

Residential Tenancies (Amendment)(No. 2) Bill 2018

Regulatory Impact Analysis (RIA)

1. Summary

Table 1 General Summary of Regulatory Impact Analysis (RIA)	
Department/Office: Housing, Planning and Local Government	Title of Legislation: Residential Tenancies (Amendment)(No. 2) Bill 2018
Stage: Publication of Bill	Date: December 2018
Related Publications:	
<p>Programme for Partnership Government (available at https://www.taoiseach.gov.ie/DOT/eng/Work_Of_The_Department/Programme_for_Government/Programme_for_Government.html)</p> <p>Rebuilding Ireland: Action Plan for Housing and Homelessness (available at http://rebuildingireland.ie)</p>	
What policy objectives are being pursued?	
<p>The Programme for Partnership Government, published in May 2016, included a commitment to draft and publish, within the first 100 days, a new Action Plan for Housing, drawing on the work of the Oireachtas Committee on Housing and Homelessness. The publication of “Rebuilding Ireland, an Action Plan for Housing and Homelessness” on 19 July 2016, underpins the Government’s commitment to end the housing shortage and to tackle homelessness. It comprises five pillars of actions; addressing homelessness, accelerating social housing, building more homes, improving the rental sector and utilizing existing housing.</p> <p>Arising from the review of Rebuilding Ireland and commitments made in September 2017 to provide the Residential Tenancies Board (RTB) with additional powers and resources to deliver enhanced protections to both tenants and landlords, the Residential Tenancies (Amendment)(No. 2) Bill 2018 is intended to include a number of key measures and reforms designed to enhance enforcement powers for the Residential Tenancies Board, provide greater security of tenure for tenants and further underpin the operation of the Rent Pressure Zone (RPZ) arrangements, along with some further targeted priority measures.</p> <p>The principal measures in the Bill relate to strengthening enforcement by making it an offence for landlords to implement rent increases that contravene the law around RPZ rent increase limits (4% per annum); providing powers to the RTB to investigate and prosecute or sanction landlords who implement such increases; and allowing the RTB to initiate an investigation without the need for a complaint to be made.</p> <p>Making it an offence to contravene the law in setting rents in RPZs coupled with the enhanced enforcement procedures will underpin the implementation of the Rent Pressure Zones ensuring a more transparent and effective operation.</p> <p>The Bill also proposes some important amendments to the Residential Tenancies Act to significantly extend the notice periods for tenancy terminations by landlords; allowing the RTB to initiate an investigation without the need for a</p>	

complaint to be made; requiring the annual registration of tenancies with the RTB; and technical amendments to enhance rental data; ensure that the full duration of occupancy under tenancy of a rental property is taken into account in any notice periods; and other relatively minor operational matters.

What policy options have been considered?

The following 2 options were considered:

Option 1: No Change Option

Option 2: Legislate to provide for strengthened enforcement of tenancy law in particular in connection with the rent predictability measure in RPZs.

Preferred Option:

The preferred option is Option 2

NO CHANGE OPTION

COSTS

- Cost implications would arise for:
 - The State
 - Increased cost to State through additional social housing supports in the private rented sector due to general increase in market rent
 - Tenants
 - Increased cost to tenants due to general increase in market rent

BENEFITS

- The existing and established regulatory framework would remain in place
- Additional resources would not be required to ensure that the RTB can meet the costs associated with enhanced investigation powers

IMPACTS

- Certain Government commitments in the Action Plan for Housing would not be implemented
- Existing contraventions of RPZ's may continue/grow
- Negative impact on long term security of rental accommodation

PREFERRED OPTION: Legislate

Cost implications arise for:

- The State:
 - costs associated with staffing and administration for RTB

- Increased security for tenants
- Better enforcement and dispute resolution in the RTB
- Wider social and economic benefits

- Positive impact on rental sector of improved rent control
- Positive impact on tenants of improved security of tenure
- Positive impact on rental sector of increased RTB enforcement and sanctioning powers

2. Policy Context and Objectives

2.1 Policy Context

Arising from the review of Rebuilding Ireland and commitments made in September 2017 to provide the Residential Tenancies Board (RTB) with additional powers and resources to deliver enhanced protections to both tenants and landlords, the Bill is intended to include a number of key measures and reforms designed to enhance enforcement powers for the Residential Tenancies Board, provide greater security of tenure for tenants and further underpin the operation of the Rent Pressure Zone (RPZ) arrangements, along with some further targeted priority measures.

Rental reforms already introduced

Arising from the publication in December 2016 of the Government's Strategy for the Rental Sector, a number of targeted measures and initiatives were announced with the aim of providing better security of tenure, higher accommodation standards and greater rent certainty for tenants, as well as enhancing the supports and services available to landlords to facilitate the development of a more vibrant and sustainable rental sector. Inter alia, these initiatives include:

- establishment of Rent Pressure Zones in areas of high, and rapidly rising, rents;
- introduction of new rental accommodation standards;
- new legislative protections for tenants where multi-unit developments are being sold;
- broadening and strengthening the role and powers of the RTB to more effectively provide their services, such as through accelerated dispute resolution processes, and empower tenants and landlords;
- developing a 'One-Stop Shop' within the RTB to improve access to information for tenants and landlords; and
- RTB determination orders are now enforced through the District Court rather than the Circuit Court, thereby reducing the costs involved and increasing the speed and efficiency of their enforcement.

Change Management Plan for the RTB

As part of the targeted review of Rebuilding Ireland in Autumn 2017, a programme of further actions was signalled to further broaden the role of the RTB to pro-actively enforce their implementation as well as move towards annual registration of tenancies, which will provide more accurate and detailed data on the rents being charged, as part of a short- to medium-term Change Management Plan for the RTB.

2.2 Objectives

The overall objective of the Residential Tenancies (Amendment)(No. 2) Bill 2018 is to give legislative underpinning to a number of specific actions outlined in the Government's Strategy for the Rental Sector and the review of Rebuilding Ireland – An Action Plan for Housing and Homelessness which will reinforce the viability of the rental sector, including addressing tenant protection issues and provide enhanced and strengthened the powers and functions for the Residential Tenancies Board (RTB).

The main provisions in the Bill relate to making it an offence for landlords to implement rent increases that contravene the law in rent pressure zones (RPZs), and providing enforcement powers to the RTB to investigate and prosecute or sanction in such cases.

The Bill will also allow the RTB to initiate an investigation in its own right without the need for a complaint to be made, as well as prosecute or administratively sanction landlords who implement such increases.

The Bill will also provide for annual registration of tenancies with the RTB.

The Bill also contains some technical amendments to enhance rental data, ensuring duration of occupancy is taken into account in any notice periods and to make it mandatory that the RTB publish their determinations.

3. Identification of Options

No Change Option:

If no changes are made, the current provisions of the Residential Tenancies Acts 2004 – 2016 would not be amended as proposed in Option 2 and a number of the key actions of the Action Plan on Housing and Homelessness which require legislative underpinning would, therefore, not be delivered.

Preferred Option: Implementation of the legislative proposals proposed in the Action Plan on Housing

The Action Plan on Housing and Homelessness underpins the Government's commitment to end the housing shortage and to tackle homelessness, the publication of which was a priority commitment in the Programme for Partnership Government. The preparation of the Action Plan on Housing was informed, in particular, by the Report of the Oireachtas Committee on Housing and Homelessness (June 2016) and extensive engagement with key stakeholders. The key targets of the Action Plan are subject to regular Cabinet review. The Bill includes provisions where there is a requirement for primary legislation to bring into effect a number of proposed measures included in this Action Plan.

4. Identification of Costs, Benefits and Impacts

4.1 Costs

No Change Option:

Failure to implement identified improvements in the regulatory framework for private rental accommodation will, in the long run, result in increased costs for the State and tenants. Failure to effectively control rent increases will result in long term renters being priced out of the market which will reduce security and increase homelessness. Furthermore, if steps are not taken to prevent this, tenants in receipt of social housing supports via the private rented sector may have to rely on their local authority to provide alternative accommodation. This may lead in some cases to significant increases in emergency accommodation costs or increases in rents paid under new tenancy agreements in order to secure accommodation.

Preferred Option: Implementation of the legislative proposals proposed in the Action Plan on Housing

For the State, there would be additional budgetary costs associated with staffing and administrative costs associated with the enhanced powers and role of the RTB.

4.2 Benefits

No Change Option:

The existing and established enforcement framework would remain in place. Additional resources would not be required to ensure that the Residential Tenancies Board could fulfil the policy objectives as outlined earlier.

Preferred Option: Implementation of the legislative proposals proposed in review of Rebuilding Ireland

- Lower rents
- Increased security for tenants
- Better enforcement and dispute resolution in the RTB
- Wider social and economic benefits

- Enhanced implementation of the Governments rent pressure zone measure

4.3 Impacts

No Change Option:

- Certain Government commitments in the Action Plan for Housing would not be implemented
- Existing contraventions of RPZ's may continue/grow
- Negative impact on long term security of rental accommodation

Preferred Option: Implementation of the legislative proposals proposed in the Action Plan on Housing

- Positive impact on rental sector of improved rent control
- Positive impact on tenants of improved security of tenure
- Positive impact on rental sector of increased RTB enforcement and sanctioning powers

5. Consultation

The legislative provisions of the Bill underpin a number of actions outlined in the widely-publicised Action Plan on Housing and Homelessness, the preparation of which was informed in particular, by the Report of the Oireachtas Committee on Housing and Homelessness and by extensive engagement with key stakeholders.

A public consultation on Rebuilding Ireland was launched in July 2017. It is clear that increased State investment and targeted supply-side initiatives are having a positive impact on the number of new homes becoming available to rent or buy. Nevertheless, given the mis-match in the short term of housing supply and demand, it was considered timely to reflect on what additional measures may be required, building on the important work already completed or underway.

Six months on from the introduction in December 2016 of the rent predictability measure and RPZs, it was considered timely to reflect on the impact of the measure and on the scope to further refine and reform the provision in light of emerging analysis and evidence. To gather views, a public consultation process on the effectiveness and impact of the measure was carried out in June 2017.

73 Submissions were received from a range of stakeholders.

6. Review

The key targets of the Action Plan on Housing and Homelessness are subject to regular Cabinet review. The Cabinet Committee D (Infrastructure), chaired by the Taoiseach, actively oversees the implementation of the Action Plan.

Public accountability

From a public accountability perspective, provisions regarding sanctions for improper conduct will be subject to appeal or confirmation by the Circuit Court. An appeal to the High Court on a point of law is provided for in the Bill.

7. Publication

The Bill will be published as soon as possible after securing Government approval to do so.

This Regulatory Impact Analysis will be published on the Department's website - www.housing.gov.ie.

All sanctions will be published on the RTB's website: - www.rtb.ie.

Department of Housing, Planning and Local Government
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