

Private Client Update

Residential Tenancies (Amendment) Act 2015



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AMENDMENTS TO THE LEGISLATION ON RENT INCREASES AND NOTICES OF TERMINATION

EFFECTIVE
DECEMBER

 4th 2015

Changes regarding Rent Certainty

The minimum duration between rent reviews has been extended from 12 months to 24 months.

This measure will have effect for a period of 4 years from enactment of the provisions on 4th December 2015 after which the minimum duration between rent reviews will revert to 12 months.

A landlord can only seek a review of the rent once in any 24 month period and cannot increase within 24 months of the commencement of the tenancy.

If a rent was reviewed during 2015 it cannot be reviewed again until 2017.

Period of Notice Required for a Rent Review

The period of notice required for a rent review has been extended from 28 days to 90 days.

If a landlord is seeking to review a rent they must serve notice to the tenant, in writing, providing a 90 day notice period before the increase is due to take effect. This applies to any notice served after 4th December 2015.

Notice of Termination for Landlords and Tenants

Changes have also been introduced to the notice periods required for the termination of a tenancy for both landlords and tenants. These notice periods came into effect on 4th December 2015.

Duration of Tenancy	Landlord Notice Period	Tenant Notice Period
Less than 6 months	28 days	28 days
6 months or more, but less than 1 year	35 days	35 days
1 year or more but less than 2 years	42 days	42 days
2 years or more but less than 3 years	56 days	56 days
3 years or more but less than 4 years	84 days	84 days
4 years or more but less than 5 years	112 days	84 days
5 years or more but less than 6 years	140 days	84 days
6 years or more but less than 7 years	168 days	84 days
7 years or more but less than 8 years	196 days	84 days
8 or more years	224 days	112 days

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AMENDMENTS TO THE LEGISLATION ON MEDIATION AND SLIP OR OMISSION IN NOTICE OF TERMINATION

EFFECTIVE
JANUARY

 8th 2016

Free Mediation Service

A new Free Mediation Service has been introduced under the Residential Tenancies Act.

The PRTB operate a two stage dispute resolution process. The first stage consists of either mediation, (if chosen by both parties), or adjudication. Either party has a right to appeal their case to the second stage, a public tribunal hearing.

In telephone mediations, an impartial, trained Mediator will work with both sides to assist them in reaching a mutually satisfactory resolution of the issues under dispute. Both sides are contacted individually by telephone and, through a series of calls, the Mediator facilitates the parties in coming to an agreed resolution within a short period of time. You will not have to speak with the other party to the dispute. Telephone Mediation does not rule out other options if an agreement is not reached. The Telephone Mediation process is a lot quicker than the Adjudication process and is less formal, less adversarial and requires far less paperwork. Parties may also opt for a face to face Mediation hearing. This will require that parties attend the Mediation hearing in person. The onus is on the parties to come to an agreement between themselves as the mediator will have no decision-making role in resolving the dispute. If the mediation is successful, the parties will make a

mediation agreement and the mediator will submit a report to the PRTB, which will form the basis for a legally binding Determination Order by the Board of the PRTB. Both parties must engage in the mediation process for a mediation to proceed. If the mediation does not reach a successful outcome the applicant can apply to have the dispute referred to a PRTB Tribunal for resolution.

Benefits of telephone mediation

- Speed – weeks as compared to months for adjudication. Cases are prioritised with the aim of having an agreement reached within a number of weeks.
- Success rate – To date 93% - when both parties engage in the process.
- Control - Parties remain in control of the process at all times and come to their own mutually acceptable agreement.
- Convenience - Neither party has to attend a hearing; to travel to/from the hearing location or requires time off from work/college. The telephone mediator will, where practicable, work around parties availability.

- Less paperwork compared to evidence submitted at adjudication hearings.
- Private and Confidential – The Dispute remains private to the parties, the Determination Order will not be published on the PRTB website which is the practice in all adjudication hearings.
- The terms of the Agreements are legally binding and enforceable.

It is quick and easy to apply for mediation by clicking into the Dispute Resolution section of the website at www.prtb.ie. Alternatively, a form can be requested by post by calling **0818 303037**

Slip or Omission in Notice of Termination

A new measure has been introduced under the Residential Tenancies Act New Amendments to allow that minor

errors in Notice of Terminations do not render the notice invalid.

The Principal Act is amended in relation to the hearing of a complaint under Part 6 in respect of a notice of termination served after 8th January 2016. An Adjudicator or the Tribunal, as the case may be, may make a determination that a slip or omission which is contained in, or occurred during the service of, the notice of termination shall not in itself render the notice of termination invalid, if he or she or it, as the case may be, is satisfied that:

- (a) the slip or omission concerned does not prejudice, in a material respect, the notice of termination, and;
- (b) the notice of termination is otherwise in compliance with the provisions of this Act.

3 FURTHER AMENDMENTS TO THE LEGISLATION

EFFECTIVE
MARCH

1st 2016

1. Terminating a tenancy for non payment of rent

- **Change:** The process for terminating a tenancy for non payment of rent has been reduced from 3 to 2 steps.
- **Step 1:** Notice must be served informing the tenant that an amount of rent is due and giving 14 days to pay those rent arrears.
- **Step 2:** If the tenant fails to pay the rent due within 14 days of receipt of the notice the landlord may serve a valid Notice of Termination giving 28 days notice.

2. Cooling off Period for agreements

- **Change:** Where an agreement is reached at mediation and adjudication, the cooling off period has been reduced from 21 days to 10 days. This 10 days commences on the day the agreement is reached.

3. Costs and Expenses awards to Parties in Dispute Resolution is limited to €1,000. Legal or Professional Costs are limited to €5,000

- **Change:** Where Dispute resolution is sought, a mediator, adjudicator or the Tribunal are limited to awarding maximum costs of €1,000. The words 'costs' and 'expenses' here include costs and expenses relating to travel and attendance at a hearing and those incurred in preparation of a case. The awarding of such costs is discretionary and where sought, should be supported by documentary evidence. For the avoidance of doubt, preparation costs do not include legal costs referred to in Section 5(3)(a) of the 2004 Act.

4. Tribunal notice period

- **Change:** The Tribunal hearing notice period is currently 21 days. However, this time period may be reduced by the Board where a party indicates that there is financial or other hardship. The Board has discretion in this regard.

4 AMENDMENTS TO THE LEGISLATION ON FORM OF NOTIFICATION OF NEW RENT TO TENANT AND NOTIFICATION OF NEW RENT TO THE PRTB

EFFECTIVE
PENDING

Form of Notification of New Rent to Tenant

Going forward the form in which a landlord notifies tenant of a Rent Review has been amended.

This notice must now include:

Information to the tenant in relation to dispute resolution through the PRTB should the tenant wish to challenge the increase.

Information of three similar properties for rent in the area at the market rent requested.

Notification of New Rent to the PRTB

Within one month of the rent being increased the landlord must notify the PRTB of the increase.

Included in this notification the landlord must provide a statement signed by the tenant stating that they have been made aware of their rights and shown supporting documentation of three similar properties in the area at the market rent requested.

Further changes will be announced in the coming months as other sections of the legislation are commenced. This will include the extension of the remit of the PRTB to Approved Housing Bodies (Housing Charities) in April. Other changes yet to be commenced include fast tracking procedures to deal with Rent Arrears and the introduction of a Deposit Protection Scheme.

From 1st January 2016 a landlord cannot discriminate against a person in receipt of rent supplement, housing assistance or any payment under the Social Welfare Acts. If a person feels they have been discriminated against they should contact the Irish Human Rights and Equality Commission www.ihrec.ie

From 1st January 2016, a landlord can enjoy the full 100% interest deduction where they provide accommodation to tenants in receipt of social housing supports, e.g. Department of Social Protection Rent Supplement, and the Housing Assistance Payment (HAP) and Rental Accommodation Schemes (RAS) operated by local authorities.

The landlord undertakes to make a dwelling available for a period of 3 years to a tenant in receipt of rent supplement, or to a tenant whose rent is payable by a local authority, in order that the landlord may apply to the Revenue Commissioners, after the end of the 3 year period, for a 100% rather than a 75% deduction for interest on borrowings under section 97(2K) of the Taxes Consolidation Act, 1997.

In cases where leases commenced prior to January 2016, the Form of Undertaking must be submitted to the PRTB by 31st March 2016. Forms may be downloaded on the PRTB website PRTB.ie

All information is from and can be verified on the PRTB.ie

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