



**An Bille um Thionóntachtaí Cónaithe (Bearta Tithíochta Éigeandála ar mhaithe
le Leas an Phobail) (Leasú), 2016**

**Residential Tenancies (Housing Emergency Measures in the Public Interest)
(Amendment) Bill 2016**

Mar a tionscnaíodh

As initiated



**AN BILLE UM THIONÓNTACHTAÍ CÓNAITHE (BEARTA TITHÍOCHTA
ÉIGEANDÁLA AR MHAITHE LE LEAS AN PHOBAIL) (LEASÚ), 2016
RESIDENTIAL TENANCIES (HOUSING EMERGENCY MEASURES IN THE PUBLIC
INTEREST) (AMENDMENT) BILL 2016**

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ACT REFERRED TO

Residential Tenancies Act 2004 (No. 27)



**AN BILLE UM THIONÓNTACHTAÍ CÓNAITHE (BEARTA TITHÍOCHTA
ÉIGEANDÁLA AR MHAITHE LE LEAS AN PHOBAIL) (LEASÚ), 2016
RESIDENTIAL TENANCIES (HOUSING EMERGENCY MEASURES IN THE PUBLIC
INTEREST) (AMENDMENT) BILL 2016**

Bill

5

entitled

An Act to amend the Residential Tenancies Act 2004; to lessen the effects of the housing, rental and homelessness emergency for the common good; to establish a fair rent scheme; to promote affordable rents and increased security of tenure for tenants in designated fair rent areas and to provide for related matters.

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Be it enacted by the Oireachtas as follows:

Interpretation

1. In this Act—

“the Principal Act” means the Residential Tenancies Act 2004;

“dwelling” includes a property containing the dwelling unless the context otherwise requires it.

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Amendment of Principal Act by insertion of Chapter 5A

2. Part 5 of the Principal Act is amended by inserting the following chapter after Chapter 5:

“CHAPTER 5A

FAIR RENT AREAS

20

Interpretation

74A. (1) In this Chapter, unless the context otherwise requires—

‘area’ means the functional area of an authority or any part of such area;

‘authority’ means—

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(a) the council of a county, or

(b) the corporation of a county or other borough, or

(c) the council of an urban district;

‘effective date’ shall mean for a new tenancy the date the tenancy commences, and for an existing tenancy two months after the date of a

30

designation under section 74C;

‘fair rent’ means the rent determined in accordance with section 74E;

‘fair rent area’ means an area designated under section 74C;

‘fair rent valuation date’ means 1 October 2011;

‘cumulative consumer price index number’ means the cumulative of
the All Items Consumer Price Index Numbers compiled by the Central
Statistics Office published by the Central Statistics Office in the
period between the fair rent valuation date and the effective date; 5

‘the Minister’ means the Minister for Housing, Planning, Community
and Local Government. 10

- (2) Save as expressly provided in Chapter 5A, nothing in Chapter 5A shall
operate to relieve any person from any obligations or requirements
imposed by or under other provisions of the Act.

Annual review

74B. Before 30 October in 2017, and every year after 2017, the Minister shall— 15

- (a) carry out a review of the operation, effectiveness and impact of this
Chapter, having regard to the affordability of rental
accommodation, homelessness situation and the overall economic
conditions in the State, 20
- (b) consider whether or not any of the provisions of this Chapter
continue to be necessary having regard to the purposes of this
Chapter and the exigencies of the public good,
- (c) consider whether or not the fair rent valuation date continues to be
appropriate having regard to the purposes of this Chapter and the
exigencies of the public good, 25
- (d) make such findings as he or she thinks appropriate consequent on
the review and consideration, and
- (e) cause a written report of his or her findings resulting from the
review and consideration to be prepared and laid before each
House of the Oireachtas. 30

Designation of fair rent areas

74C. (1) The Minister may designate an area a fair rent area in accordance with
this section.

- (2) Prior to making a designation under subsection (1), the Minister shall— 35
- (a) publish a draft proposal to designate an area a fair rent area,
- (b) shall take reasonable steps to make the proposal available to the
public,
- (c) invite submissions in respect of the proposal within 30 days from 40

the date of the publication of the proposal, and

- (d) have regard to the submissions received.
- (3) The Minister shall publish a notice in at least two newspapers circulating in the area the subject of the draft proposal, informing the public of the existence of the draft proposal and where the proposal can be viewed, and inviting submissions in accordance with subsection (2). 5
- (4) The Minister shall have regard to the affordability of rental accommodation, homelessness and the public good prior to making a designation under subsection (1), and without prejudice to the generality of the foregoing shall have regard to— 10
 - (a) the consumer price index,
 - (b) the rate of increase, if any, in average rents of dwellings in an area since the fair rent valuation date,
 - (c) the average industrial wage, 15
 - (d) the supply of dwellings in such areas,
 - (e) demand for dwellings in such areas,
 - (f) property rights,
 - (g) mortgage interest rates.
- (5) A designation shall take effect within two months from the date the designation is made under subsection (1). 20
- (6) A tenancy for a dwelling in a fair rent area shall be subject to the provisions in this Chapter.

Rent review

- 74D.** (1) A review of the rent under the tenancy of a dwelling in a fair rent area shall be carried out in accordance with the tenancy agreement relating to the tenancy of the dwelling within two months of a designation taking effect. 25
- (2) Where a tenancy agreement in a fair rent area does not include provision for a review of the rent of a dwelling, the tenant or landlord may require a review of the rent under the tenancy to be carried out for the purpose of setting a fair rent. 30
- (3) Save where a contrary intention appears in this Chapter, a rent review for a dwelling in a fair rent area shall comply with Part 3 of this Act.

Fair rent

- 74E.** (1) The fair rent shall not exceed the market rent on the fair rent valuation date, by more than 5 per cent above the cumulative consumer price index number, of the dwelling or of comparable dwellings as the case may be. 35
- (2) If the market rent on the fair rent valuation date falls to be determined 40

for the purpose of subsection (1), that rent may be determined by reference to the rent of the dwelling and of comparable properties in the fair rent area as appear on the register published under section 128.

Setting of rent above fair rent prohibited

- 74F. (1) In setting at any time, the rent under the tenancy of a dwelling in a fair rent area, an amount of rent shall not be provided for that is greater than the amount of the fair rent for that tenancy. 5
- (2) The reference in this section to the setting of the rent under a tenancy is a reference to—
 - (a) the initial setting of the rent under the tenancy, and 10
 - (b) any setting of the rent under the tenancy by way of a review of that rent.

Guidelines

- 74G. (1) Where an area has been designated a fair rent area the Board shall publish guidelines for evaluating the fair rent in that area under section 151(1)(d). 15
- (2) A rent calculated in compliance with the guidelines shall be presumed to be a fair rent unless the contrary is proven.”.

Amendment of section 34 of the Principal Act for the purposes of Chapter 5A

- 3. (1) This section, and the amendments effected thereby, shall apply only to a tenancy for a dwelling in a fair rent area. 20
- (2) The grounds for termination in the Table to section 34 of the Principal Act are amended for a dwelling in a fair rent area as follows—
 - (a) by substituting the following paragraph for paragraph (3):
 - “3. (a) This ground for termination shall not apply in a fair rent area other than in exceptional circumstances and when the notice of termination contains or is accompanied, in writing, by a statement specifying the exceptional circumstances and that the transferee of the interest does not intend to create a tenancy for the dwelling. 25
 - (b) The period of notice given by that notice of termination shall not be less than 112 days. 30
 - (c) If the transferee does intend to create a tenancy for the dwelling, entering into an enforceable agreement for the transfer to another shall not be grounds for termination of the tenancy.
 - (d) The notice of termination contains or is accompanied, in writing, by a statement from the transferee specifying the completion date in respect of the enforceable agreement and certifying that the transferee does not intend to create a tenancy for the dwelling within 12 months from the completion date.”; 35
 - (b) by deleting and replacing the words “occupation by a member of his or her 40

family” in paragraph (4) with “emergency occupation by a member of his or her family arising from personal circumstances”;

(c) by inserting the following after paragraph 4(a)(ii):

“(iii) the notice of termination contains or is accompanied, in writing, by a statement confirming the occupation by the owner or the emergency occupation by a member of his or her family arising from personal circumstances.” 5

(iv) if the landlord or member of the family ceases to occupy the dwelling or property containing the dwelling within 12 months of the date of termination and wishes to offer the dwelling to let for rent, the landlord shall offer a tenancy to the former tenant at a fair rent, unless other grounds in the Table arise.”; 10

(d) by inserting the following after paragraph 5(b):

“(c) this ground for termination shall not apply in a fair rent area other than with the agreement in writing of the tenant, or where the state of repair of the dwelling or property containing the dwelling constitutes exceptional circumstances, and the notice of termination contains or is accompanied, in writing, by a statement specifying the exceptional circumstances.”; 15

(e) by inserting the following after paragraph 6(b): 20

“(c) this ground for termination shall not apply in a fair rent area other than by agreement of both parties, or where the change of use constitutes exceptional circumstances having regard to the economic circumstances of the landlord and the notice of termination contains or is accompanied, in writing, by a statement specifying the exceptional circumstances.”. 25

Amendment of section 42 of Principal Act for purpose of Chapter 5A

4. In respect of a tenancy for a dwelling in a fair rent area section 42 of the Principal Act is amended by substituting the following after subsection (3):

“(4) The means of termination that subsection (1) provides shall not apply to tenancy for a dwelling in a fair rent area.”. 30

Amendment of section 74 of Principal Act for purpose of Chapter 5A

5. Section 74 of the Principal Act is amended by inserting the following after subsection 1(b):

“(c) in respect of a tenancy for a dwelling in a fair rent area a notice of termination is served for the purpose of obtaining a rent in excess of a fair rent.”. 35

Amendment of section 78 of Principal Act for purpose of Part 2

6. Section 78 of the Principal Act is amended, in paragraph (b) of subsection (1), by

inserting “or section 75F” after “section 19A”.

Amendment of section 128 of Principal Act for purpose of Part 2

7. Section 128 of the Principal Act is amended by inserting the following after subsection (5):

“(6) Notwithstanding subsection (4)(b), in respect of a fair rent area the published register shall contain information of the amount of the rent payable under a tenancy for the dwelling and shall as far as practicable identify the floor area, number of bedrooms, type of dwelling and any other information useful to members of the public to evaluate the fair rent. 5
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(7) The index shall be reviewed and published every 12 months.”.

Short title, commencement and collective citation

8. (1) This Act may be cited as the Residential Tenancies (Housing Emergency Measures in the Public Interest) (Amendment) Act 2016.

(2) The Residential Tenancies Acts 2004 to 2015 and this Act may be cited together as the Residential Tenancies Acts 2004 to 2016 and shall be construed together as one. 15

(3) This Act shall come into operation on such day as the Minister may appoint by order.

An Bille um Thionóntachtaí Cónaithe
(Bearta Tithíochta Éigeandála ar mhaithe le
Leas an Phobail) (Leasú), 2016

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do leasú an Achta um Thionóntachtaí Cónaithe, 2004; do mhaolú éifeachtaí na héigeandála tithíochta, cíosa agus easpa dídine chun leas an phobail; do bhunú scéim cóirchíosa; do chur chun cinn cíosanna inacmhainne agus ráthaíocht tionachta mhéadaithe do thionóntaí i limistéir chóirchíosa ainmnithe agus do dhéanamh socrú i dtaobh nithe gaolmhara.

*An Teachta Bríd Smith, Risteard Buidé Bairéid, Gino
Kenny a thug isteach,*
15 Nollaig, 2016

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*Introduced by Deputy Bríd Smith, Richard Boyd
Barrett, Gino Kenny,*
15 December, 2016

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