Review of Rent Predictability Measure – Final Report

Rebuilding Ireland – Action Plan for Housing and Homelessness

Rebuilding Ireland was published on 19 July 2016 as the Government's response to the biggest single challenge facing Ireland — the housing and homeless crisis. Rebuilding Ireland, together with the Government's Strategy for the Rental Sector (published on 13 December 2016), comprises 113 actions, across five key Pillar Areas, as follows:

1. Address Homelessness
2. Accelerate Social Housing
3. Build More Homes
4. Improve the Rental Sector
5. Utilise Existing Housing

The multi-stranded, action-oriented Rebuilding Ireland Plan aims to reverse the chronic under-supply of new homes that is making new home purchase and rents increasingly unaffordable and is driving additional households into homelessness. It is designed to address all tenure types - social, private and rental - and to tackle homelessness comprehensively, by setting ambitious targets to, *inter alia*:

- Double the annual level of new homes built to 25,000 by 2020;
- Deliver an additional 47,000 social housing units in the period to 2021;
- Make the best use of the existing housing stock; and
- Lay the foundations for a more vibrant and responsive private rented sector.

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, one year on, given the unprecedented mis-match in the short term between 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.

Separate to this, a specific review of the Rent Predictability Measure was carried out in June 2017, which fed into the overall review of Rebuilding Ireland.

Strategy for the Rental Sector

The *Strategy for the Rental Sector* (December 2016) recognised that rapidly increasing rental inflation is the most significant challenge to security of tenure in the rental sector at present and that there is a need for a targeted, time-bound and transparent policy response to the issue of rising rents.

To address this, the Government introduced the Rent Predictability Measure. This measure, which was provided for through the Planning and Development (Housing) and Residential Tenancies Act 2016, introduced the concept of Rent Pressure Zones (RPZs), to moderate the rate of rent increases in those areas of the country where rents are highest and rising quickly.

Rent Pressure Zones are defined as areas where the annual rent increases (i.e. over the preceding 12 months) have been at 7% or more in four of the last six quarters and where the rent levels are above the national average. An area that meets these criteria can then be designated by Ministerial Order as a Rent Pressure Zone.

Detailed RPZ Designation Criteria

The criteria as set out in the Act is as follows: Section 24A (4) of the Residential Tenancies Act 2004 (as inserted by section 36 of the Planning and Development (Housing) and Residential Tenancies Act 2016) states:

(a) The information relating to the area concerned, as determined by reference to the information used to compile each Rent Index quarterly report, shows that the annual rate of increase in the average amount of rent for that area is more than 7 per cent in each of at least 4 of the 6 quarters (each being a period of 3 months that is contemporaneous with the period to which the Rent Index quarterly report concerned relates) preceding the period immediately prior to the date of the proposal by the Housing Agency to the Minister under subsection (1), and

(b) The average rent for the area in the last quarter as determined by reference to the manner referred to in paragraph (a), is above the average nation rent (commonly referred to as the Rent Index national standardised rent) in the last quarter.

Operation of Rent Pressure Zones

Once an area is designated a Rent Pressure Zone, rent increases are capped at a maximum 4% per annum for up to three years. For tenancies that are already in existence when the RPZ is designated, a rent review is only permitted 24 months after the rent was last set. For this initial rent review after the 24-month period, a maximum rent increase of 4% will apply. This amounts to 2% per annum applied pro-rata for the period since the rent was last increased.

Following on from this initial review after 24 months, a landlord is then entitled to review the rent every 12 months and a 4% per annum increase is permitted.

If rent reviews take place annually, the permissible rent increase in each case will be 4%. If, for example, a landlord opts to review the rent after 18 months (instead of one year) the allowable increase will be 6% (4% per annum pro-rata for 1½ years).

Rent Pressure Zone Designations

The rent predictability measure was implemented immediately upon enactment of the 2016 Act in Dublin and Cork city because those areas already met the criteria. A further 12 Local Electoral Areas (LEAs) were designated in January, with the measure further extended to Maynooth and Cobh LEAs in March 2017 and to Drogheda and Greystones LEAs in September 2017.

24 December 2016	27 January 2017		30 March 2017	20 September 2017
Cork City Council	Ballincollig / Carrigaline	Kildare / Newbridge	Cobh	Drogheda
Dublin City Council	Galway City Central	Ashbourne	Maynooth	Greystones
Dun Laoghaire / Rathdown	Galway City East	Laytown / Bettystown		
Fingal County Council	Galway City West	Ratoath		
South Dublin County Council	Celbridge / Leixlip	Bray		
	Naas	Wicklow LEA		

Review of Rent Predictability Measure – Public Consultation

Six months on from the introduction of the RPZ measure 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 launched on the 15th of June and stayed open until the 30th of June.

Questions posed in the consultation all relate to issues highlighted since the measure came into operation. Namely:

- Qualifying criteria.
- Use of Local Electoral Areas.
- Issues for Landlords who have kept rent below market level.
- Use of the Consumer Price Index (CPI).
- Effectiveness of the exemptions.
- Improvements to increase clarity and understanding of the measure.
- Enforcement.

73 Submissions were received, broken down by category as follows:

- 42 from Landlords
- 9 Estate Agents / Property Professionals
- 7 Local Authorities
- 5 National Organisations / Housing Charities
- 5 Members of public
- 3 Tenants
- 2 Political Parties

Not all respondents replied to each of the questions posed.

Feedback from Consultation

From the submissions received, the most frequently received comments were as follows:

1) **Below Market Rent**:
   - Request that landlords who are charging below market rates to be allowed to increase rents to market rents (39 instances, 53% of responses).
   - Request that landlords who are charging below market rates be allowed to move to market rate for new tenancies (23 instances, 32% of responses).
   - Amend the measure in respect of the sale of rented property so that new landlords would not be bound to the previous landlords below market rent (12 instances, 17% of respondents).

2) **Improving enforcement**:
   - Improving enforcement was also raised in 12 responses (17%); where it was highlighted that in some cases landlords are applying illegal increases and tenants in vulnerable positions are often afraid to take cases or are not aware of their rights.
   - Requests were also made for enforcement to be by the state not the tenants.

3) **Local Electoral Areas**
   - The use of Local Electoral Areas (LEA's) was also questioned especially where the designation splits a town or even an estate.
   - There are calls for smaller areas to be designated as many LEA's have both urban and rural areas with very different rental markets (7 instances, 10% responses).

4) **Rental Market General**

   When invited to comment on the wider rental market:-
   - 17 respondents (23%) advised that sale was now more attractive than remaining in the market.
   - 9 respondents (12.5%) called for a fairer tax treatment for landlords.

Local Authority Consultation

Local Authorities were also contacted to ascertain if the rent predictability measure was having an impact of the Housing Assistance Payment (HAP), Rental

Accommodation Scheme (RAS) and leasing schemes. 7 local authorities responded:

- As RAS and leasing scheme rents are not in line with market rents, LA's are having difficulties keeping landlords in the schemes (5 responses).
- One LA reported that 18 RAS tenancies have been served with a notice to quit, with 16 of these properties subsequently put up for sale.
- A second LA reported that many accidental landlords are leaving the schemes and are now selling as the properties are no longer in negative equity.

Further feedback from the consultation under each heading is attached at Appendix A.

Residential Tenancies Board Rent Index

Rent Index for Q1 2017

The Rent Index is an important tool to monitor the impacts of the new measure. The Residential Tenancies Board National Rent Index for Q1 2017 was published in June 2017**.** The index relates to the period January to March 2017, the first rent index looking at the period since the rent predictability measure was introduced. Results for Quarter 1 showed that:

- Data for Q1 2017 show that private rents rose by over 7.3% across the country, compared with the same period in 2016.
- Quarter-on-quarter growth appears to be moderating with an increase of less than 0.1% down from 2.8% in the last quarter's index.
- Rents in Dublin showed a quarterly decrease of -1.5%, when compared with growth of 2.9% in Q4 2016.
- In Dublin, rents are now 8% higher than their previous peak in 2007, while outside Dublin, rents are still 8% below their 2007 peak.
- The Standardised Average National Rent in Q1 2017 was €987 per month.

Rent Index for Q2 2017

The RTB National Rent Index for the period April to June 2017was published in September 2017, with results for Quarter 2 showing that:

- Private rents rose by over 6.6% across the country, compared with the same period in 2016.

- While quarter-on-quarter growth was relatively flat in Q1 2017, the pace of growth accelerated in Q2, with rent increases of 3.1%.
- Rents in Dublin showed a quarterly increase of 3.3%, when compared with a decrease of -1.5% in Q1 2017.
- In Dublin, rents were 10.8% higher than their previous peak in 2007, while outside Dublin, rents were still 3.8% below their 2007 peak.
- The standardised average rent is €1,017 per month, up from €954 year on year.

Rent Index for Q3 2017

The RTB National Rent Index for Q3 2017 covering the period July to September 2017 was published in December 2017 and provided the following data analysis for Quarter 3 showing:

- Private rents rose by 9.5% across the country compared with the same period in 2016.
- The pace of growth accelerated in the third quarter of 2017, with standardised national rents increasing by 3.9%.
- Rents in Dublin showed a quarterly increase of 4.1% when compared with an increase of 3.1% in Q2 and a decrease of -1.5% in Q1.
- In Dublin, rents were 14% higher in Q3 2017 than their previous peak in 2007, while outside Dublin, rents are still 3.8% below their 2007 peak.
- The standardised average rent is €1,056 per month, up from €965 year on year.

Rent Index for Q4 2017

The Q4 RTB Rent Index for 2017, covering the period October to December 2017 was published in March 2018. This latest rent data show reductions in the rate of rental inflation across both national and Dublin rents.

- Private **na**tional rents grew by 6.4% over the year to end-2017, representing a slowdown relative to the previous quarter's year-on-year increase of 8.0%, bringing the rate of growth back to levels experienced in early 2017.
- The pace of growth decelerated moderately in the fourth quarter of 2017, with standardised rents increasing by 1.1% in Q4, compared to 2.5% in Q3 2017.

- Standardised average rent is now €1,054 per month (up from €1,042 in Q3 2017 and €990 in Q4 2016).

- There has been a slowdown in the quarterly growth rate in Dublin rents to 1.1% in Q4 2017, bringing the annualised growth rate over 2017 to 5.2%, a drop from 8% in Q3. Significantly, this 5.2% increase for Dublin is the lowest annual growth rate since 2013

Despite quarters 2 and 3 data showing that rents were continuing to trend upwards, the latest quarterly index provides evidence that the introduction of the RPZs, in December 2016, is beginning to have some positive effect on rent inflation, particularly in Dublin. The general trends are encouraging, with the 3.1% rise in Dublin rent levels in Q2 2017 followed by a 2.3% rise in Q3 and a 1.1% rise in Q4. Rents are continuing to rise, but at a slower annual rate.

Statistical Data

It is crucial that policy decisions are based on and supported by the best available evidence where possible. The continued strong economic and demographic growth combined with restricted supply continues to put pressure on the rental market and those seeking a place to live. We see that, in the 6.4% annual increase in new rents to the end of Q4 2017. However, this rate of increase has slowed from the previous quarter and the last time the annual growth rate in new rents was below this level was in Q1 2014.

In reviewing these results, it is important to note that:

- the Index is reflecting new rents registered with the RTB rather than a tracking of existing rentals levels,
- in considering RPZ areas in particular, the Index includes dwellings that are exempted from rents restrictions also. This means it is difficult to ascertain the impact on the overall averages of exempted dwellings such as properties not let in the last 24 months.

Outcome of the Review

Following consideration of the views submitted during the consultation process and the statistical analysis provided by Quarterly Rent Index Reports over 2017, a number of important actions have been identified and are being implemented to improve the Rent Predictability Measure. These improvements aim to strengthen the effectiveness and impact of the measure and provide the RTB with the powers and resources to take on a regulatory responsibility in the rental sector.

A Project Group to develop and implement the RTB Change Management Plan has been established and the Group held its first meeting in March 2018. The Group aims to identify the necessary legislative changes required, which will be developed for enactment in 2018 and also any required changes to the Board's financial structure and staffing arrangements in order to progress the operation of these functions. Actions arising from the Review and being progressed by the Project Group include:

1) Strengthening RPZ Enforcement

- Charging rents above those permitted by Residential Tenancies Acts 2004-2016 will become an offence.
- The RTB will be provided with the required powers of enforcement so that it will no longer be solely up to the tenant or landlord to initiate a dispute.
- A landlord will be required to notify the RTB of any exemption claimed from the rent increase limits and the RTB will be empowered to take follow-up investigative and enforcement action, if required.

These legislative changes will strengthen the impact of the Rent Predictability Measure and should help to further slow the growth in rents. These enhanced enforcement procedures to be introduced in 2018 will reform the Rent Pressure Zone mechanism to deliver a more effective and transparent approach to its operation. The Government has given priority to the drafting and early publication of a Residential Tenancies (Amendment) Bill to address this and other priority issues in the rental sector.

2) Substantial Refurbishment Guidelines:

- The consultation highlighted concern about landlords using the "substantial refurbishment" exemption to avoid the RPZ legislation and to use minor, cosmetic works to change a tenancy or seek a rent increase outside of the 4% cap.

- To address these concerns, in November 2017 the RTB published a comprehensive set of guidelines for landlords and tenants on what constitutes “Substantial Refurbishment” of a dwelling. These guidelines clarify situations where a landlord can claim "substantial change" in rented properties for the purposes of both termination of a tenancy and exemption from the rent increase restriction of 4% per year that apply in Rent Pressure Zone areas. The Department is keeping under review whether there is value in placing these guidelines on a statutory footing.

3) Annual Registration of Tenancies

- The RTB will move towards annual registration rather than one-off registration of tenancies, which is currently the case. This will enable the detailed analysis of the rent data gathered, which will permit the building of a national rent dataset, allowing the Board to provide advice on rents for different property types. This enhanced data will be key to understanding trends and behaviour in the rental market, including any transgression of rules around rent increases as well as informing future policy decisions. The necessary legislative amendments required are to be examined with a view to enactment during 2018.

4) Low Rent Exemption

- Enhanced rental data will also allow the DHPLG to assess whether there is a need and mechanism to allow landlords who are charging abnormally low rents (e.g. based on low rents agreed to facilitate family and friends in the property or where rents have not been increased for many years), who have been caught by the RPZ measures, to apply to the RTB for an exemption allowing a once-off increase greater than the 4% standard rent increase and that takes into account the low level of rent they are currently charging.

Next Steps

1) Regulator for the Rental Sector

The RTB will be given the powers and the resources to take on a more regulatory responsibility in the rental sector. Because of the scale of such a task, the Department together with the RTB will work to explore the changes needed in legislation and in the Board's financing arrangements. A two-year change management plan is under development to enable the RTB to progress to become the sector's regulator over the next year or two. The necessary legislative amendments to introduce a new enforcement model for the RTB are currently being drafted, with a view to enactment in 2018, which will give the RTB the necessary powers to investigate and prosecute and to protect both tenants and landlords.

2) **Rent Predictability Measure**

The changes proposed to the Rent Predictability measure will require amendments to be made to the Residential Tenancies Act (and as amended). The Project Group continue to provide support and advice on the drafting of legislation and the Change Management Plan will identify priorities with timeframes for delivery. Work is underway to develop Heads of a Bill to move these forward.

Rental Market & AHB Regulation Section
20 April 2018

Appendix A - Feedback from consultation

The following section offsets out the questions posed in the consultation document and a summary of the most common response to each question.

Questions to consider

1. Having regard to the criteria used to determine whether an area can be designated a Rent Pressure Zone, as outlined on page 2, do you agree with these qualifying criteria? Would you like to see any changes or amendments to these criteria, and if so, what criteria should be used and why?

   Summary views

   - Having to fulfil both criteria in order to be designated as a RPZ is too strict.
   - If rents are increasing by 7% annually, that confirms they are rising and they should not have to hit the national average.
   - Rents should be moderated before they become unsustainable.
   - Often, the LEA is made up of towns with high rents and more rural areas with lower rents reducing the average, so despite high growth levels they remain below the national average.
   - There are areas where rents are high but the quarterly growth is volatile so that element of the criteria is not met.

2. It is the case that, with Local Electoral Area boundaries cutting through some towns, it is possible that parts of a town may be designated as a Rent Pressure Zone while other parts are not. In the legislation, the 'area' that can be designated as a Rent Pressure Zone is defined as either the administrative area of a housing authority or a Local Electoral Area (within the meaning of section 2 of the Local Government Act 2001). There is no provision for any other type of area to be designated as a Rent Pressure Zone. The smaller the area, the more difficult it becomes to have a realistic calculation of an average rent for the area, because a small number of registrations can distort the overall picture.

   While the use of LEAs is a significant step forward, it has taken significant effort by the RTB and the ESRI to develop a robust methodology for analysis at this level. While being mindful of the data requirements and the sample size needed to be able to designate, do you consider that the use of LEA-defined areas as appropriate or would you recommend another approach to delineating Rent Pressure Zones and, if so, what should that approach be?

Summary views

- LEAs can encompass both large towns and rural areas which have very different rental markets and these need to be evaluated separately.
- All parts of the same town and same estates need to be subject to the designation.

3. It has been suggested that the RPZ measure penalises good landlords who have kept the rent below market rent levels. While a maximum rent increase of 4% is allowable after 24 months, there is provision for a 2% annual increase to be applied pro rata for the period since the last rent increase (i.e. a 6% increase would be permissible if the rent had not been increased for 3 years). Is there merit in considering an amendment that would allow for increases larger than this, where the rent for the property is considerably below market rent? What would you like to see as the qualifying criteria in such a situation?

Summary views

- 53% of the respondents requested some sort of a change that would allow those landlords who are charging below-market rents to increase to market rent. There were variations on this reply with respondents requesting:
    - A once-off opportunity to bring rents in line with market rent.
    - Allow to bring within 10% of market rent.
    - Allow for larger increases for a period until market rent is achieved.
- Below-market rent is often linked to a relationship with a particular tenant so allowing landlords to move to market rents for new tenancies was suggested.
- The effects of the cap and the inability to charge market rent is also affecting the sale of property with respondents requesting that, when

selling rental property, it can be sold unencumbered by its previous rental charge.

4. Is the 4% limit on rent increases an appropriate level of permissible rent rises? Proposals to link the allowable increases to the Consumer Price Index (CPI) are frequently put forward. The Rent Predictability Measure limit is fixed and clear and gives certainty to landlords and tenants for a three-year period. The same certainly would not be possible with CPI – do you see any merits in linking rent increases instead with CPI?

   Summary views

   - CPI does not capture the costs involved in providing accommodation so not a suitable measure.
   - Need to see the effectiveness of the 4% RPZ measure before a decision can be made on a CPI link – too soon to decide.

5. The Rent Predictability Measure allows for exemptions to the rent increase limits for properties which are new to the rental market or which have been substantially refurbished. These exemptions, together with the short time-limited life-span of the measure (3 years), are intended to avoid negative impacts on the availability and supply of rental accommodation. Have these exemptions been effectively implemented? Do you consider that the measure has had a negative impact on the supply of rental accommodation?

   Summary views

   - A definition of 'substantially refurbished' is requested.
   - There is a risk that landlords are using refurbishment as a way to get around the rent caps.
   - There is a fear among respondents that in 3 years, this will be replaced by another 'temporary measure'.
   - Creates uncertainty in the market for investors.

6. Is the Rent Predictability Measure easily understood and transparently implemented? Like most legislation, the provisions and language set down in

the Planning and Development (Housing) and Residential Tenancies Act 2016 are quite complex. Are there improvements to the implementation of the Rent Predictability Measure that could be made increase clarity and improve understanding of the measure?

Summary views

- The formula is too complicated.
- The commitment to the simplification of the Act is welcomed.
- Tenants remain unaware of their rights.

7. Are the limits on rent increases being applied in practice across the boards in Rent Pressure Zones or are they being avoided or ignored? Enforcement of the measure is through tenants referring rent notices to the Residential Tenancies Board. Is this an effective approach to ensuring compliance with the legislation or is another approach required and, if so, what might this be?

Summary views

- Enforcement needs to be by the State, not the tenants. Tenants in vulnerable positions are often afraid to take cases or are not aware of their rights.
- Landlords are agreeing rents above the approved 4% and some tenants accept this to secure the property.
- Rent amounts need to be registered and the RTB need to take action, if not correct.

8. Please provide any other comments and suggestions you would like to make in respect of Rent Pressure Zones and the wider rental sector.

Summary views

- 17 respondents advised that sale is now more attractive than remaining in the rental market.
- Fairer tax treatment for landlords was raised in 9 submissions.
- Tax regime favours REIT's. (5)

- The inability to charge market rent is affecting the standard of accommodation as landlords cannot afford to upgrade. (5)
- Moving to short-term lettings seen as a better option. (5)

9. Local Authorities were also contacted to ascertain if the rent predictability measure is having an impact of the Housing Assistance Payment (HAP), Rental Accommodation Scheme (RAS) and leasing schemes. 7 local authorities responded with the following comments.

Summary views

- Social housing provided by local authorities in the private rented sector, in particular the Rental Accommodation Scheme and leasing arrangements, should be granted a derogation from the RPZ limits or application of these limits should only be at the discretion of the housing authority.
- RAS and leasing scheme rents are not in line with market rates. Landlords are advising that they will withdraw from the scheme if rents are not brought to market level. With one LA reporting that 18 RAS tenancies have been served with a notice to quit, 16 of these properties are now for sale.
- A second LA reported that accidental landlords are leaving the scheme as they are coming out of negative equity and are now in a position to sell.