

Homeless Prevention Amendment

Proposal Amendment to Extend Notice Periods for those at Risk of Homelessness

Introduction

The purpose of the proposed legislative amendment is to provide an increased protection for those facing eviction and deemed to be at risk of homelessness.

Homeless services and local authorities are regularly contacted by people who are coming to the end of a tenancy notice period, and are imminently at risk of homelessness, having been unable to source alternative accommodation.

In the Dublin region there has been significant success in preventing homelessness in these instances due to the flexible use of the Homeless Housing Assistance Payment (HHAP).

Here households who present to their local authority and are struggling to find alternative accommodation can avail of HHAP in the last 4 weeks of a tenancy. The latest quarterly report showed that 1,600 households in the year to the end of Q3 2020 had been prevented from entering homeless services using this prevention measure.

In spite of the success of the initiative legal evictions and rent increases have been the primary driver of family homelessness in recent years.

The proposed amendment will allow local authorities to determine whether a person or family are 'at risk of homelessness.' This will then trigger an extension in the notice period of that person or family's tenancy in order to avoid entry into emergency accommodation at the end of that 4 week period.

This determination and extension should be accompanied by a commitment to ensure that the individual or family effected will be given all available supports to take advantage of the extension and secure alternative accommodation as soon as possible.

Legislative Proposal

The legislative amendment laid out below proposes to change tenancy law so that a person or family at risk of homelessness is provided with a three-month extension to their notice period.

This three-month extension would be triggered by a housing authority, i.e. a local authority, certifying a person or family as being 'at risk of homelessness' within the meaning of homelessness as set out in the Housing Act, upon the termination of the existing notice period.

To certify a person or family as being at risk of homelessness, the Housing Authority must be satisfied that;

- On reasonable grounds the tenant is unable to secure alternative accommodation
- In the opinion of the Housing Authority, they will become homeless upon quitting the dwelling

The benefits of this legislative proposal are two-fold;

- The proposal provides additional time for a person or family to find alternative accommodation, and therefore avoid entering homelessness and emergency accommodation. This is particularly crucial given the challenging environment that currently exists in the private rental market in relation to the availability of affordable rental accommodation.
- The new protection will put individuals and families on the radars of local authorities at a point of crisis but prevents this being the point of entering homelessness. This will allow outreach and prevention teams to assist people in finding alternative accommodation with a more reasonable time period for the local authority. Currently local authorities may only encounter a crisis situation just as a notice period is about to end, often times too late to source alternative private rental accommodation and avoid emergency accommodation.

By triggering a three-month homelessness prevention period, local authorities will be able to work with individuals and families to support them to avoid emergency accommodation.

Given the pressing social and public good associated with avoiding emergency accommodation and preventing homelessness, a three-month extension period to a tenancy is a fair and reasonable balance between the property rights of landlords and the exigencies of the common good. Such a legislative change is well established in precedent, given the increases in notice periods that have been repeatedly introduced in recent years.

The key difference with this legislative proposal to previous extensions to notice periods is that it is triggered by the involvement of a local authority, and thus allows a local authority to engage for at least a three-month period with an individual or family who is at risk of homelessness.

In the current housing crisis that time will be invaluable in ensuring that we reduce the flow into homelessness. At the same time, as awareness of the support increases, it has the potential to providing local authorities with a greater understanding of the level of hidden homelessness in their communities.

Below is set out the proposed legislative amendment.

**Residential Tenancies (Amendment) (Extension of Notice
Periods) Bill 2020**

Residential Tenancies (Amendment) (Extension of Notice Periods) Bill 2020

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Acts referred to:

Residential Tenancies Act, 2004 (No. 27)

Housing Act, 1988 (No. 28)

RESIDENTIAL TENANCIES (AMENDMENT) (EXTENSION OF NOTICE PERIODS) BILL 2020

Bill
entitled

An Act to provide for the automatic extension of notice periods with respect to residential tenancies where a tenant is certified as at risk of homelessness and for that purpose to amend the Residential Tenancies Act 2004 and to provide for related matters.

Be it enacted by the Oireachtas as follows:

Interpretation

1. “Principal Act” means the Residential Tenancies Act 2004.

Amendment of section 67 of the Principal Act

2. Section 67(4) of the Principal Act is amended by inserting the words “and section 69A” after “section 69.”

New section 69A inserted into the Principal Act

3. The Principal Act is amended by inserting the following section after section 69:

“Extension of notice periods”

69A. (1) Where a landlord serves a notice to quit on a tenant in compliance with sections 66 or 67 or the terms of the lease if longer, and, prior to the expiry of the period stated in the notice the Housing Authority certifies that the tenant is at risk of homelessness, the notice period required by sections 66 or 67 or the lease shall automatically be extended by a period of three months and the notice served by the landlord shall be deemed to expire on that later date.

(2) For the purpose of this section a Housing Authority shall certify a person as at risk of homelessness if:

(a) it is satisfied that, on reasonable grounds, the tenant was unable to secure accommodation, and

(b) in the opinion of the Housing Authority, the tenant will become homeless (within the meaning of section 2 of the Housing Act 1988) on quitting the dwelling.

(3) A Housing Authority shall, within seven days of receiving a request by a person for a certification under sub section 1, provide such certification in writing to the person concerned and to the landlord provided the conditions in sub section (2) are satisfied.

(4) A dispute as to whether or not a tenant is entitled to an extension of the notice period in accordance with sub section (1) may be referred to the Board for determination.

(5) This section shall not apply where the tenancy has been validly terminated for anti-social behaviour, the tenancy has been validly terminated as a result of the wilful failure to pay rent, the presence of the tenant in the dwelling would constitute a danger to other occupants of the building, or the dwelling is being used for a purpose other than that agreed.

(6) This section shall apply only to a Part IV tenancy.

(7) This section shall apply only to tenancies commenced after the commencement of this section. For the avoidance of doubt, this section shall apply to a fixed term or periodic tenancy which expired after the commencement of this section and continued thereafter.

Short title

4. This Act may be cited as the Residential Tenancies (Amendment) (Extension of Notice Periods) Act 2020.