



Residential Tenancies (Amendment) Act 2019 – Explained

August 2019

The Residential Tenancies Board (“RTB”) (formerly PRTB) was established back in 2004 by the Residential Tenancies Act 2004. Since 2015 in particular, there has been a steady flow of amendments to this legislation, generally in favour of tenants. The Residential Tenancies (Amendment) Act 2019 (“2019 Act”) is no different and with some exceptions, strengthens protection for tenants in the rental market. While these changes may be easier to absorb for institutional landlords, they will make life more difficult for non-professional landlords. The content of the legislation should bring no surprises to anyone watching the PRS market. Given the government focus on the sector – due to increased rental levels, lack of availability of quality accommodation and so on - the introduction of sanctions and greater policing powers for the RTB was inevitable.

Some of the changes to be aware of arising from the 2019 Act are as follows:

1. Ending a tenancy

It has always been possible for a landlord to end a tenancy on notice to a tenant in occupation for more than six months, provided certain criteria have been satisfied. These criteria have become more stringent: –

- a. If terminating a tenancy because a family member is moving in to the property, this must be confirmed by the owner in a statutory declaration (on oath) served with the notice;
- b. If terminating a tenancy in order to sell the property, the property must be sold (contracted) within 9 months of the expiration of the notice;
- c. If terminating a tenancy in order to carry out some refurbishment, the notice must set out the details of the planning permission (if required), the name of the contract or (if there is one), the date the works are to be carried out and the duration of the works. Post 4 June 2019, the notice must also attach a certificate from a qualified professional stating that the renovation would pose a threat to the health and safety of occupants if they were to remain in the dwelling, and that the works will take at least three weeks; or
- d. If terminating in order to change the use of the property e.g from residential to short term let, the notice must attach details of the planning permission granted.

In the event that the family members move out, the property doesn't sell or the use isn't changed, the landlord is obliged to offer the property back to the original tenant (provided the tenant has provided contact details). Post refurbishment, the obligation is likewise.

2. Notice Periods Extended

- a. Since 4 June 2019, the period of notice that a tenant is entitled to receive from a landlord in order to end a tenancy has been changed. The period of notice required should be checked on the [RTB website here](#).
- b. If an error is made on a termination notice, this is no longer the death knell that it once was. Now, upon the issuance of a Determination Order by the RTB, a correcting notice can be served within 28 days of the Determination Order. This means the whole process does not get thrown out due to human error on the face of the termination notice. There is now an opportunity to rectify matters.



3. Rent Pressure Zone Designations / Exemptions

To recap, rent pressure zones (“RPZ”) were introduced in December 2016 as a temporary measure to address the rapid increase in rent in specific areas. Rents in these zones can be increased by a maximum of 4% every 12 months. Following the commencement of the 2019 Act, landlords and tenants should note the following changes.

- a. Current RPZ designations will remain in place until December 31, 2020;
- b. There have been some changes to the exemptions that can apply to rental controls in a RPZ. A property is not going to be subject to the 4% rule if:
 - (i). The property is being rented for the first time (perhaps a new build) or rented for the first time, having not been let for the previous two years; or
 - (ii). There has been a substantial change in the nature of the accommodation for rent meaning works have been carried out to the property and either –
 1. The works increase the floor plate of the dwelling by 25%; or
 2. The works increase the BER rating by over 7 building energy ratings; or
 3. Any three of the following are satisfied:
 - a. The internal layout is permanently altered;
 - b. The dwelling is adapted for use by a person with a disability;
 - c. There is a permanent increase in the number of rooms;
 - d. If a starting point of BER rating D1, the rating is improved by three ratings;
 - e. If a starting point of BER rating C3, the rating is improved by 2 or more ratings.
- c. Outside a RPZ, a landlord can only review the rent every 24 months.
- d. There is a new precedent RTB rent review form which must be used by landlords from 1 July 2019 onwards. It is accessible on the RTB website.

4. Student Accommodation

For the first time, student accommodation is captured by the residential letting legislation. Student accommodation providers are well established now in the housing landscape of Dublin in particular at this point. Even though typically, students occupy these blocks under a licence (which in legal terms is distinguished from a tenancy), the licences have been brought within the remit of the legislation and so student accommodation providers, educational institutions and private landlords who rent property to students during the academic term will be affected. The traditional “student digs” are excluded from the legislation. In terminating an agreement with a student, the landlord must abide by the notice periods set out by the 2019 Act, but is not obliged to give reasons for the termination as would be standard in dealing with a non-student. But in all other respects, students will benefit from the protection that the legislation provides, particularly as regards rental control. The changes affect all student accommodation where the tenancy commenced post 15 August 2019.

5. Investigations and Sanctions

A criticism of the residential tenancy legislation to date has been the fact that the penalties don’t act as deterrents. Matters take a long time to reach a conclusion and determination orders made by the RTB tribunals have not been public. Following the 2019 Act and from 1 July 2019, this should change.

The RTB has established a new unit dedicated to investigations of breaches of the legislation and sanctions. The idea is that the organisation will take a more active role in policing the sector and the application of the legislation. It has investigative powers even not on foot of a complaint.

As of 1 July 2019, the RTB has the power to investigate any conduct deemed to be improper and the 2019 Act sets out what “improper” means. If conduct is found to be improper, sanctions can be imposed of up to €15,000 plus and additional (up to) €15,000 in costs. If a landlord fails to co-operate with an investigation this is also an offence, punishable by fine up to €50,000 or imprisonment for up to 5 years, or both.



6. Annual Registration

As and from a date to be announced, landlords will be required to register their tenancies annually during the tenancy as well as on commencement of the tenancy. Failure to do this will be an offence under the 2019 Act.

7. Short term lets require planning permission

It has been well publicised that the government intended to address the fact that many properties had been removed from the rental market for use as short term lets since Airbnb has grown in popularity. The 2019 Act puts on a statutory footing the fact that in order to use an investment property in a RPZ on a short term let basis – meaning for periods not exceeding 14 days- an application must be made by the owner to the local authority seeking planning permission for change of use. [See our earlier advisory in relation to this development here.](#)

Conclusion

The 2019 Act has been commenced on a phased basis. However as of 15 August 2019, all of the provisions will be live with the exception of the annual registration requirement which is expected to commence in January 2020.

If you are a landlord it is important that you familiarise yourself with the content of the new legislation as failure to do so will expose you to additional costs and sanctions.

Contacts

If you have any queries on the above or would like to discuss in more detail please do not hesitate to contact us or your regular Walkers contact.



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