tenants to pay their rent. This presents an imminent risk that a significant number of tenancies may be terminated by landlords. The RTA(2) 2021 extends the protections given to tenants under the Planning and Development, and Residential Tenancies, Act 2020 (PDRTA) until 12 January 2022. These protections apply to qualifying tenants whose tenancies are at risk of being terminated because they cannot pay their rent as a result of Covid-19. For a full overview of the protections provided by the PDRTA click [here](#).

The RTA(2) 2021 also introduces permanent changes to the Residential Tenancies Act 2004. From 16 July 2021, there is a new method for landlords to calculate how to set rent in a Rent Pressure Zone (RPZ). Prior to the coming into operation of section 6, rents in RPZs could not be increased by more than 4% annually. Section 6 provides that any rent increase in an 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.

There are also changes which give greater protections and certainty for tenants, including students, such as 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.

In addition, any ongoing advance rent payment during a tenancy cannot exceed one month's rent.

A further change is that students who are residing at Student Specific Accommodation (SSA) are only required to give 28 days' notice to the provider of SSA, if they want to terminate the tenancy arrangement. These students can give a longer period of notice if they wish, but there is no requirement in law to do so.

These measures are 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.

The RTA(2) 2021:

- restricts any rent increase in an RPZ from exceeding general inflation, as recorded by Harmonised Index of the Consumer Price (HICP);
- limits the amount of rent in advance and/or a deposit that landlords can ask people to pay to secure a tenancy; and
- provides that students do not have to give more than 28 days' notice to terminate their rental arrangement.

These changes are explained in greater detail below.

Limits on Deposits and Advance Rent

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.

Landlords often seek the payment of a deposit and/or advance rent 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, at any time, cannot exceed one month's rent.

Landlords cannot ask a person to pay more than the equivalent of 2 months' rent in total to secure a tenancy. Tenants can only be asked to pay the rent for the forthcoming month in advance (i.e. only one month's rent in advance).

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.

The limits on deposits and advance payments of rent introduced by the RTA(2) 2021 only apply to tenancies created from 9 August 2021 onwards. An application for dispute resolution may be referred to the RTB where a person has been asked to pay more than the limits outlined above.

Sanctions can be imposed where a landlord seeks an unlawful payment of any deposit or advance 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 an "Improper Conduct". The new legislation has expanded the types of Improper Conducts that the RTB can investigate, to include where a landlord breaches the new deposit and advance rent rules. Exceptions apply to Student Specific Accommodation, as described previously.

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 click [here](#)

Student Specific Accommodation: Notice Periods

Providers of Student Specific Accommodation (landlords or licensors), as well as students (tenants or licensees) have rights and responsibilities under the Residential Tenancies Act 2004 (as amended). This includes obligations in relation to ending or terminating the tenancy or licence for their accommodation. The party who wishes to terminate must serve a valid notice of termination and give the minimum statutory notice period.

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.

A sample notice of termination for Student Specific Accommodation is available on www.rtb.ie.

To learn more about notices periods, what is needed for a valid notice of termination and to find notice of termination templates, visit www.rtb.ie.

**(Note: Students can be given 7 days' notice in serious cases involving dangerous behaviour including where there is a threat to life or a threat to the fabric of the dwelling.*

Frequency of Rent Reviews

The rules around the frequency of how often landlords can serve rent review notices have been extended for a further three 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 an RPZ, reviews can occur every 12 months from the date the rent was last set.

Rent Pressure Zone Designations

All Local Electoral/Local Authority Areas that have been previously designated as an 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 2021. This date of expiry is now extended to 31 December 2024.

A list of all current RPZs can be found on the RTB's website at www.rtb.ie. Landlords and tenants can use the Rent Pressure Zone Calculator that permits them to enter an address and confirm if it has been designated or not.

New Method for Landlords to Calculate How to Set Rents in a Rent Pressure Zone

A Rent Pressure Zone (RPZ) is an area where rents cannot exceed the amount permitted by law. Prior to the coming into operation of section 6 on 16 July 2021, rents in RPZs could not increase by more than 4% annually. Section 6 provides that any rent increase in an 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 that any rent increase in an RPZ shall not exceed any HICP inflation. 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.

Calculations are based on the new Rent Pressure Zone Calculator producing a 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.

A landlord is not permitted to impose a rent increase that is greater than the amount determined by the calculator.

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

A copy of the rent review form can be found on www.rtb.ie.

Further information and examples can be found further below in this document or on www.rtb.ie.

RTB Rent Pressure Zone Calculator

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 to understand how to lawfully set rents in RPZs. The RTB has developed a Rent Pressure Zone Calculator to calculate the increase, if any, that is permitted.

When using the new Rent Pressure Zone 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 was served).

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

The Rent Pressure Zone Calculator is available on the RTB's website on www.rtb.ie

RTB Table of HICP Values

The RTB will establish and maintain a Rent Pressure Zone Calculator and publish a table of HICP values on its website www.rtb.ie, to assist with the lawful setting of rents in RPZs.

Sanctions extended to include 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 Residential Tenancies Act 2004. The breaches of the Act that the RTB can investigate are referred to as an "Improper Conduct". Improper Conducts have been extended to include where a landlord does not comply with the new RPZ rent increase restriction.

2 RTB Investigations and Sanctions 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 to 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 the 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 [here](#).

3 | 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 are currently taking place virtually via MS Teams. 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 [here](#).

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 [here](#).



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