



**AN BILLE UM THIONÓNTACHTAÍ CÓNAITHE (LEASÚ)
(UIMH. 2), 2012**
**RESIDENTIAL TENANCIES (AMENDMENT) (NO. 2) BILL
2012**

*Mar a ritheadh ag Dáil Éireann
As passed by Dáil Éireann*

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(UIMH. 2), 2012
RESIDENTIAL TENANCIES (AMENDMENT) (NO. 2) BILL
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5 **BILL**

entitled

AN ACT TO AMEND AND EXTEND THE RESIDENTIAL
TENANCIES ACTS 2004 AND 2009; TO AMEND THE
HOUSING (MISCELLANEOUS PROVISIONS) ACT 2009;
10 TO PROVIDE FOR THE APPLICATION OF THE RESI-
DENTIAL TENANCIES ACT 2004 TO CERTAIN DWELL-
INGS THAT ARE THE SUBJECT OF A TENANCY; TO
PROVIDE FOR THE RESTRICTION, IN RESPECT OF
THE TENANTS OF SUCH DWELLINGS, OF CERTAIN
15 ENTITLEMENTS OF TENANTS UNDER THE RESIDEN-
TIAL TENANCIES ACT 2004; TO RE-NAME THE
PRIVATE RESIDENTIAL TENANCIES BOARD AND
THE PRIVATE RESIDENTIAL TENANCIES REGISTER;
TO PROVIDE FOR THE DISSOLUTION OF THE RENT
20 TRIBUNAL ESTABLISHED UNDER THE HOUSING
(PRIVATE RENTED DWELLINGS) (AMENDMENT) ACT
1983 AND FOR THE TRANSFER OF ITS FUNCTIONS TO
THE RESIDENTIAL TENANCIES BOARD; TO REPEAL
CERTAIN PROVISIONS OF THE HOUSING (PRIVATE
25 RENTED DWELLINGS) (AMENDMENT) ACT 1983; AND
TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

30 1.—(1) This Act may be cited as the Residential Tenancies
(Amendment) Act 2013.

Short title,
collective citation,
construction and
commencement.

(2) The Residential Tenancies Acts 2004 and 2009 and this Act,
other than *subsection (3)* and *sections 10, 63 and 65*, may be cited
together as the Residential Tenancies Acts 2004 to 2013 and shall be
35 construed together as one.

(3) The Housing Acts 1966 to 2009, *sections 10, 63 and 65* and this subsection may be cited together as the Housing Acts 1966 to 2013 and shall be construed together as one.

(4) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions. 5

Interpretation.

2.—In this Act—

“Act of 2009” means the Housing (Miscellaneous Provisions) Act 2009; 10

“Board” has the meaning assigned to it by section 4 of the Principal Act;

“Minister” means the Minister for the Environment, Community and Local Government;

“Principal Act” means the Residential Tenancies Act 2004. 15

PART 2

APPLICATION OF PRINCIPAL ACT TO CERTAIN DWELLINGS LET BY APPROVED HOUSING BODIES TO CERTAIN TENANTS

Amendment of section 3 of Principal Act.

3.—(1) Section 3(2) of the Principal Act is amended by substituting the following paragraph for paragraph (c): 20

“(c) a dwelling that is let by or to a public authority,”.

(2) Section 3 of the Principal Act is amended by inserting the following subsection after subsection (2):

“(2A) Where a public authority lets a dwelling to an approved housing body and that approved housing body sub-lets that dwelling— 25

(a) this Act does not apply to a tenancy between the public authority and the approved housing body, and

(b) for the avoidance of doubt, this Act does apply to that dwelling where that dwelling is the subject of a sub-tenancy arising from that sub-letting, including any such sub-tenancy created before the commencement of this subsection.”. 30

(3) Section 3 of the Principal Act is amended by inserting the following subsections after subsection (3): 35

“(4) Without prejudice to subsection (1), for the purposes of the application of this Act to a dwelling—

(a) referred to in subsection (2A)(b) and—

(i) the dwelling is let by the approved housing body concerned to a household within the meaning of section 20 of the Act of 2009, and 40

(ii) that household has been assessed under that section as being qualified for social housing support,

and

5 (b) that is the subject of a tenancy (including a tenancy created before the commencement of this subsection) and—

10 (i) the dwelling is let by an approved housing body to a household within the meaning of section 20 of the Act of 2009, and

(ii) that household has been assessed under that section as being qualified for social housing support,

15 subsections (5) (inserted by *section 3* of the *Residential Tenancies (Amendment) Act 2013*) and (6) (inserted by *section 3* of the *Residential Tenancies (Amendment) Act 2013*), sections 3A (inserted by *section 4* of the *Residential Tenancies (Amendment) Act 2013*) and 3B (inserted by *section 4* of the *Residential Tenancies (Amendment) Act 2013*) shall apply to such dwelling.

20 (5) For the purposes of the application of this Act (and regulations made under it) to a dwelling referred to in subsection (4)(a) (inserted by *section 3* of the *Residential Tenancies (Amendment) Act 2013*)—

25 (a) the approved housing body concerned shall be deemed to be a landlord of such dwelling,

(b) references in this Act (or regulations made under it) to a landlord, in so far as the references concern a dwelling, referred to in subsection (4)(a), shall be construed accordingly, and

30 (c) notwithstanding that the dwelling is the subject of a sub-tenancy, the sub-tenancy shall be treated as a tenancy under this Act and references to a tenancy in this Act shall, in so far as they concern that dwelling, be construed accordingly.

35 (6) For the purposes of the application of this Act (and regulations made under it) to a dwelling referred to in subsection (4)(a) (inserted by *section 3* of the *Residential Tenancies (Amendment) Act 2013*)—

40 (a) where the household comprises one person, that person shall be deemed to be a tenant of such dwelling,

(b) where the household comprises 2 or more persons, whichever of those persons who has been granted occupation of the dwelling pursuant to the tenancy agreement shall be deemed to be the tenants of such dwelling, and

45 (c) references in this Act to a tenant and multiple tenants, in so far as the references concern a dwelling, referred to in subsection (4)(a), the subject of a tenancy, shall be construed accordingly.”.

Certain restrictions for dwellings the subject of a tenancy referred to in section 3(4) of Principal Act.

4.—(1) The Principal Act is amended by inserting the following new sections after section 3:

“Restrictions on sub-letting and assignment of tenancy for dwellings referred to in section 3(4).

3A.—(1) A tenant of a dwelling the subject of a tenancy that is referred to in section 3(4) (inserted by *section 3* of the *Residential Tenancies (Amendment) Act 2013*) shall not assign or sub-let the tenancy. 5

(2) Any sub-tenancy of a dwelling referred to in section 3(4) that is purported to be created shall be void. 10

(3) Any assignment of a dwelling referred to in section 3(4) that is purported to be made is void.

(4) Section 16(k) shall not apply in respect of a dwelling the subject of a tenancy referred to in section 3(4). 15

Application of Act to dwellings referred to in section 3(4): supplemental provisions.

3B.—For the purposes of the application of this Act to a dwelling the subject of a tenancy referred to in section 3(4) (inserted by *section 3* of the *Residential Tenancies (Amendment) Act 2013*)—

(a) a reference in Part 4 to a ‘continuous period of 6 months’, means a continuous period of 6 months that commences on or after the commencement of section 3(4), 20

(b) a reference in this Act to ‘relevant date’ shall be construed as meaning the date on which section 3(4) of the Act is commenced, 25

(c) the ground specified in paragraph 4 of the Table to section 34 shall not apply in respect of the termination of a tenancy in respect of a dwelling the subject of a tenancy referred to in section 3(4), 30

(d) section 50(7) shall not apply to a licensee of a tenant, or multiple tenants, referred to in section 50(7) of a dwelling the subject of a tenancy referred to in section 3(4), 35

(e) sections 19 to 22 shall not apply to a dwelling the subject of a tenancy referred to in section 3(4), 40

(f) section 120 shall not apply in respect of a dwelling the subject of a tenancy referred to in section 3(4), and 45

(g) section 139 shall not apply in respect of a dwelling the subject of a tenancy referred to in section 3(4).”.

(2) Section 5 of the Principal Act is amended in the definition of “relevant date” by inserting “or, in the case of a dwelling the subject 50

of a tenancy referred to in section 3(4) (inserted by *section 3* of the *Residential Tenancies (Amendment) Act 2013*), shall be construed in accordance with section 3B(b) (inserted by *section 4* of the *Residential Tenancies (Amendment) Act 2013*)”.

5 (3) Section 16(k) of the Principal Act is amended by substituting “subject to section 3A(4) (inserted by *section 4* of the *Residential Tenancies (Amendment) Act 2013*), not assign or sub-let” for “not assign or sub-let”.

10 (4) Section 27 of the Principal Act is amended by inserting “or, in the case of a dwelling the subject of a tenancy referred to in section 3(4) (inserted by *section 3* of the *Residential Tenancies (Amendment) Act 2013*), shall be construed in accordance with section 3B(a) (inserted by *section 4* of the *Residential Tenancies (Amendment) Act 2013*)”.

15 (5) The Table to section 34 of the Principal Act is amended by inserting the following paragraphs after paragraph 4:

20 “4A. In the case of a dwelling referred to in section 3(4)(a) (inserted by *section 3* of the *Residential Tenancies (Amendment) Act 2013*), the dwelling or the property containing that dwelling is to be returned to the public authority, referred to in section 3(2A) (inserted by *section 3* of the *Residential Tenancies (Amendment) Act 2013*), concerned because the period for which that dwelling or property was let to the approved housing body concerned will, in accordance with the tenancy, between the approved housing body and the public authority, expire within 6 months of the service of the notice of termination under this section and that tenancy between the public authority and the approved housing body is not being renewed.

35 4B. In the case of a dwelling referred to in section 3(4), the dwelling is no longer suitable for the accommodation needs of the household referred to in that section, or any member of that household, because the requirements of that household, or any member of that household, for care support services, exceed the care support services that are available to that household or any member of that household.”.

40 (6) Section 35 of the Principal Act is amended by inserting the following subsections after subsection (6):

“(7) Paragraph 4 of the Table is subject to section 3B(c) (inserted by *section 4* of the *Residential Tenancies (Amendment) Act 2013*).

45 (8) In paragraph 4B of the Table, ‘care support services’ means—

(a) medical care,

50 (b) personal care services, the primary purpose of which is the provision of assistance to address a physical or mental requirement of the household concerned, or a member of that household, or

(c) a service, the provision of which is assisted by the Health Service Executive under section 39 of the Health Act 2004.”.

Amendment of section 4 of Principal Act.

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

(a) by inserting the following definitions: 5

“ ‘approved housing body’ means a body standing approved for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act 1992;

‘housing authority’ has the meaning assigned to it by section 23 of the Housing (Miscellaneous Provisions) Act 1992.”; 10

(b) in the definition of “public authority”, by inserting the following paragraph after paragraph (c):

“(ca) a housing authority.”.

Amendment of section 39 of Principal Act.

6.—Section 39 of the Principal Act is amended— 15

(a) in subsection (1) by substituting “, 4 and 6” for “and 4”, and

(b) by inserting the following subsection after subsection (5):

“(6) In respect of a dwelling the subject of a tenancy referred to in section 3(4) (inserted by *section 3* of the *Residential Tenancies (Amendment) Act 2013*), a person to whom subsection (3)(a) applies shall not elect, under subsection (3)(b), to become a tenant, or tenants, of such dwelling unless— 20

(a) in the case of a dwelling referred to in section 3(4)(a), he or she is a member of a household referred to in section 3(4)(a), or 25

(b) in the case of a dwelling referred to in section 3(4)(b), he or she is a member of a household referred to in section 3(4)(b).”.

Amendment of section 50 of Principal Act.

7.—Section 50 of the Principal Act is amended in subsection (7) by substituting “may, subject to section 3B(d) (inserted by *section 4* of the *Residential Tenancies (Amendment) Act 2013*), request” for “may request”.

Change of name of Board.

8.—(1) The board established under section 150 of the Principal Act shall, on and from the commencement of this section, be renamed An Bord um Thionóntachtaí Cónaithe or, in the English language, the Residential Tenancies Board. 35

(2) Section 4 of the Principal Act is amended in subsection (1) by substituting the following for the definition of “Board”: 40

“ ‘Board’ shall be construed in accordance with section 150(1) and *section 8* of the *Residential Tenancies (Amendment) Act 2013*.”.

(3) In any enactment or any instrument under an enactment, references to the Private Residential Tenancies Board shall be construed as references to the Residential Tenancies Board.

(4) The Principal Act is amended—

- 5 (a) in section 131—
- (i) in subsection (1), by deleting “private”, and
 - (ii) in subsection (2), by substituting “ ‘rented sector’ ” for “private rented sector”,
- (b) in section 151(1)—
- 10 (i) in paragraph (c), by deleting “private”,
- (ii) in paragraph (d), by deleting “private”,
- (iii) in paragraph (e), by deleting “private”, and
- (iv) in paragraph (f), by deleting “private” in each place where it occurs,
- 15 (c) in section 151(2), by deleting “private”,
- (d) in section 151 by substituting the following subsection for subsection (4):
- “**(4)** In this section ‘rented sector’ means—
- 20 (a) the sector of commercial activity in the State consisting of the letting of dwellings, and
- (b) the letting, by approved housing bodies, of dwellings, referred to in section 3(4) (inserted by *section 3* of the *Residential Tenancies (Amendment) Act 2013*), to households referred to in that subsection.”,
- 25
- and
- (e) in section 181—
- (i) in subsection (1), by deleting “private”, and
 - (ii) by substituting “ ‘rented sector’ ” for “ ‘private rented sector’ ”.
- 30

9.—(1) The register established and maintained under section 127(1) of the Principal Act shall, on and from the commencement of this section, be re-named the “residential tenancies register”. Change of name of register.

35 (2) In any enactment or any instrument under an enactment references to the private residential tenancies register shall be construed as references to the residential tenancies register.

10.—Section 20 of the Act of 2009 is amended by substituting the following subsection for subsection (1): Amendment of section 20 of Act of 2009.

“(1) For the purposes of this section ‘household’ means—

- (a) a person who lives alone,
- (b) 2 or more persons who live together, or
- (c) 2 or more persons who do not live together but who, in the opinion of the housing authority concerned, have a reasonable requirement to live together.” 5

Amendment of
section 134 of
Principal Act.

11.—(1) Section 134 of the Principal Act is amended—

- (a) in subsection (2), by substituting “Subject to subsection (2A), an application” for “An application”,
- (b) by inserting the following subsection after subsection (2):

“(2A) Where an application under this section is made in respect of a tenancy and the dwelling that is the subject of that tenancy is a dwelling referred to in section 3(4), an application under this section in respect of such tenancy shall be made—

(a) where the tenancy has commenced before the day on which section 3(4) comes into operation, within 12 months from the day on which section 3(4) comes into operation,

(b) where the tenancy commences within the period of 12 months from the day on which section 3(4) comes into operation—

(i) within 12 months from the day on which section 3(4) comes into operation, or

(ii) within 1 month from the commencement of the tenancy,

whichever is the later, or

(c) where the tenancy commences on a day that falls 12 or more months from the day on which section 3(4) comes into operation, within 1 month from the commencement of the tenancy.”,

- (c) by substituting the following subsection for subsection (3):

“(3) An application under this section shall—

(a) be in the prescribed form,

(b) subject to subsections (4) and (7), be accompanied by—

(i) subject to subparagraph (ii), the fee referred to in section 137(1)(b)(ii), or

(ii) in the case of a tenancy referred to in subsection (2A), the fee specified in section 137A(1)(a) or as the case may be the fee prescribed under section 137A(1)(b),

and

(c) where a fee referred to in subsection (8) is required to be paid under that subsection, be accompanied by that fee.”,

(d) in subsection (4)—

- 5 (i) by substituting “requirements” for “requirement”,
- (ii) by substituting “do” for “does”, and
- (iii) by substituting “subsections (2)(a), (2)(b), (2A)(a) or (2A)(b)” for “subsection (2)(a) or (b)”,

(e) in subsection (5)—

- 10 (i) in paragraph (a), by inserting “or where the applications are made pursuant to subsection (2A), the fee specified in section 137A(1)(a) or as the case may be the fee prescribed under section 137A(1)(b),” after “section 137,”,
- 15 (ii) in paragraph (a), by substituting “subsections (2)(a), (2)(b), (2A)(a) or (2A)(b)” for “subsection (2)(a) or (b)”, and
- (iii) by substituting the following paragraph for paragraph (b):

20 “(b) the applicant has paid—

- (i) in respect of several applications falling within section 137(3), the single fee referred to in section 137(2) and the dwellings to which those several applications related included the relevant dwelling, or
- 25
- (ii) in respect of several applications falling within section 137A(3) the single fee referred to in section 137A(2) and the dwellings to which those several applications related included the relevant dwelling,”,
- 30

and

(f) by inserting the following subsections after subsection (6):

35 “(7) The requirement, in subsection (3), for an application to be accompanied by a fee shall not apply to an application to register a further Part 4 tenancy pursuant to section 135(1)(c) if the application to register a further Part 4 tenancy is made within the period specified—

- 40 (a) in subsection (2)(a) or (2)(b), or
- (b) in subsection (2A)(a) or (2A)(b).

(8) Where an application under this section is not made in electronic form the applicant shall pay the prescribed fee.

(9) The fee prescribed for subsection (8) shall not exceed the reasonable costs of processing the application.”.

Amendment of section 137 of Principal Act.

12.—Section 137 of the Principal Act is amended—

(a) in subsection (1) by inserting “and section 137A” after “subsections (2) and (6)”, 5

(b) in subsection (2) by substituting “section 134(3)(b)(i)” for “section 134(3)”,

(c) in subsection (3) by substituting “in respect of not more than 10 tenancies” for “in respect of tenancies”, 10

(d) by substituting the following subsection for subsection (6):

“(6) If an application under section 134(2) is not made within the period specified in section 134(2)(b)(ii), the fee to accompany that application shall be—

(a) the total of the amount of— 15

(i) the fee referred to in subsection (1)(b)(ii), and

(ii) an additional amount of €20 for—

(I) each month, or

(II) part of a month, 20

falling after the expiration of the period specified in section 134(2)(b)(ii),

or

(b) the fee prescribed for the purposes of this paragraph.”. 25

Fee to accompany application under section 134(2A).

13.—The Principal Act is amended by inserting the following section after section 137:

“Fee to accompany application under section 134(2A).

137A.—(1) The fee to accompany an application under section 134(2A) shall be—

(a) if the application is made in the period of 12 months beginning on commencement of section 3(4), a fee of €45, or 30

(b) if the application is made after the period referred to in paragraph (a), the prescribed fee. 35

(2) The requirement under section 134(3)(b)(ii) for a fee specified in this section to accompany an application under section 134 shall be regarded as satisfied, as respects the applications referred to in subsection (3), if the applicant referred to in subsection (3) opts to pay the 40

Board a single fee of the amount specified in subsection (4) in respect of those applications.

5 (3) The applications referred to in subsection (2) are applications made by the same person at the same time in respect of not more than 10 tenancies of dwellings comprised in the same property.

(4) The amount of the single fee referred to in subsection (2) is—

10 (a) if the applications concerned are made in the period of 12 months beginning on the commencement of section 3(4), €187.50, or

15 (b) if the applications concerned are made after the period referred to in paragraph (a), the prescribed fee.

20 (5) The option of paying the single fee referred to in subsection (2) is not available to the person referred to in subsection (3) if the applications concerned are not made within the period specified in paragraph (a) or (b) of section 134(2A).

25 (6) If an application under section 134(2A) is not made within the period specified in paragraph (a) or (b) of section 134(2A), the application shall be accompanied by the prescribed fee.

30 (7) The Minister shall, before making regulations prescribing fees under this section, section 134(8) and section 137(6)(b), consult with the Board in respect of the amount of the fees to be prescribed.

35 (8) When prescribing a fee, or fees, for the purposes of subsection (6), the Minister may prescribe different fees having regard to the different periods of time elapsing between the making of the application and the expiration of the period specified in paragraphs (a) and (b) of section 134(2A).”.

14.—Section 144 of the Principal Act is amended in subsection (5) by— Amendment of section 144 of Principal Act.

40 (a) substituting “shall apply as if subsection (2) or (2A)” for “shall apply as if subsection (2)”, and

(b) substituting “or 137A(6)” for “(fee of double the ordinary amount to be paid on late application)”.

PART 3

AMENDMENTS OF PRINCIPAL ACT

Amendment of section 33 of Principal Act.

15.—Section 33 of the Principal Act is amended by inserting “and Part 5” after “in accordance with section 34”.

Amendment of Table to section 34 of Principal Act.

16.—The Table to section 34 of the Principal Act is amended— 5

(a) in paragraph 1 by inserting “, other than the obligation referred to in paragraph 1A (inserted by *section 16* of the *Residential Tenancies (Amendment) Act 2013*),” after “has failed to comply with any of his or her obligations”,

(b) in paragraph 1(a) by inserting “in writing” after “notified”, 10

(c) by inserting the following paragraph after paragraph 1:

“1A. The tenant has failed to comply with the obligation, in relation to the tenancy, to pay an amount of rent due (whether arising under section 16(a) or otherwise) and— 15

(a) the landlord has, in accordance with section 67(3), notified the tenant in writing that—

(i) an amount of rent due has not been paid, and 20

(ii) the landlord is entitled to terminate the tenancy if the failure to pay the rent is not remedied within 14 days from the date on which the notice is received, 25

(b) 14 days have elapsed from the receipt of the notification given in accordance with section 67(3), and

(c) the tenant has not paid the amount of rent due.”, 30

(d) in paragraph 4(b)(ii) by inserting “1A,” after “paragraph 1,”.

(e) in paragraph 5(b)(i) by inserting “within the period of 12 months from the expiry of the period of notice required to be given by the notice, or if a dispute in relation to the validity of the notice was referred to the Board under Part 6 for resolution, the final determination of the dispute” after “available for re-letting”, 35

(f) in paragraph 5(b)(ii), by inserting “1A,” after “paragraph 1,”, 40

(g) in paragraph 6(b)(ii), by inserting “1A,” after “paragraph 1,”.

- (i) to the landlord by the tenant or, as the case may be, each multiple tenant, or
- (ii) where the dwelling concerned is the subject of a sub-tenancy, to the head-tenant by the sub-tenant or, as the case may be, each sub-tenant.”. 5

Amendment of section 93 of Principal Act.

22.—(1) Section 93 of the Principal Act is amended by inserting the following subsection after subsection (2):

“(2A) No fee shall be payable by either party in respect of the arrangement by the Board, in accordance with subsection (2), for the matter to be the subject of mediation.”. 10

(2) *Subsection (1)* shall apply to mediations arranged, in accordance with section 93(2) of the Principal Act, on or after the commencement of this section.

Amendment of section 95 of Principal Act.

23.—(1) Section 95(4) of the Principal Act is amended in paragraph (c) by substituting “persons who participated in” for “persons who attended”. 15

(2) Section 95(5) of the Principal Act is amended by substituting “Board” for “Director”.

(3) Section 95 of the Principal Act is amended by inserting the following subsections after subsection (5): 20

“(5A) Notwithstanding that, following a mediation, the parties have signed an agreement that resolves the dispute concerned, each of the parties may, not later than 10 days from the completion of the mediation concerned, notify the mediator and the Board in writing that he or she no longer agrees with that agreement and does not wish to be bound by it. 25

(5B) In this section and section 96, the ‘date of the completion of the mediation’ means—

- (a) the date that the document referred to in subsection (3)(b) is signed by each of the parties, or 30
- (b) where the document is signed by the parties on different dates, the later of those dates.”.

(4) Section 95 of the Principal Act is amended by deleting subsection (6). 35

Procedures to be followed by Board following report of mediator.

24.—(1) The Principal Act is amended by substituting the following section for section 96:

“Procedures to be followed by Board following report of mediator. 96.—(1) Where—

- (a) the report furnished to the Board under section 95(5) states that there is agreement between the parties and that the agreement resolves the dispute, 40

(b) a period of 10 days has elapsed from the date of the completion of the mediation, and

(c) during that period of 10 days no party to the agreement has made a notification under section 95(5A) to the mediator and the Board,

the Board shall prepare a determination order under section 121 in respect of the dispute.

(2) Where—

(a) one or more of the parties to a dispute request the Board to refer the dispute to the Tribunal, and

(b) the report furnished to the Board under section 95(5) states that—

(i) there is no agreement between the parties that has resolved the dispute,

(ii) the dispute is not resolved notwithstanding that, one, or more than one, of the matters concerning the dispute have been agreed between the parties, or

(iii) there is an agreement between the parties that has resolved the dispute but, within the period of 10 days following the completion of the mediation, a party to that agreement has made a notification to the mediator and the Board under section 95(5A),

the Board shall refer the dispute to the Tribunal.”.

(2) *Subsection (1)* shall apply to a mediation arranged in accordance with section 93(2) of the Principal Act on or after the commencement of this section.

25.—Section 98(1) of the Principal Act is amended in paragraph (a) by substituting “10 days” for “21 days”. Amendment of section 98 of Principal Act.

26.—Section 103 of the Principal Act is amended— Amendment of section 103 of Principal Act.

(a) in subsection (4) by deleting “subject to subsection (5),” and

(b) by deleting subsection (5).

27.—Section 104 of the Principal Act is amended— Amendment of section 104 of Principal Act.

(a) in subsection (1)(b) by substituting “section 96(2)” for “section 96(6)”, and

(b) in subsection (5)(b)—

(i) in subparagraph (i), by substituting “a specification,”
for “a specification, or”,

(ii) in subparagraph (ii), by substituting “that dwelling,
or” for “that dwelling.”, and 5

(iii) by inserting the following subparagraph after
subparagraph (ii):

“(iii) one or more of the parties requests the
Board to specify such a period on the
grounds of alleged financial or other 10
hardship.”.

Amendment of
section 109 of
Principal Act.

28.—(1) Section 109(2) is amended—

(a) in paragraph (c) by inserting “other than the procedure
referred to in section 93(1) and 93(2)” after “in relation
to it”, 15

(b) by deleting paragraph (d)(iii), and

(c) in paragraph (d)(v) by substituting “section 96(2)” for
“section 96(6)”.

(2) *Subsection (1)* shall apply to a mediation arranged in accord-
ance with section 93(3) of the Principal Act on or after the com- 20
mencement of this section.

Amendment of
section 115 of
Principal Act.

29.—Section 115 of the Principal Act is amended by inserting the
following subsections after subsection (3):

“(4) Without prejudice to the generality of subsection (3), an
amount that is to be awarded in accordance with a direction 25
relating to a failure to comply with section 16(f) or 16(g) shall
be included in the amount referred to in subsection (3)(a) or, as
the case may be, subsection (3)(c)(i).

(5) The amount of costs or expenses that may be awarded to
a party shall not exceed €1,000.”. 30

Amendment of
section 119 of
Principal Act.

30.—Section 119 is amended—

(a) in subsection (1)—

(i) in paragraph (i) by substituting “subject to subsection
(3), costs” for “costs”, and

(ii) by deleting paragraph (iii), 35

and

(b) by inserting the following subsection after subsection (2):

“(3) The costs awarded under subsection (1)(i) shall
not exceed €1,000.”.

- 31.**—Section 121 of the Principal Act is amended— Amendment of section 121 of Principal Act.
- (a) in subsection (1), by substituting the following paragraph for paragraph (a):
- “(a) an agreement referred to in section 96(1),”,
- 5 (b) in subsection (4) by substituting the following paragraph for paragraph (a):
- “(a) in the case of such an agreement, the report furnished to it under section 95(4),”,
- and
- 10 (c) by deleting subsection (7).
- 32.**—Section 123 of the Principal Act is amended— Amendment of section 123 of Principal Act.
- (a) in subsection (1), by substituting “an agreement referred to in section 96(1)” for “an agreement mentioned in a mediator’s report under section 95(4)”, and
- 15 (b) in subsection (4), by deleting “in relation to the point of law concerned”.
- 33.**—Section 135 of the Principal Act is amended by substituting the following subsection for subsection 5: Amendment of section 135 of Principal Act.
- 20 “(5) Where an application under section 134 is received by the Board and the application is—
- (a) incomplete, or
- (b) not accompanied by—
- (i) the fee referred to in section 134(3)(b)(i) or as the case may be section 134(3)(b)(ii), and
- 25 (ii) the fee referred to in section 134(3)(c) where that fee is required to be paid,
- the Board shall notify the applicant of the omission concerned and specify a date by which the application is to be completed or the fee is, or the fees are, to be paid.”.
- 30 **34.**—Section 136 of the Principal Act is amended— Amendment of section 136 of Principal Act.
- (a) by deleting paragraph (e), and
- (b) by deleting subparagraphs (i) and (ii) of paragraph (i).
- 35.**—Section 153(1) of the Principal Act is amended by substituting “not more than 12” for “not more than 15”. Amendment of section 153 of Principal Act.
- 35 **36.**—Section 156(3) of the Principal Act is amended by substituting “shall be 4” for “shall be 5”. Amendment of section 156 of Principal Act.

37.—Section 157 of the Principal Act is amended—

(a) in subsection (1), by inserting “, subject to subsections (2A) and (2B) (inserted by section 37 of the Residential Tenancies (Amendment) Act 2013),” after “establish committees consisting”, and 5

(b) by inserting the following subsections after subsection (2):

“(2A) Subject to subsection (2B), a member of the Board shall not be eligible for appointment to the Dispute Resolution Committee.

(2B) Notwithstanding subsection (2A), the member of the Board who is appointed under section 155 as chairperson of the Board, shall be the chairperson, and member, of the Dispute Resolution Committee for the period for which he or she is appointed as chairperson of the Board.”. 10 15

38.—(1) Section 159 of the Principal Act is amended—

(a) by substituting the following subsection for subsection (2):

“(2) The Dispute Resolution Committee shall consist of not more than 45 members which shall include the chairperson of the Dispute Resolution Committee.”, 20

(b) in subsection (3) by deleting “unless the unexpired period of his or her term of office as a member of the Board is 3 or more years at the date of his or her appointment as a member of the Committee”, and

(c) by inserting the following subsection after subsection (3): 25

“(3A) When the member of the Board ceases to be the chairperson of the Board he or she shall also cease to be chairperson of the Dispute Resolution Committee.”.

(2) Where on the commencement of subsection (1) a member of the Board is also a member of the Dispute Resolution Committee and of a Tribunal that has commenced but not determined a dispute, that member of the Board shall remain as a member of the Dispute Resolution Committee and of that Tribunal until that Tribunal determines that dispute. 30

PART 4 35

TRANSFER OF FUNCTIONS OF TRIBUNAL ESTABLISHED UNDER ACT OF 1983 TO BOARD

39.—In this Part—

“Act of 1983” means the Housing (Private Rented Dwellings) (Amendment) Act 1983; 40

“Tribunal” has the meaning assigned to it by the Act of 1983.

40.—The Tribunal shall be dissolved on the commencement of this Part.

Dissolution of Tribunal.

5 41.—(1) The functions of the Tribunal that, immediately before the commencement of this Part, were vested in the Tribunal by or under the Act of 1983 shall, on the commencement of this Part, stand transferred to the Board.

Transfer of functions of Tribunal to Board.

(2) The administration and business in connection with the performance of any of the functions transferred by *subsection (1)* shall, on the commencement of this Part, stand transferred to the Board.

10 (3) References to the Tribunal in any enactment or instrument under an enactment relating to any function or administration and business transferred by this section shall, on the commencement of this Part, be construed as references to the Board.

15 (4) References to the Chairman of the Tribunal in any enactment or instrument made under an enactment relating to any function or administration and business transferred by this section shall, on the commencement of this Part, be construed as references to the chairperson of the Board.

20 42.—Section 151 of the Principal Act is amended in subsection (1) by inserting the following paragraph after paragraph (f):

Amendment of section 151 of Principal Act.

“(fa) the performance of the functions transferred to it by *section 41 of the Residential Tenancies (Amendment) Act 2013*.”.

25 43.—(1) All lands that, immediately before the commencement of this Part, were vested in the Tribunal and all rights, powers and privileges relating to or connected with such lands shall, without any conveyance or assignment, on the commencement of this Part stand vested in the Board for all the estate or interest therein that, immediately before the commencement of this Part, were vested in the Tribunal, but subject to all trusts and equities affecting the lands continuing to subsist and being capable of being performed.

Transfer of land and other property.

35 (2) All property other than land including choses-in-action that immediately before the commencement of this Part, was vested in the Tribunal shall, on the commencement of this Part, stand vested in the Board without any assignment.

40 (3) Every chose-in-action vested in the Board by virtue of *subsection (2)* may, on and from the commencement of this Part, be sued on, recovered or enforced by the Board in its own name, and it shall not be necessary for the Board, or the Tribunal, to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.

45 (4) Any money, stocks, shares and securities transferred to the Board under *subsection (2)* which, immediately before the commencement of this Part, are in the name of the Tribunal shall, on the request of the Board, be transferred into its name.

44.—(1) All rights and liabilities of the Tribunal arising by virtue of any contract or commitment (expressed or implied) entered into

Transfers of rights, liabilities, etc., of Tribunal.

by the Tribunal before the commencement of this Part shall on the commencement of this Part stand transferred to the Board.

(2) Every right and liability transferred by *subsection (1)* to the Board may, on and after the commencement of this Part, be sued on, recovered or enforced by or against the Board in its own name, and it shall not be necessary for the Board, or the Tribunal, to give notice to the person whose right or liability is transferred by that subsection of such transfer.

(3) Every lease, licence, wayleave or permission granted by the Tribunal in relation to land or other property vested in the Board by or under this Part and in force immediately before the commencement of this Part, shall continue in force as if granted by the Board.

Liability for loss.

45.—(1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance, before the commencement of this Part, of the functions transferred to the Board by or under this Act, shall on and after the commencement of this Part, lie against the Board and not against the Tribunal.

(2) Where immediately before the commencement of this Part, any legal proceedings are pending to which the Tribunal is a party and the proceedings have reference to any functions transferred by *section 41*, the name of the Board shall, in so far as the proceedings relate to any function transferred by *section 41*, be substituted in the proceedings for that of the Tribunal or added in the proceedings, as may be appropriate, and the proceedings shall not abate by reason of such substitution.

(3) Where, before the commencement of this Part, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they are enforceable against the Tribunal, be enforceable against the Board and not the Tribunal.

(4) Any claim made or proper to be made by the Tribunal in respect of any loss or injury arising from the act or default of any person before the commencement of this Part shall, where the claim relates to a function transferred to the Board by this Part, be regarded as having been made by or proper to be made by the Board and may be pursued and sued for by the Board as if the loss or injury had been suffered by the Board.

Provisions consequent on transfer of functions, etc.

46.—(1) Anything commenced by or under the authority of the Tribunal that is not completed before the commencement of this Part may, in so far as it relates to a function transferred to the Board under this Part, be carried on or completed on or after the commencement of this Part by the Board.

(2) Every determination, term of a tenancy, fixed, or varied, order, decision or request made or any notice or form given by the Tribunal in respect of a function transferred by *section 41*, shall, if and in so far as it was operative immediately before the commencement of this Part, have effect on and after such commencement as if it had been granted or made by the Board.

(3) References to the Tribunal in any court documents that relate to a function transferred by *section 41*, shall, on and after the commencement of this Part, be construed as references to the Board.

5 **47.—**(1) The Board shall, in respect of the period specified in *subsection (3)*, prepare final accounts of the Tribunal. Final accounts and final report.

(2) The Board shall submit the final accounts to the Comptroller and Auditor General for audit not later than 3 months after the commencement of this Part.

10 (3) For the purposes of *subsection (1)*, the Minister may specify a period that is longer or shorter than a financial year of the Tribunal.

(4) The Board shall prepare the final annual report for the Tribunal and submit the report to the Minister not later than 6 months after the commencement of this Part.

15 **48.—**The expenses incurred by the Minister in the administration of this Part shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of monies provided by the Oireachtas. Expenses incurred by Minister.

49.—The following provisions of the Act of 1983 are repealed: Repeal of certain provisions of Act of 1983.

- 20 (a) subsections (1), (2) and (3) of section 2;
- (b) section 3;
- (c) section 4;
- (d) subsections (1), (4) and (8) of section 14;
- (e) subsections (1)(a) and (3) of section 15.

PART 5

25 COMPLAINT RELATING TO FAILURE TO PAY RENT PAYABLE UNDER THE TENANCY PENDING DETERMINATION OF DISPUTE

50.—Section 75 of the Principal Act is amended— Amendment of section 75 of Principal Act.

- 30 (a) in subsection (2) by inserting “76A,” after “76(4),”
- (b) in subsection (4)(d), by substituting “landlord,” for “landlord, and”, and
- (c) in subsection (4) by inserting the following after paragraph (d):
- “(da) in the case of a complaint mentioned in section 76A—
- 35 (i) the landlord, and
- (ii) the tenant,
- and”.

Amendment of section 76 of Principal Act.

51.—Section 76 of the Principal Act is amended by inserting the following subsection after subsection (4):

“(5) The landlord may refer to the Board for resolution a complaint under section 76A that a tenant or, as the case may be, a sub-tenant has failed to comply with section 86(1)(a).”.

5

Right of referral in respect of compliance with section 86(1)(a).

52.—The Principal Act is amended by inserting the following section after section 76:

“Right of referral in respect of compliance with section 86(1)(a).

76A.—(1) This section applies where a matter has been referred to the Board for resolution (the ‘original dispute’) and pending the determination of that dispute a tenant referred to in section 86(1)(a)(i) has failed to comply with section 86(1)(a).

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(2) A landlord may, on notice to the tenant, refer to the Board for resolution a complaint that the tenant referred to in section 86(1)(a)(i) has failed to comply with section 86(1)(a).

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(3) A complaint under this section shall not be the subject of mediation under section 93.

(4) The Board shall as soon as practicable arrange for a complaint under subsection (2) to be the subject of an adjudication under section 97 by an adjudicator designated to hear and determine a complaint referred to in subsection (2).

20

(5) The adjudicator, or as the case may be the Tribunal on appeal, shall proceed to hear and determine, in accordance with this Part, the complaint that the tenant has failed to comply with section 86(1)(a) and shall make all necessary findings and determinations for that purpose.

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(6) Where an adjudicator on the hearing of a complaint under this section, or the Tribunal on appeal, is satisfied that there has been a failure to comply with section 86(1)(a) the adjudicator or Tribunal may—

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(a) make a determination that there has been a failure to comply with section 86(1)(a),

(b) make a determination comprising a direction that the tenant shall pay to the landlord the amount of rent due and owing on or before a specified day which shall be not later than 14 days from the date on which the determination is made, and

40

45

(c) adjourn the matter for such period as is appropriate for the purpose of confirming that the amount of rent

referred to in paragraph (b) has been paid by the specified date.

5 (7) Where, at the end of the period of adjournment referred to in subsection (6)(c), the tenant fails to comply with the determination referred to in subsection (6)(b), the adjudicator or the Tribunal may—

10 (a) make a determination that there has been a failure to comply with the direction under subsection (6)(b), and

15 (b) notwithstanding section 86(1)(c), make a determination that the tenancy stands terminated and direct that the dwelling the subject of the tenancy be quitted by a specified date.

20 (8) Where the dwelling the subject of a tenancy is one out of which a sub-tenancy has been created, the landlord shall, when referring the complaint to the Board under subsection (2), notify the sub-tenant accordingly.

(9) Subject to subsection (10), the original dispute may proceed to be determined in accordance with the provisions of this Act.

25 (10) Any relevant findings or determinations made in hearing or determination of a complaint under this section shall apply, as appropriate, to the original dispute.

30 (11) For the purposes of the determination of the original dispute, a copy of a determination made under this section shall be provided to—

(a) the adjudicator determining the original dispute, and

35 (b) in the case of an appeal against the determination of the original dispute, the Tribunal.

(12) Section 119 shall not apply to the determination of a complaint under this section.

40 (13) An amount of rent directed to be paid under this section shall count in the calculation of an amount of rent for the purposes of section 115(3).

(14) Part 2 of the Schedule has effect for the purpose of the referral of a complaint referred to in subsection (2) in the case of a sub-tenancy.”.

45 **53.**—Section 86 of the Principal Act is amended—

(a) in subsection (2) by inserting the following paragraph after paragraph (c):

Amendment of section 86 of Principal Act.

“(ca) in the case of paragraph (c) of that subsection, the tenancy has been terminated pursuant to a determination under section 76A,”,

and

(b) by inserting the following subsection after subsection (3): 5

“(4) Where a tenant fails to comply with subsection (1)(a), the landlord may make a complaint under section 76A.”.

Amendment of section 94 of Principal Act.

54.—Section 94 of the Principal Act is amended by inserting the following paragraph after paragraph (a): 10

“(aa) mediation of the kind mentioned in that section in respect of complaints under section 76A.”.

Amendment of section 97 of Principal Act.

55.—Section 97 of the Principal Act is amended—

(a) in subsection (1) by inserting “76A,” after “under section”,

(b) in subsection (2) by inserting “76A,” after “under section”. 15

Amendment of section 100 of Principal Act.

56.—Section 100 of the Principal Act is amended—

(a) in subsection (2) by substituting “Subject to subsection (3), such an appeal” for “Such an appeal”, and

(b) by inserting the following new subsection after subsection (2): 20

“(3) An appeal concerning the determination of a complaint referred to in section 76A shall be made within 10 days from the date the Board serves on the party the report and statement referred to in section 99(3).”.

Amendment of section 104 of Principal Act.

57.—Section 104 of the Principal Act is amended— 25

(a) in subsection (5) by substituting “Subject to subsection (5A), the duration of” for “The duration of”, and

(b) by inserting the following subsection after subsection (5):

“(5A) The duration of the notice under subsection (3), where the hearing concerns the determination of a complaint referred to in section 76A, shall be 10 days.”. 30

Amendment of section 109 of Principal Act.

58.—Section 109 of the Principal Act is amended by inserting the following subsection after subsection (1):

“(1A) For the purpose of the hearing and determination of a complaint under section 76A, without prejudice to the generality of subsection (1), the Board shall endeavour to ensure that a complaint under section 76A is determined as soon as is reasonably practicable and for that purpose rules under this section shall— 35

(a) establish procedures to provide for the hearing and determination of such complaint as soon as is reasonably practicable after the complaint has been referred to the Board,

5 (b) designate, from the panel of adjudicators referred to in section 164(4), a number of adjudicators to hear and determine complaints under section 76A that is appropriate for those complaints to be heard and determined as soon as is reasonably practicable, and

10 (c) cause to be constituted, under section 102, a number of tribunals, to hear and determine complaints referred under section 76A or appeals under section 100 of determinations of those complaints, that is appropriate for those complaints and appeals to be heard and determined as soon as is reasonably practicable,

and when designating an appropriate number of adjudicators or causing to be constituted an appropriate number of tribunals the Board shall have regard to the number of complaints under section 76A referred to it.”

59.—Section 123 of the Principal Act is amended by inserting the following after subsection (8): Amendment of section 123 of Principal Act.

25 “(9) For the avoidance of doubt, the reference in subsection (1) to the determination of an adjudicator under section 97 includes a determination under section 76A of a complaint referred to in section 76A.”

60.—Section 124 of the Principal Act is amended by inserting the following new subsection after subsection (5): Amendment of section 124 of Principal Act.

30 “(5A) Where an application is made in respect of a determination order under section 76A(7) that requires the dwelling to be vacated, the court may, pending the hearing of the action, require the respondent to lodge in court or pay to the applicant, as it thinks appropriate, that amount of rent together with such amount as it specifies in respect of the dwelling’s continued occupation by the respondent after the service of that notice.”

61.—The Principal Act is amended by inserting the following new section after section 180: Reports to Minister concerning determination of complaints under section 76A.

40 “Reports to Minister concerning determination of complaints under section 76A. 180A.—(1) Without prejudice to section 180, the Board shall, not later than 6 months after the coming into operation of section 76A, make a report to the Minister in such form as the Minister may approve, on the performance of its functions under that subsection and in respect of the making and determining of complaints under section 76A and appeals against determinations of those complaints.

(2) The Board shall, not later than 6 months after the day on which the report under subsection

(1) was made, make a further report to the Minister in respect of the same matters provided for in that subsection.

(3) Following the making of the report referred to in subsection (2), the Board shall include in its annual report under section 180 the matters provided for in subsection (1).”.

Amendment of
Schedule to
Principal Act.

62.—The Schedule to the Principal Act is amended—

(a) by substituting the following for “SCHEDULE”:

“SCHEDULE 10

PART 1”,

and

(b) by inserting the following after paragraph 8:

“PART 2

REFERRAL OF COMPLAINT UNDER SECTION 76A IN CASE OF
SUB-TENANCY 15

1. Where the dwelling the subject of a tenancy is one out of which a sub-tenancy has been created and a sub-tenant has failed to comply with section 86(1)(a)(ii), then sections 75(4)(da), 76A, 86(2)(ca) and 86(4) shall apply to the sub-tenancy with the following modifications—

(a) subject to paragraph 2, for references to the landlord there shall be substituted references to the head-tenant, and

(b) for references to the tenant there shall be substituted references to the sub-tenant.

2. Paragraph 1 shall not apply to section 76A(8).

3. Where a head-tenant refers a complaint to the Board under section 76A, he or she shall notify the head-landlord accordingly.”.

PART 6 35

MISCELLANEOUS

Amendment of
section 84 of Act of
2009.

63.—Section 84 of the Act of 2009 is amended by substituting the following subsection for subsection (1):

“(1) For the purposes of this section ‘household’ means—

- (a) a person who lives alone,
- (b) 2 or more persons who live together, or
- (c) 2 or more persons who do not live together but who, in the opinion of the housing authority concerned, have a reasonable requirement to live together.”.

5

64.—(1) The Principal Act is amended in the manner specified in the *Schedule*. Repeals and miscellaneous amendments.

(2) The following provisions of the Principal Act are repealed:

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- (a) section 115(2)(i);
- (b) section 126;
- (c) section 190(2)(b).

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65.—Section 6 of the Housing (Miscellaneous Provisions) Act 1992 is amended in subsection (2) by inserting the following paragraph after paragraph (e): Amendment of section 6 of Housing (Miscellaneous Provisions) Act 1992.

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“(ea) by letting a house (including a house provided under Part V of the Planning and Development Act 2000) to another housing authority referred to in subsection (1)(a) or a body referred to in subsection (1)(b);”.

SCHEDULE

Provision affected (1)	Amendment (2)	
Section 5(4)	Insert “and the amount of such costs shall not exceed €5,000” after “of that subsection”.	5
Section 6(1)	Insert “or other document” after “notice”.	
Section 32(1)	Substitute “Part 1 of the Schedule” for “The Schedule”.	10
Section 75(2)	Substitute “Part 1 of the Schedule” for “the Schedule”.	
Section 88(1)	Insert “or an appeal under section 100 to the Tribunal against a determination of an adjudicator under section 97(4)(a)” after “for resolution”.	15
Paragraph 3(d) of the Schedule	Insert “1A,” after “paragraph 1,”.	