

Housing (Miscellaneous Provisions) Act 2014

Number 21 of 2014

HOUSING (MISCELLANEOUS PROVISIONS) ACT 2014

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Acts Referred to

Capital Acquisitions Tax Consolidation Act 2003 (No. 1)

Capital Gains Tax Acts

Central Bank Act 1971 (No. 24)

Children Act 2001 (No. 24)

Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (No. 24)

Companies Act 1963 (No. 33)

Family Home Protection Act 1976 (No. 27)

Housing (Miscellaneous Provisions) Act 1992 (No. 18)

Housing (Miscellaneous Provisions) Act 1997 (No. 21)

Housing (Miscellaneous Provisions) Act 2002 (No. 9)

Housing (Miscellaneous Provisions) Act 2009 (No. 22)

Housing (Private Rented Dwellings) Acts 1982 and 1983

Housing Act 1966 (No. 21)

Housing Act 1988 (No. 28)

Housing Acts 1966 to 2014

Housing Finance Agency Act 1981 (No. 37)
Land And Conveyancing Law Reform Act 2009 (No. 27)
Landlord and Tenant (Ground Rents)(No. 2) Act 1978 (No. 16)
Landlord and Tenant Acts 1967 to 2008
Local Government Act 2001 (No. 37)
Local Government Reform Act 2014 (No. 1)
Ministers and Secretaries (Amendment) Act 2011 (No. 10)
Ministers and Secretaries (Amendment) Act 2013 (No. 29)
Misuse of Drugs Acts 1977 to 2007
Planning and Development Act 2000 (No. 30)
Registration of Title Act 1964 (No. 16)
Residential Tenancies Act 2004 (No. 27)
Residential Tenancies Acts 2004 and 2009
Social Welfare Acts
Social Welfare Consolidation Act 2005 (No. 26)
Stamp Duties Consolidation Act 1999 (No. 31)
Tax Acts
Taxes Consolidation Act 1997 (No. 39)
Value-Added Tax Acts

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HOUSING (MISCELLANEOUS PROVISIONS) ACT 2014

An Act to make further provision in relation to housing provided by housing authorities and for that purpose to amend and extend the Housing Acts 1966 to 2014, to provide for financial assistance by housing authorities in respect of rent payable by certain housing tenants, to provide for the direct remission to a housing authority in respect of rent or rent-related obligations of certain social welfare payments and allowances payable to a person under the Social Welfare Acts and for that purpose to amend the law relating to such payments, to amend the Housing Finance Agency Act 1981 , and to provide for connected matters. [28 th July, 2014]

Be it enacted by the Oireachtas as follows:

PART 1

Preliminary and General

Short title, collective citation and construction

- (1) This Act may be cited as the Housing (Miscellaneous Provisions) Act 2014.
- (2) This Act and the Housing Acts 1966 to 2014 shall be read together as one and shall be included in the collective citation " Housing Acts 1966 to 2014 " .

Commencement

2. This Act comes into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Definitions (generally)

3. In this Act-

- "Act of 1992" means the Housing (Miscellaneous Provisions) Act 1992 ;
"Act of 1997" means the Housing (Miscellaneous Provisions) Act 1997 ;

"Act of 2009" means the Housing (Miscellaneous Provisions) Act 2009 ;

"approved body" means a body standing approved of for the purposes of section 6 of the Act of 1992;

"household" has the meaning assigned to it by section 2(1) of the Act of 2009

"prescribed" means prescribed by regulations made by the Minister;

"Principal Act" means the Housing Act 1966 .

Regulations

4. (1) Subject to subsection (2), the Minister may make regulations prescribing any matter referred to in this Act as prescribed or to be prescribed or to be the subject of regulations or for the purpose of enabling any of its provisions to have full effect.

(2) Regulations made under this Act-

(a) may contain such incidental, supplementary, consequential or transitional provisions as appear to the Minister to be necessary for the purposes of the regulations, and

(b) may be expressed to apply generally or-

(i) to specified housing authorities or areas, or

(ii) to housing authorities, areas, apartment complexes (within the meaning of section 50 of the Act of 2009), dwellings, tenancies, loans, mortgages, persons, households, works or any other matter of a specified class or classes, denoted by reference to such matters to which the provision or provisions of this Act under which the regulations are made relate, as the Minister considers appropriate, and different provisions of such regulations may be expressed to apply in relation to different housing authorities or areas or different classes of housing authorities, areas, apartment complexes (within the meaning of section 50 of the Act of 2009), dwellings, tenancies, loans, mortgages, persons, households, works or other matters.

(3) Every regulation under this Act shall be laid before each House of the Oireachtas as soon as may be after it has been made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under the regulation.

Expenses of Minister

5. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

PART 2

Termination of Local Authority Tenancies, etc.

Interpretation (Part 2)

6. (1) In this Part-

"affordable housing" means-

(a) an affordable house provided under Part V of the Planning and Development Act 2000 or Part 2 of the Housing (Miscellaneous Provisions) Act 2002 , or

(b) an affordable dwelling purchased under affordable dwelling purchase arrangements provided for by Part 5 of the Act of 2009, as the case may be;

"dwelling" means a dwelling provided by a housing authority under the Housing Acts 1966 to 2014 or Part V of the Planning and Development Act 2000 , other than affordable housing, and includes any building or part of a building of which an authority is the owner and which the

authority requires for the purposes of those Acts;

"rent-related obligation" means-

(a) the term of a tenancy agreement requiring payment on the due dates of the amount of rent determined under section 58 of the Principal Act or section 31 of the Act of 2009, and

(b) a term of rescheduling arrangements;

"rescheduling arrangements" means arrangements relating to payment of rent arrears and includes arrangements referred to in section 34(2) of the Act of 2009;

"tenancy agreement" means-

(a) an agreement, between a person and a housing authority, that is of a type referred to in section 58(4)(b) of the Principal Act, under which the person is permitted to occupy or use a dwelling to which that section applies, or

(b) a tenancy agreement referred to in section 29 of the Act of 2009.

(2) A reference in this Part to rent includes a reference to charges in respect of a dwelling, whether by way of rent or otherwise, in respect of works or services provided under the Housing Acts 1966 to 2014 or Part V of the Planning and Development Act 2000 .

Tenancy warning relating to anti-social behaviour, etc.

7. (1) In this section "specified term" means a term of a tenancy agreement that prohibits-

(a) anti-social behaviour,

(b) nuisance or conduct likely to cause annoyance or disturbance to neighbours, or

(c) the tenant from knowingly permitting a person, against whom an excluding order under section 3 of the Act of 1997 or an interim excluding order under section 4 of that Act is in force in respect of the dwelling concerned, to enter the dwelling in breach of the excluding order or interim excluding order, as the case may be.

(2) A housing authority may issue a tenancy warning under this section to a tenant where, in the opinion of the authority, the tenant or a member of his or her household has breached a specified term of the tenancy agreement.

(3) A tenancy warning issued under this section shall, subject to subsection (5), set out the basis for its issue and the reason for its issue and for those purposes shall-

(a) set out-

(i) the specified term or specified terms that has or have, in the housing authority's opinion, been breached,

(ii) the nature of that breach, including the name of the household member (if that name is readily available to the housing authority) who caused that breach, the occasion of the breach and, where relevant, the significant or persistent detrimental effect of the breach on the quality of life of those in the locality of the dwelling to which the tenancy agreement relates,

(b) require the tenant to ensure that the household member who caused that breach-

(i) ceases or does not repeat specified actions, or

(ii) undertakes specified actions,

in order to prevent the detrimental effect of the breach from recurring or continuing,

(c) indicate that, if the breach continues during, or is repeated within, 12 months of the tenancy warning coming into effect, then the authority may either-

(i) apply under section 12 to recover possession of the dwelling, or

(ii) where appropriate, apply to the District Court (under section 3 of the Act of 1997) for an excluding order against the household member who caused that breach,

- (d) indicate that the housing authority may, during the period of 3 years following a tenancy warning coming into effect, take the tenancy warning into account when considering whether-
- (i) to consent, under subsection (12) of section 90 of the Principal Act, to a sale of a dwelling to the person identified in the tenancy warning as causing the breach of the specified term, where the grounds for refusal would be those set out in subparagraph (a)(ii) of that subsection,
 - (ii) to consent, under subsection (3) of section 48 of the Act of 2009, to a sale, during the charged period, of a dwelling to the person identified in the tenancy warning as causing the breach of the specified term, where the grounds for refusal would be those set out in paragraph (b) of that subsection,
 - (iii) to consent, under subsection (4) of section 76 of the Act of 2009, to a sale, during the charged period, of a dwelling to the person identified in the tenancy warning as causing the breach of the specified term or specified terms, where the grounds for refusal would be those set out in paragraph (b) of that subsection,
 - (iv) to consent, under subsection (3) of section 29, to a sale, during the charged period, of a house to the person identified in the tenancy warning as causing the breach of the specified term or specified terms, where the grounds for refusal would be those set out in paragraph (b) of that subsection,
 - (v) to refuse, under section 14(2) of the Act of 1997, to sell a dwelling to-
 - (I) the tenant (within the meaning of Part 4 of the Act of 2009 or to whom Part 3 applies) concerned,
 - (II) the eligible household (within the meaning of Part 3 or 5 of the Act of 2009) concerned, or
 - (III) the person concerned (in a case to which section 90 of the Principal Act relates),or
 - (vi) to refuse, under section 14(1) of the Act of 1997, to allocate a dwelling, or to defer the allocation of it, to the tenant or to the household member identified in the tenancy warning as causing the breach of the specified term,
- and
- (e) set out the tenant's right, under section 10, to request a review of the tenancy warning.
- (4) A tenancy warning shall be served on the tenant (either at the dwelling concerned or otherwise) or, in his or her absence from the dwelling, on such other person at the dwelling as may be prescribed or, if the housing authority has attempted to but has not been able to so serve, by so serving subsequently or by serving in such other manner as may be prescribed.
- (5) In setting out the basis for a tenancy warning under this section, a housing authority shall have due regard to protecting the identity of persons informing it of the breach of the specified term in circumstances where, in the opinion of the authority, not to do so-
- (a) could render those persons, or persons associated with them, liable to violence, threat or fear as a consequence of so informing, or
 - (b) might otherwise have prevented those persons from so informing because of such violence, threat or fear.

Tenancy warning relating to rent arrears

8. (1) A housing authority may issue a tenancy warning under this section to a tenant who is in breach of a rent-related obligation.

(2) The tenancy warning shall-

(a) set out the basis for the tenancy warning, that is to say, the rent-related obligation that has been breached, the amount of rent arrears that has accrued and the period during which the said

amount was not paid,

(b) outline any previous occasion in the 5 years preceding that tenancy warning where the tenant or a member of his or her household was in breach of a rent-related obligation and the position as regards the payment of the rent arrears involved,

(c) require the tenant to pay the rent arrears immediately or, where such payment would cause undue hardship for the household, to contact the housing authority immediately with a view to entering into rescheduling arrangements in respect of the rent arrears involved,

(d) indicate that if, within 2 months after the tenancy warning comes into effect-

(i) the rent arrears have not been paid to the authority, or

(ii) rescheduling arrangements have not been entered into with the housing authority,

the authority may initiate proceedings under section 12 to recover possession of the dwelling,

(e) indicate that if-

(i) the rent arrears are paid by or on behalf of the tenant within 2 months of the tenancy warning coming into effect, and

(ii) in the 12-month period following the tenancy warning coming into effect there is a failure by or on behalf of the tenant to pay rent on the due date,

then the housing authority may, except where, during that period, the authority and either or both the tenant and other members of his or her household enter into rescheduling arrangements for payment of the rent arrears, apply under section 12 to recover possession of the dwelling without issuing a further tenancy warning to the tenant,

(f) indicate that, where either or both the tenant and the other members of his or her household enters into rescheduling arrangements with the housing authority and during the term of those arrangements fails to make a repayment or pay rent on a due date, the authority may, except where the authority is satisfied that the failure to make a repayment or pay rent on a due date was due to circumstances outside the household's control and the authority and the tenant or the household enter into revised rescheduling arrangements for payment of the rent arrears, apply under section 12 to recover possession of the dwelling without issuing a further tenancy warning to the tenant,

(g) outline the provisions in housing legislation relating to tenants or households in arrears of rent to any housing authority that have not entered into rescheduling arrangements for the payment of such arrears,

(h) set out the tenant's right, under section 10, to request a review of the tenancy warning, and

(i) where the housing authority is aware or suspects that the tenant has debts in addition to rent arrears, set out information on where the household may obtain debt advice and assistance.

(3) A tenancy warning shall be served on the tenant (either at the dwelling concerned or otherwise) or, in his or her absence from the dwelling, on such other person at the dwelling as may be prescribed or, if the housing authority has attempted to but has not been able to so serve, by so serving subsequently or by serving in such other manner as may be prescribed.

Tenancy warning relating to other tenancy breach