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**RESIDENTIAL TENANCIES ACT 2004**

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Adoption Acts 1952 to 1998	
Arbitration Act 1954	1954, No. 26
Civil Liability Act 1961	1961, No. 41
Civil Service Commissioners Act 1956	1956, No. 45
Civil Service Regulation Acts 1956 to 1996	
Companies Acts 1963 to 2003	
Comptroller and Auditor General (Amendment) Act 1993	1993, No. 8
Conveyancing Act 1881	1881, c. 41
Conveyancing and Law of Property Act 1892	1892, c. 13
Criminal Law Amendment Act 1912	1912, c. 20
Equal Status Act 2000	2000, No. 8
European Parliament Elections Act 1997	1997, No. 2
Finance Act 1999	1999, No. 2
Health Act 1970	1970, No. 1
Health (Eastern Regional Health Authority) Act 1999	1999, No. 13
Housing Act 1966	1966, No. 21
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Housing (Miscellaneous Provisions) Act 1992	1992, No. 18
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Housing (Private Rented Dwellings) Act 1982	1982, No. 6
Housing (Traveller Accommodation) Act 1998	1998, No. 33
Interpretation Act 1937	1937, No. 38
Landlord and Tenant Act 1931	1931, No. 55
Landlord and Tenant (Amendment) Act 1980	1980, No. 10
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Landlord and Tenant (Ground Rents) (No. 2) Act 1978	1978, No. 7
Landlord and Tenant Law Amendment Act Ireland 1860	1860, c. 154
Local Government Act 2001	2001, No. 37
Organisation of Working Time Act 1997	1997, No. 20
Petty Sessions (Ireland) Act 1851	1851, c. 93
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Social Welfare (Consolidation) Act 1993	1993, No. 27
Statute of Limitations 1957	1957, No. 6
Succession Act 1965	1965, No. 27
Taxes Consolidation Act 1997	1997, No. 39
Urban Renewal Act 1998	1998, No. 27



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**RESIDENTIAL TENANCIES ACT 2004**

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AN ACT TO PROVIDE—

- (a) IN ACCORDANCE WITH THE EXIGENCIES OF THE COMMON GOOD, FOR A MEASURE OF SECURITY OF TENURE FOR TENANTS OF CERTAIN DWELLINGS,
- (b) FOR AMENDMENTS OF THE LAW OF LANDLORD AND TENANT IN RELATION TO THE BASIC RIGHTS AND OBLIGATIONS OF EACH OF THE PARTIES TO TENANCIES OF CERTAIN DWELLINGS,
- (c) WITH THE AIM OF ALLOWING DISPUTES BETWEEN SUCH PARTIES TO BE RESOLVED CHEAPLY AND SPEEDILY, FOR THE ESTABLISHMENT OF A BODY TO BE KNOWN AS AN BORD UM THIONÓNTACHTAÍ CÓNAITHE PRÍOBHÁIDEACHA OR, IN THE ENGLISH LANGUAGE, THE PRIVATE RESIDENTIAL TENANCIES BOARD AND THE CONFERRAL ON IT OF POWERS AND FUNCTIONS OF A LIMITED NATURE IN RELATION TO THE RESOLUTION OF SUCH DISPUTES,
- (d) FOR THE REGISTRATION OF TENANCIES OF CERTAIN DWELLINGS, AND
- (e) FOR RELATED MATTERS. [19th July 2004]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

- 1.—This Act may be cited as the Residential Tenancies Act 2004. Short title.
- 2.—This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with Commencement.

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reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Application of Act.

**3.—**(1) Subject to *subsection (2)*, this Act applies to every dwelling, the subject of a tenancy (including a tenancy created before the passing of this Act).

(2) Subject to *section 4(2)*, this Act does not apply to any of the following dwellings—

- (a) a dwelling that is used wholly or partly for the purpose of carrying on a business, such that the occupier could, after the tenancy has lasted 5 years, make an application under *section 13(1)(a)* of the Landlord and Tenant (Amendment) Act 1980 in respect of it,
- (b) a dwelling to which Part II of the Housing (Private Rented Dwellings) Act 1982 applies,
- (c) a dwelling let by or to—
  - (i) a public authority, or
  - (ii) a body standing approved for the purposes of *section 6* of the Housing (Miscellaneous Provisions) Act 1992 and which is occupied by a person referred to in *section 9(2)* of the Housing Act 1988,
- (d) a dwelling, the occupier of which is entitled to acquire, under Part II of the Landlord and Tenant (Ground Rents) (No. 2) Act 1978, the fee simple in respect of it,
- (e) a dwelling occupied under a shared ownership lease,
- (f) a dwelling let to a person whose entitlement to occupation is for the purpose of a holiday only,
- (g) a dwelling within which the landlord also resides,
- (h) a dwelling within which the spouse, parent or child of the landlord resides and no lease or tenancy agreement in writing has been entered into by any person resident in the dwelling,
- (i) a dwelling the subject of a tenancy granted under Part II of the Landlord and Tenant (Amendment) Act 1980 or under Part III of the Landlord and Tenant Act 1931 or which is the subject of an application made under *section 21* of the Landlord and Tenant (Amendment) Act 1980 and the court has yet to make its determination in the matter.

Interpretation generally.

**4.—**(1) In this Act, unless the context otherwise requires—

“adjudicator” shall be construed in accordance with *section 164(2)*;

“authorised agent” shall be construed in accordance with *section 12(1)(e)*;

“Board” shall be construed in accordance with *section 150(1)*;

“child” includes a person who is no longer a minor and cognate words shall be construed accordingly;

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“company” means a company within the meaning of the Companies Acts 1963 to 2003; Pt.1 S.4

“contract of tenancy” does not include an agreement to create a tenancy;

“Director” shall be construed in accordance with *section 160(1)*;

“Dispute Resolution Committee” shall be construed in accordance with *section 157(2)*;

“dwelling” means, subject to *subsection (2)*, a property let for rent or valuable consideration as a self-contained residential unit and includes any building or part of a building used as a dwelling and any out office, yard, garden or other land appurtenant to it or usually enjoyed with it and, where the context so admits, includes a property available for letting but excludes a structure that is not permanently attached to the ground and a vessel and a vehicle (whether mobile or not);

“establishment day” means the day appointed under *section 149*;

“functions” includes powers and duties and references to the performance of functions include, as respects powers and duties, references to the exercise of the powers and the carrying out of the duties;

“further *Part 4* tenancy” shall be construed in accordance with *section 41(2)* or *45(2)*, as appropriate;

“local authority” means a local authority for the purposes of the Local Government Act 2001;

“management company”, in relation to an apartment complex, means the company in which functions are vested with respect to the management of the apartment complex;

“mediator” shall be construed in accordance with *section 164(1)*;

“Minister” means the Minister for the Environment, Heritage and Local Government;

“*Part 4* tenancy” shall be construed in accordance with *section 29*;

“personal representative” has the same meaning as it has in the Succession Act 1965;

“planning permission” means a permission under *section 34* of the Planning and Development Act 2000;

“prescribed” means prescribed by regulations made by the Minister under this Act;

“public authority” means—

- (a) a Minister of the Government or a body under the aegis of a Minister of the Government,
- (b) the Commissioners of Public Works in Ireland,
- (c) a local authority,
- (d) a health board established under the Health Act 1970,



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- (e) the Eastern Regional Health Authority or an area health board established under the Health (Eastern Regional Health Authority) Act 1999,
- (f) a voluntary body standing approved of by the Minister for Health and Children or by a health board or an authority or board mentioned in *paragraph (e)* of this definition for the purpose of providing accommodation for elderly persons or persons with a mental handicap or psychiatric disorder,
- (g) a recognised educational institution, namely, any university, technical college, regional technical college, secondary or technical college or other institution or body of persons approved of, for the purpose of providing an approved course of study, by the Minister for Education and Science, or
- (h) the Shannon Free Airport Development Company;

“remuneration” includes fees, allowances for expenses, benefits-in-kind and superannuation;

“required period of notice”, in relation to a notice of termination, means the period of notice required by *Part 4* or *5* or, if greater, by the lease or tenancy agreement concerned;

“self-contained residential unit” includes the form of accommodation commonly known as “bedsit” accommodation;

“shared ownership lease” has the meaning assigned to it by section 2 of the Housing (Miscellaneous Provisions) Act 1992;

“superannuation benefit” means a pension, gratuity or other allowance payable on resignation, retirement or death;

“tenancy agreement” includes an oral tenancy agreement;

“Tribunal” shall be construed in accordance with *section 102(2)*.

(2) The definition of “dwelling” in *subsection (1)* shall not apply in relation to the construction of references to “dwelling” to which this subsection applies; each such reference shall be construed as a reference to any building or part of a building used as a dwelling (whether or not a dwelling let for rent or valuable consideration) and any out office, yard, garden or other land appurtenant to it or usually enjoyed with it.

(3) *Subsection (2)* applies to the following references to “dwelling” (whether in the singular or plural form) in this Act, namely—

- (a) the second of the references in *section 12(1)(h)*,
- (b) the first and last of the references in *paragraph (c)(ii)* and *paragraph (c)(iii)* of the definition of “behave in a way that is anti-social” in *section 17(1)*,
- (c) the reference in *subsection (2)(a)* of *section 25* to whichever of the dwellings mentioned in that subsection is not the subject of the tenancy mentioned in *subsection (1)* of that section,
- (d) the references in *subsection (2)(b)* and *(c)* of *section 25*, and

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(e) the second of the references in *sections 136(h), 187(1) and 188(1)* and Pt.1 S.4

(4) In this Act—

- (a) a reference to a section or Part is a reference to a section or Part of this Act unless it is indicated that reference to some other enactment is intended,
- (b) a reference to a Chapter is a reference to the Chapter of the Part in which the reference occurs, unless it is indicated that reference to some other provision is intended,
- (c) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended, and
- (d) a reference to any other enactment is a reference to that enactment as amended or extended by or under any subsequent enactment.

5.—(1) In this Act—

“landlord” means the person for the time being entitled to receive (otherwise than as agent for another person) the rent paid in respect of a dwelling by the tenant thereof and, where the context so admits, includes a person who has ceased to be so entitled by reason of the termination of the tenancy;

“relevant date”,  
“landlord”,  
“tenant”, “lease”,  
etc.

“lease” means an instrument in writing, whether or not under seal, containing a contract of tenancy in respect of a dwelling;

“relevant date” means the date on which *Part 4* is commenced;

“tenancy” includes a periodic tenancy and a tenancy for a fixed term, whether oral or in writing or implied, and, where the context so admits, includes a sub-tenancy and a tenancy or sub-tenancy that has been terminated;

“tenant” means the person for the time being entitled to the occupation of a dwelling under a tenancy and, where the context so admits, includes a person who has ceased to be entitled to that occupation by reason of the termination of his or her tenancy.

(2) A reference in this Act to—

- (a) the landlord of a dwelling is a reference to the landlord under a tenancy of the dwelling, and
- (b) the tenant of a dwelling is a reference to the tenant under a tenancy of the dwelling.

(3) Subject to *subsection (4)*, in this Act “costs”, in relation to a matter being dealt with by the Board, a mediator, an adjudicator or the Tribunal or a determination or direction made or given by it or him or her, does not include—

- (a) legal costs or expenses, or
- (b) costs or expenses of any other professional kind or of employing any person with technical expertise that are

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connected wholly or mainly with the provision of evidence for, or the presentation of one or more issues at, the proceedings.

(4) Despite *subsection (3)*, the Board or, with the consent of the Board, a mediator, an adjudicator or the Tribunal may if, in its or his or her opinion the exceptional circumstances of the matter so warrant, determine that any element of costs the subject of a determination or direction made or given by it or him or her shall include costs referred to in *paragraph (a) or (b)* of that subsection.

Service of notices.

6.—(1) A notice required or authorised to be served or given by or under this Act shall, subject to *subsection (2)*, be addressed to the person concerned by name and may be served on or given to the person in one of the following ways:

- (a) by delivering it to the person;
- (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;
- (c) by sending it by post in a prepaid letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address;
- (d) where the notice relates to a dwelling and it appears that no person is in actual occupation of the dwelling, by affixing it in a conspicuous position on the outside of the dwelling or the property containing the dwelling.

(2) Where the notice concerned is to be served on or given to a person who is the owner, landlord, tenant or occupier of a dwelling and the name of the person cannot be ascertained by reasonable inquiry it may be addressed to the person by using the words the owner, the landlord, the tenant or the occupier, as the case may require.

(3) For the purposes of this section, a company shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

(4) A person shall not, at any time during the period of 3 months after a notice is affixed under *subsection (1)(d)* remove, damage or deface the notice without lawful authority.

(5) A person who contravenes *subsection (4)* is guilty of an offence.

(6) Where, in proceedings under *Part 6*, it is shown that a notice was served or given in accordance with the provisions of this section and on the date that it is alleged it was served or given, the onus shall be on the recipient to establish to the Board, the adjudicator or Tribunal's satisfaction that the notice was not received in sufficient time to enable compliance with the relevant time limit specified by or under this Act.

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7.—Where a notice required or authorised to be served or given by or under this Act is served or given on behalf of a person, the notice shall be deemed to be served or given by that person.

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Service or giving of notice on behalf of another.

8.—(1) The Minister may make regulations prescribing any matter or thing which is referred to in this Act as prescribed or to be prescribed.

Regulations and orders.

(2) Every order (other than an order made under *section 2* or *149*) and regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

(3) The Minister may by order amend or revoke an order under this Act (other than an order under *section 2* or *149*).

(4) An order under *subsection (3)* shall be made in the like manner and its making shall be subject to the like (if any) consents and conditions as the order that it is amending or revoking.

9.—(1) A person guilty of an offence under this Act shall be liable on summary conviction to a fine not exceeding €3,000 or imprisonment for a term not exceeding 6 months or both.

Offences.

(2) If the contravention in respect of which a person is convicted of an offence under this Act is continued after the conviction, the person is guilty of a further offence on every day on which the contravention continues and for each such offence the person shall be liable on summary conviction to a fine not exceeding €250.

(3) Proceedings in relation to an offence under this Act may be brought and prosecuted by the Board.

(4) Notwithstanding *section 10(4)* of the Petty Sessions (Ireland) Act 1851, proceedings for an offence under this Act may be instituted at any time within one year after the date of the offence.

(5) Where a person is convicted of an offence under this Act the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the Board the costs and expenses, measured by the court, incurred by the Board in relation to the investigation, detection and prosecution of the offence.

10.—(1) *Section 5* of the Criminal Law Amendment Act 1912 is repealed.

Repeal and revocation.

(2) The Housing (Registration of Rented Houses) Regulations 1996 (S.I. No. 30 of 1996) are revoked.

11.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Expenses.

PART 2

TENANCY OBLIGATIONS OF LANDLORDS AND TENANTS

CHAPTER 1

*Provisions regarding landlord's obligations*

Obligations of landlords.

**12.**—(1) In addition to the obligations arising by or under any other enactment, a landlord of a dwelling shall—

- (a) allow the tenant of the dwelling to enjoy peaceful and exclusive occupation of the dwelling,
- (b) subject to *subsection (2)*, carry out to—
  - (i) the structure of the dwelling all such repairs as are, from time to time, necessary and ensure that the structure complies with any standards for houses for the time being prescribed under section 18 of the Housing (Miscellaneous Provisions) Act 1992, and
  - (ii) the interior of the dwelling all such repairs and replacement of fittings as are, from time to time, necessary so that that interior and those fittings are maintained in, at least, the condition in which they were at the commencement of the tenancy and in compliance with any such standards for the time being prescribed,
- (c) subject to *subsection (3)*, effect and maintain a policy of insurance in respect of the structure of the dwelling, that is to say a policy—
  - (i) that insures the landlord against damage to, and loss and destruction of, the dwelling, and
  - (ii) that indemnifies, to an amount of at least €250,000, the landlord against any liability on his or her part arising out of the ownership, possession and use of the dwelling,
- (d) subject to *subsection (4)*, return or repay promptly any deposit paid by the tenant to the landlord on entering into the agreement for the tenancy or lease,
- (e) notify the tenant of the name of the person, if any, (the “authorised agent”) who is authorised by the landlord to act on his or her behalf in relation to the tenancy for the time being,
- (f) provide to the tenant particulars of the means by which the tenant may, at all reasonable times, contact him or her or his or her authorised agent,
- (g) without prejudice to any other liability attaching in this case, reimburse the tenant in respect of all reasonable and vouched for expenses that may be incurred by the tenant in carrying out repairs to the structure or interior of the dwelling for which the landlord is responsible under *paragraph (b)* where the following conditions are satisfied—

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- (i) the landlord has refused or failed to carry out the repairs at the time the tenant requests him or her to do so, and
- (ii) the postponement of the repairs to some subsequent date would have been unreasonable having regard to either—
- (I) a significant risk the matters calling for repair posed to the health or safety of the tenant or other lawful occupants of the dwelling, or
  - (II) a significant reduction that those matters caused in the quality of the tenant's or other such occupants' living environment,
- (h) if the dwelling is one of a number of dwellings comprising an apartment complex—
- (i) forward to the management company, if any, of the complex any complaint notified in writing by the tenant to him or her concerning the performance by the company of its functions in relation to the complex,
  - (ii) forward to the tenant any initial response by the management company to that complaint, and
  - (iii) forward to the tenant any statement in writing of the kind referred to in *section 187(2)* made by the management company in relation to that complaint.

(2) *Subsection (1)(b)* does not apply to any repairs that are necessary due to the failure of the tenant to comply with *section 16(f)*.

(3) The obligation under *subsection (1)(c)* does not apply at any particular time during the term of the tenancy concerned if, at that time, a policy of insurance of the kind referred to in that provision is not obtainable, or is not obtainable at a reasonable cost, by the landlord in respect of the dwelling.

(4) *Subsection (1)(d)* applies and has effect subject to the following provisions:

- (a) no amount of the deposit concerned shall be required to be returned or repaid if, at the date of the request for return or repayment, there is a default in—
  - (i) the payment of rent and the amount of rent that is in arrears is equal to or greater than the amount of the deposit, or
  - (ii) compliance with *section 16(f)* and the amount of the costs that would be incurred by the landlord, were he or she to take them, in taking such steps as are reasonable for the purposes of restoring the dwelling to the condition mentioned in *section 16(f)* is equal to or greater than the amount of the deposit,
- (b) where, at the date of the request for return or repayment, there is a default in the payment of rent or compliance with *section 16(f)* and *subparagraph (i)* or *(ii)*, as the case may be, of *paragraph (a)* does not apply, then there shall

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only be required to be returned or repaid under *subsection (1)(d)* the difference between the amount of rent that is in arrears or, as appropriate, the amount of the costs that would be incurred in taking steps of the kind referred to in *paragraph (a)(ii)*.

(5) For the avoidance of doubt, the condition in *subsection (1)(g)(i)* is satisfied if, after all reasonable attempts, the landlord or his or her authorised agent could not be contacted to make the request concerned.

*Section 12(1)(b):*  
supplemental  
regulations.

**13.—**(1) The Board, with the consent of the Minister, may make regulations specifying that particular parts of dwellings shall, for the purposes of *section 12(1)(b)*, be regarded as parts of the interior, or as parts of the structure, of dwellings.

(2) In making regulations under this section, the Board—

(a) may invite submissions in relation to the matter from any persons or organisations appearing to the Board to be representative of the interests of landlords and of tenants and consider any submissions from those persons or organisations made on foot of that invitation,

(b) shall not specify a part of a dwelling as being part of its structure or, as the case may be, part of its interior if, to do so, would, in its opinion, result in unreasonably burdensome obligations being imposed on landlords.

(3) Different regulations may be made under this section in respect of different classes of dwelling.

Prohibition on  
penalisation of  
tenants.

**14.—**(1) A landlord of a dwelling shall not penalise a tenant for—

(a) referring any dispute between the tenant and the landlord to the Board for resolution under *Part 6*,

(b) giving evidence in any proceedings under *Part 6* to which the landlord is a party (whether the tenant is a party to them or not),

(c) making a complaint to a member of the Garda Síochána or to a public authority in relation to any matter arising out of, or in connection with, the occupation of the dwelling or making an application regarding such a matter to a public authority, or

(d) giving notice of his or her intention to do any or all of the things referred to in the preceding paragraphs.

(2) For the purposes of this section a tenant is penalised if the tenant is subjected to any action that adversely affects his or her enjoying peaceful occupation of the dwelling concerned.

(3) Such action may constitute penalisation even though it consists of steps taken by the landlord in the exercise of any rights conferred on him or her by or under this Act, any other enactment or the lease or tenancy agreement concerned if, having regard to—

(a) the frequency or extent to which the right is exercised in relation to the tenant,

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(b) the proximity in time of its being so exercised to the tenant's doing the relevant thing referred to in *subsection (1)*, and

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(c) any other relevant circumstances,

it is a reasonable inference that the action was intended to penalise the tenant for doing that thing.

(4) This section is without prejudice to any other liability (civil or criminal) the landlord may be subject to for doing a thing prohibited by this section.

**15.—**(1) A landlord of a dwelling owes to each person who could be potentially affected a duty to enforce the obligations of the tenant under the tenancy.

Duty owed to certain third parties to enforce tenant's obligations.

(2) In *subsection (1)* "person who could be potentially affected" means a person who, it is reasonably foreseeable, would be directly and adversely affected by a failure to enforce an obligation of the tenant were such a failure to occur and includes any other tenant under the tenancy mentioned in that subsection.

(3) This section does not confer on any person a right of action maintainable in proceedings before a court for breach of the duty created by it; the sole remedy for such a breach is by means of making a complaint (where the conditions specified in *section 77* for doing so are satisfied) to the Board under *Part 6*.

(4) Nothing in *subsection (3)* affects any duty of care, and the remedies available for its breach, that exist apart from this section.

CHAPTER 2

*Provisions regarding tenant's obligations*

**16.—**In addition to the obligations arising by or under any other enactment, a tenant of a dwelling shall—

Obligations of tenants.

(a) pay to the landlord or his or her authorised agent (or any other person where required to do so by any enactment)—

(i) the rent provided for under the tenancy concerned on the date it falls due for payment, and

(ii) where the lease or tenancy agreement provides that any charges or taxes are payable by the tenant, pay those charges or taxes in accordance with the lease or tenancy agreement (unless provision to that effect in the lease or tenancy agreement is unlawful or contravenes any other enactment),

(b) ensure that no act or omission by the tenant results in there not being complied with the obligations of the landlord, under any enactment, in relation to the dwelling or the tenancy (and in particular, the landlord's obligations under regulations under *section 18* of the Housing (Miscellaneous Provisions) Act 1992),

(c) allow, at reasonable intervals, the landlord, or any person or persons acting on the landlord's behalf, access to the



dwelling (on a date and time agreed in advance with the tenant) for the purposes of inspecting the dwelling,

- (d) notify the landlord or his or her authorised agent of any defect that arises in the dwelling that requires to be repaired so as to enable the landlord comply with his or her obligations, in relation to the dwelling or the tenancy, under any enactment,
- (e) allow the landlord, or any person or persons acting on the landlord's behalf, reasonable access to the dwelling for the purposes of allowing any works (the responsibility for the carrying out of which is that of the landlord) to be carried out,
- (f) not do any act that would cause a deterioration in the condition the dwelling was in at the commencement of the tenancy, but there shall be disregarded, in determining whether this obligation has been complied with at a particular time, any deterioration in that condition owing to normal wear and tear, that is to say wear and tear that is normal having regard to—
  - (i) the time that has elapsed from the commencement of the tenancy,
  - (ii) the extent of occupation of the dwelling the landlord must have reasonably foreseen would occur since that commencement, and
  - (iii) any other relevant matters,
- (g) if *paragraph (f)* is not complied with, take such steps as the landlord may reasonably require to be taken for the purpose of restoring the dwelling to the condition mentioned in *paragraph (f)* or to defray any costs incurred by the landlord in his or her taking such steps as are reasonable for that purpose,
- (h) not behave within the dwelling, or in the vicinity of it, in a way that is anti-social or allow other occupiers of, or visitors to, the dwelling to behave within it, or in the vicinity of it, in such a way,
- (i) not act or allow other occupiers of, or visitors to, the dwelling to act in a way which would result in the invalidation of a policy of insurance in force in relation to the dwelling,
- (j) if any act of the tenant's, or any act of another occupier of, or visitor to, the dwelling which the tenant has allowed to be done, results in an increase in the premium payable under a policy of insurance in force in relation to the dwelling, pay to the landlord an amount equal to the amount of that increase ("the increased element") (and that obligation to pay such an amount shall apply in respect of each further premium falling due for payment under the policy that includes the increased element),
- (k) not assign or sub-let the tenancy without the written consent of the landlord (which consent the landlord may, in his or her discretion, withhold),

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- (l) not alter or improve the dwelling without the written consent of the landlord which consent the landlord— Pt.2 S.16
- (i) in case the alteration or improvement consists only of repairing, painting and decorating, or any of those things, may not unreasonably withhold,
  - (ii) in any other case, may, in his or her discretion, withhold,
- (m) not use the dwelling or cause it to be used for any purpose other than as a dwelling without the written consent of the landlord (which consent the landlord may, in his or her discretion, withhold), and
- (n) notify in writing the landlord of the identity of each person (other than a multiple tenant) who, for the time being, resides ordinarily in the dwelling.

**17.—(1)** In *section 16*—

*Section 16:*  
interpretation and  
supplemental.

“alter or improve”, in relation to a dwelling, includes—

- (a) alter a locking system on a door giving entry to the dwelling, and
- (b) make an addition to, or alteration of, a building or structure (including any building or structure subsidiary or ancillary to the dwelling),

“behave in a way that is anti-social” means—

- (a) engage in behaviour that constitutes the commission of an offence, being an offence the commission of which is reasonably likely to affect directly the well-being or welfare of others,
- (b) engage in behaviour that causes or could cause fear, danger, injury, damage or loss to any person living, working or otherwise lawfully in the dwelling concerned or its vicinity and, without prejudice to the generality of the foregoing, includes violence, intimidation, coercion, harassment or obstruction of, or threats to, any such person, or
- (c) engage, persistently, in behaviour that prevents or interferes with the peaceful occupation—
  - (i) by any other person residing in the dwelling concerned, of that dwelling,
  - (ii) by any person residing in any other dwelling contained in the property containing the dwelling concerned, of that other dwelling, or
  - (iii) by any person residing in a dwelling (“neighbourhood dwelling”) in the vicinity of the dwelling or the property containing the dwelling concerned, of that neighbourhood dwelling.

(2) The reference in *section 16(b)* to an act or omission by the tenant shall be deemed to include a reference to an act or omission by any other person who, at the time of the doing of the act or the

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making of the omission, is in the dwelling concerned with the consent of the tenant.

(3) The landlord shall be entitled to be reimbursed by the tenant any costs or expenses reasonably incurred by him or her in deciding upon a request for consent in relation to the tenant's doing a thing referred to in *paragraph (k), (l) or (m) of section 16* (whether the consent is granted or refused).

(4) If the amount of the premium referred to in *section 16(j)* is, apart for the reason mentioned in that provision, subsequently increased or reduced then the reference in that provision to the increased element shall be construed as a reference to the amount concerned as proportionately adjusted in line with the increase or reduction.

No contracting out from terms of *section 12 or 16* permitted, etc.

**18.**—(1) Subject to *subsections (2) and (3)*, no provision of any lease, tenancy agreement, contract or other agreement (whether entered into before, on or after the commencement of this Part) may operate to vary, modify or restrict in any way *section 12 or 16*.

(2) *Subsection (1)* does not prevent more favourable terms for the tenant than those that apply by virtue of *section 12* being provided for in the lease or tenancy agreement concerned.

(3) Obligations additional to those specified in *section 16* may be imposed on the tenant by the lease or tenancy agreement concerned but only if those obligations are consistent with this Act.

PART 3

RENT AND RENT REVIEWS

Setting of rent above market rent prohibited.

**19.**—(1) In setting, at any particular time, the rent under the tenancy of a dwelling, an amount of rent shall not be provided for that is greater than the amount of the market rent for that tenancy at that time.

(2) The reference in this section to the setting of the rent under a tenancy is a reference to—

- (a) the initial setting of the rent under the tenancy, and
- (b) any subsequent setting of the rent under the tenancy by way of a review of that rent.

Frequency with which rent reviews may occur.

**20.**—(1) Subject to *subsection (3)*, a review of the rent under the tenancy of a dwelling may not occur—

- (a) more frequently than once in each period of 12 months, nor
- (b) in the period of 12 months beginning on the commencement of the tenancy.

(2) *Subsection (1)* has effect notwithstanding any provision to the contrary in the lease or tenancy agreement concerned.

(3) *Subsection (1)* does not apply despite the fact that a period of less than 12 months has elapsed from—

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(a) the last review of the rent under the tenancy, or Pt.3 S.20

(b) the commencement of the tenancy,

if, in that period—

(i) a substantial change in the nature of the accommodation provided under the tenancy occurs, and

(ii) the rent under the tenancy, were it to be set immediately after that change, would, by virtue of that change, be different to what was the market rent for the tenancy at the time of that last review or the commencement of the tenancy, as the case may be.

**21.**—If the lease or tenancy agreement concerned does not provide for such a review or the tenancy concerned is an implied one, either party may, subject to *section 20*, require a review of the rent under the tenancy to be carried out and a new rent, if appropriate, set on foot of that review. Right to review of rent where none provided.

**22.**—(1) The setting of a rent (the “new rent”) pursuant to a review of the rent under a tenancy of a dwelling and which is otherwise lawful under this Part shall not have effect unless and until the condition specified in *subsection (2)* is satisfied. Tenant to be notified of new rent.

(2) That condition is that, at least 28 days before the date from which the new rent is to have effect, a notice in writing is served by the landlord on the tenant stating the amount of the new rent and the date from which it is to have effect.

(3) Where that condition is satisfied, a dispute in relation to a rent falling within *subsection (1)* must be referred to the Board under *Part 6* before—

(a) the date stated in the notice under *subsection (2)* as the date from which that rent is to have effect, or

(b) the expiry of 28 days from the receipt by the tenant of that notice,

whichever is the later.

**23.**—Every person entitled to any rent in arrears or to be paid other charges under a tenancy of a dwelling (whether in his or her own right or as personal representative of a deceased landlord) shall be entitled to recover, under *Part 6*, such arrears or charges from the person who occupied the dwelling as a tenant in the period in which the arrears accrued or the charges arose or, as may be appropriate, from the person’s personal representative. Proceedings for rent arrears.

**24.**—(1) In this Part “market rent”, in relation to the tenancy of a dwelling, means the rent which a willing tenant not already in occupation would give and a willing landlord would take for the dwelling, in each case on the basis of vacant possession being given, and having regard to— “Market rent”, references to rent reviews, etc.

(a) the other terms of the tenancy, and

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(b) the letting values of dwellings of a similar size, type and character to the dwelling and situated in a comparable area to that in which it is situated.

(2) References in this Part to a review of a rent include references to—

(a) any procedure (however it is described) for determining whether, and to what extent, a reduction or increase in the amount of the rent for the time being payable under the tenancy concerned ought to have effect, and

(b) the effect of the operation of a provision of a lease or tenancy agreement providing that, by reference to any formula, happening of any event or other matter whatsoever (and whether any act, decision or exercise of discretion on the part of any person is involved or not), such a reduction or increase shall have effect,

and, in the case of a provision of the kind referred to in *paragraph (b)*, any prohibition under this Part on a review of rent occurring is to be read as a prohibition on the provision operating to have the foregoing effect.

(3) References in this Part to the setting of a rent are references to the oral agreeing of the rent or to its being provided for in a lease or tenancy agreement or, in the context of a review of rent—

(a) the oral agreeing of the rent,

(b) the oral or written notification of the rent, or

(c) in the case of a provision of the kind referred to in *subsection (2)(b)*, the rent being set by virtue of the operation of that provision.

## PART 4

### SECURITY OF TENURE

#### CHAPTER 1

##### *Preliminary*

Non-application of Part.

**25.**—(1) This Part does not apply to a tenancy of a dwelling where the conditions specified in *subsection (2)* are satisfied if the landlord of the dwelling opts, in accordance with *subsection (3)*, for this Part not to apply to it.

(2) Those conditions are—

(a) the dwelling concerned is one of 2 dwellings within a building,

(b) that building, as originally constructed, comprised a single dwelling, and

(c) the landlord resides in the other dwelling.

(3) A landlord's opting as mentioned in *subsection (1)* shall be signified in writing in a notice served by him or her on the tenant before the commencement of the tenancy.

(4) This Part does not apply to a tenancy of a dwelling— Pt.4 S.25

(a) if the landlord of the dwelling is entitled, in relation to expenditure incurred on the construction of, conversion into, or, as the case may be, refurbishment of, the dwelling, to a deduction of the kind referred to in section 380B(2), 380C(4) or 380D(2) (inserted by the Finance Act 1999) of the Taxes Consolidation Act 1997, or

(b) if the entitlement of the tenant to occupy the dwelling is connected with his or her continuance in any office, appointment or employment.

**26.**—Nothing in this Part operates to derogate from any rights the tenant enjoys for the time being (by reason of the tenancy concerned) that are more beneficial for the tenant than those created by this Part. Greater security of tenure not affected.

## CHAPTER 2

### *Statement of essential protection enjoyed by tenants*

**27.**—In this Part “continuous period of 6 months” means a continuous period of 6 months that commences on or after the relevant date. Periods of occupancy before relevant date to be disregarded.

**28.**—(1) Where a person has, under a tenancy, been in occupation of a dwelling for a continuous period of 6 months then, if the condition specified in *subsection (3)* is satisfied, the following protection applies for the benefit of that person. Statutory protection — “Part 4 tenancy” — after 6 months occupation.

(2) That protection is that, subject to *Chapter 3*, the tenancy mentioned in *subsection (1)* shall (if it would not or might not do so otherwise) continue in being—

(a) unless *paragraph (b)* applies, for the period of 4 years from—

(i) the commencement of the tenancy, or

(ii) the relevant date,

whichever is the later,

or

(b) if a notice of termination under *section 34(b)* is served in respect of the tenancy giving a period of notice that expires after the period of 4 years mentioned in *paragraph (a)*, until the expiry of that period of notice.

(3) The condition mentioned in *subsection (1)* is that no notice of termination (giving the required period of notice) has been served in respect of the tenancy before the expiry of the period of 6 months mentioned in that subsection.

(4) Despite the fact that such a notice of termination has been so served, that condition shall be regarded as satisfied if the notice is subsequently withdrawn.

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**29.**—A tenancy continued in being by *section 28* shall be known, and is in this Act referred to, as a “*Part 4 tenancy*”.

Pr.4 “*Part 4 tenancy*” — meaning of that expression.

**30.**—(1) Subject to *subsections (2) and (3)*, the terms of a *Part 4 tenancy* shall be those of the tenancy mentioned in *section 28* of which it is a continuation.

Terms of *Part 4 tenancy*.

(2) At any time during the period of a *Part 4 tenancy*, the parties may, by agreement, vary its terms.

(3) Neither—

(a) any term of the tenancy of which the *Part 4 tenancy* is a continuation, nor

(b) any term purported to be provided for by a variation under *subsection (2)*,

shall be a term of a *Part 4 tenancy* if the term is inconsistent with this or any other Part of this Act.

**31.**—(1) The reference in *section 28(1)* to a continuous period of occupation under a tenancy includes a reference to a continuous period of occupation under a series of 2 or more tenancies.

Sections 28 and 30: special cases.

(2) Where the continuous occupation referred to in *section 28(1)* has been under a series of 2 or more tenancies—

(a) in *section 28(2)*, “the tenancy mentioned in *subsection (1)*” means the last of those tenancies,

(b) in *section 28(2)(a)(i)*, “the commencement of the tenancy” means the commencement of the first of those tenancies, and

(c) in *section 28(3)*, “the tenancy” means the last of those tenancies,

and *section 30* shall be construed accordingly.

**32.**—(1) The Schedule to this Act has effect for the purpose of affording protection in relation to a sub-tenancy created out of a *Part 4 tenancy* or a further *Part 4 tenancy*.

Further special case (sub-letting of *Part 4 tenancy*).

(2) The creation of a sub-tenancy in respect of part only of the dwelling, the subject of a *Part 4 tenancy* or a further *Part 4 tenancy*, is prohibited.

(3) Any such sub-tenancy purported to be created is void.

*Termination of Part 4 tenancy*

**33.**—A *Part 4* tenancy may not be terminated by the landlord save in accordance with *section 34*. Restriction on termination by landlord.

**34.**—A *Part 4* tenancy may be terminated by the landlord— Grounds for termination by landlord.

(a) on one or more of the grounds specified in the Table to this section if—

- (i) a notice of termination giving the required period of notice is served by the landlord in respect of the tenancy, and
- (ii) that notice of termination cites as the reason for the termination the ground or grounds concerned and, in the case of *paragraph 4, 5 or 6* of that Table, contains or is accompanied by the statement referred to in that paragraph,

or

(b) irrespective of whether any of those grounds exist, if—

- (i) a notice of termination giving the required period of notice is served by the landlord in respect of the tenancy, and
- (ii) that period of notice expires on or after the end of the period of 4 years mentioned in *section 28(2)(a)* in relation to the tenancy.

TABLE

Grounds for termination

1. The tenant has failed to comply with any of his or her obligations in relation to the tenancy (whether arising under this Act or otherwise) and, unless the failure provides an excepted basis for termination—

- (a) the tenant has been notified of the failure by the landlord and that notification states that the landlord is entitled to terminate the tenancy if the failure is not remedied within a reasonable time specified in that notification, and
- (b) the tenant does not remedy the failure within that specified time.

2. The dwelling is no longer suitable to the accommodation needs of the tenant and of any persons residing with him or her having regard to the number of bed spaces contained in the dwelling and the size and composition of the occupying household.

3. The landlord intends, within 3 months after the termination of the tenancy under this section, to enter into an enforceable agreement for the transfer to another, for full consideration, of the whole of



his or her interest in the dwelling or the property containing the dwelling.

4. The landlord requires the dwelling or the property containing the dwelling for his or her own occupation or for occupation by a member of his or her family and the notice of termination (the “notice”) contains or is accompanied, in writing, by a statement—

(a) specifying—

- (i) the intended occupant’s identity and (if not the landlord) his or her relationship to the landlord, and
- (ii) the expected duration of that occupation,

and

(b) that the landlord, by virtue of the notice, is required to offer to the tenant a tenancy of the dwelling if the contact details requirement is complied with and the following conditions are satisfied—

- (i) the dwelling is vacated by the person referred to in *subparagraph (a)* within the period of 6 months from expiry of the period of notice required to be given by the notice or, if a dispute in relation to the validity of the notice was referred to the Board under *Part 6* for resolution, the final determination of the dispute, and
- (ii) the tenancy to which the notice related had not otherwise been validly terminated by virtue of the citation in the notice of the ground specified in *paragraph 1, 2, 3 or 6* of this Table.

5. The landlord intends to substantially refurbish or renovate the dwelling or the property containing the dwelling in a way which requires the dwelling to be vacated for that purpose (and, where planning permission is required for the carrying out of that refurbishment or renovation, that permission has been obtained) and the notice of termination (the “notice”) contains or is accompanied, in writing, by a statement—

(a) specifying the nature of the intended works, and

(b) that the landlord, by virtue of the notice, is required to offer to the tenant a tenancy of the dwelling if the contact details requirement is complied with and the following conditions are satisfied—

(i) the dwelling becomes available for re-letting, and Pt.4 S.34

(ii) the tenancy to which the notice related had not otherwise been validly terminated by virtue of the citation in the notice of the ground specified in *paragraph 1, 2, 3 or 6* of this Table.

6. The landlord intends to change the use of the dwelling or the property containing the dwelling to some other use (and, where planning permission is required for that change of use, that permission has been obtained) and the notice of termination (the “notice”) contains or is accompanied, in writing, by a statement—

(a) specifying the nature of the intended use, and

(b) that the landlord, by virtue of the notice, is required to offer to the tenant a tenancy of the dwelling if the contact details requirement is complied with and the following conditions are satisfied—

(i) the dwelling becomes available for re-letting within the period of 6 months from expiry of the period of notice required to be given by the notice or, if a dispute in relation to the validity of the notice was referred to the Board under *Part 6* for resolution, the final determination of the dispute, and

(ii) the tenancy to which the notice related had not otherwise been validly terminated by virtue of the citation in the notice of the ground specified in *paragraph 1, 2 or 3* of this Table.

**35.—**(1) In this section the “Table” means the Table to *section 34*. Table to section 34:  
interpretation and  
supplemental.

(2) In *paragraph 1* of the Table “remedy the failure” means—

(a) in the case of a failure that does not result in financial loss or damage to the landlord or his or her property, to desist from the conduct that constitutes the failure or, if the failure consists of an omission to comply with an obligation, comply with that obligation, and

(b) in the case of a failure that does result in financial loss or damage to the landlord or his or her property—

(i) to pay adequate compensation to the landlord (or, if the failure consists of the non-payment of rent, pay the arrears of rent) or repair the damage fully, and

(ii) unless the failure is not of a continuing nature, to desist from the conduct that constitutes the failure

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or comply with the obligation concerned, as the case may be.

(3) In *paragraph 1* of the Table the reference to a failure that provides an excepted basis for termination is a reference to a failure to comply with *section 16(h)* where the behaviour in question falls within *paragraph (a)* or *(b)* of the definition of “behave in a way that is anti-social” in *section 17(1)*.

(4) In *paragraph 4* of the Table the reference to a member of the landlord’s family is a reference to any spouse, child, stepchild, foster child, grandchild, parent, grandparent, step parent, parent-in-law, brother, sister, nephew or niece of the landlord or a person adopted by the landlord under the Adoption Acts 1952 to 1998.

(5) In *paragraphs 4(b), 5(b)* and *6(b)* of the Table the reference to the contact details requirement being complied with is a reference to the following requirement being complied with, namely, a requirement (which shall be specified in the statement concerned) that the former tenant notify in writing the landlord—

(a) within 28 days from the service of the notice of termination concerned, or, if a dispute as to the validity of the notice was referred to the Board under *Part 6* for resolution, the final determination of the dispute, of the means by which he or she can be contacted by the landlord so that the offer concerned can be made to him or her, and

(b) as soon as practicable after any such change occurs, of any change in the means (as so notified) by which the former tenant can be contacted for that purpose.

(6) If an offer such as is referred to in *paragraph 4(b), 5(b)* or *6(b)* of the Table is accepted (within such reasonable period as shall be specified for that purpose in the offer) by the former tenant concerned (the “accepter”)—

(a) the resulting agreement is enforceable by the accepter (as well as by the offeror), and

(b) occupation by the accepter under the tenancy created in favour of him or her on foot of that agreement shall, together with his or her occupation under the former tenancy, be regarded, for the purposes of this Act, as continuous occupation by the accepter under the one tenancy.

Termination by tenant.

**36.**—(1) A tenant may terminate a *Part 4* tenancy by serving on the landlord in respect of the tenancy a notice of termination giving the required period of notice.

(2) This section is without prejudice to *Chapter 6*.

Deemed termination by tenant.

**37.**—(1) Subject to *subsection (3)*, a *Part 4* tenancy shall be deemed to have been terminated by the tenant on his or her vacating the dwelling if—

(a) before or on or about that vacating, he or she serves a notice of termination in respect of the tenancy that does not give the required period of notice, and

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(b) before or on that vacating the rent has fallen into arrears. Pt.4 S.37

(2) Subject to *subsection (3)*, a *Part 4* tenancy shall also be deemed to have been terminated by the tenant upon any rent owed by him or her being in arrears for a period of 28 days or more if—

(a) whether before or after the end of that period, the tenant has vacated the dwelling, and

(b) no notice of termination has been served by the tenant in respect of the tenancy.

(3) *Subsections (1)* and *(2)* do not apply if the *Part 4* tenancy has been sub-let or assigned.

(4) Nothing in the preceding subsections affects the liability of the tenant for rent for the period that would have elapsed had a notice of termination giving the required period of notice been served by him or her.

(5) This section is subject to *Chapter 6*.

**38.**—(1) If a *Part 4* tenancy is assigned by the tenant with the consent of the landlord then if the assignment is— Effect of assignment of *Part 4* tenancy.

(a) to a person, other than a sub-tenant of the dwelling concerned, the assignment shall operate to convert the *Part 4* tenancy of the dwelling into a periodic tenancy of the dwelling and the protection provided by *section 28* for the assignor shall accordingly cease (but without prejudice to that section's fresh application in relation to the assignee should the circumstances mentioned in that section occur),

(b) to a sub-tenant of the dwelling concerned, the protection provided by *section 28* for the assignor shall cease (but without prejudice to the *Part 4* tenancy's continued subsistence as provided for in *subsection (2)*).

(2) If the assignment is to a sub-tenant of the dwelling concerned, the *Part 4* tenancy shall continue in being (but in favour of that person and not the assignor) for the period that it would have continued in being had the assignment not been made and subject to the provisions of this Chapter; accordingly—

(a) the assignee shall become the tenant of the landlord under the *Part 4* tenancy,

(b) the terms of the *Part 4* tenancy shall continue to be those under which the assignor held the tenancy immediately before the assignment unless the assignee and the landlord agree to a variation of them, and

(c) the assignee's sub-tenancy of the dwelling shall merge with the *Part 4* tenancy.

(3) *Subsection (2)(c)* does not affect the liabilities (if any) of the assignee to the assignor (or of the assignor to the assignee) that have arisen by virtue of the sub-tenancy concerned.

(4) The assignment of a *Part 4* tenancy with respect to only part of the dwelling, the subject of the tenancy, is prohibited.

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(5) Any such assignment purported to be made is void.

Termination on tenant's death.

**39.**—(1) Subject to *subsections (2) and (4)*, a *Part 4* tenancy shall terminate on the death of the tenant.

(2) Where the 2 conditions specified in *subsection (3)* are satisfied—

(a) *subsection (1)* does not apply, and

(b) the *Part 4* tenancy concerned, accordingly, continues in being, subject to the other provisions of this Chapter, for the period for which it would otherwise have continued in being had the tenant concerned not died.

(3) Those conditions are—

(a) the dwelling, at the time of the death of the tenant concerned, was occupied by—

(i) a spouse of the tenant,

(ii) a person who was not a spouse of the tenant but who cohabited with the tenant as husband and wife in the dwelling for a period of at least 6 months ending on the date of the tenant's death,

(iii) a child, stepchild or foster child of the tenant, or a person adopted by the tenant under the Adoption Acts 1952 to 1998, being in each case aged 18 years or more, or

(iv) a parent of the tenant,

and

(b) one or more than one of the foregoing persons elects in writing to become a tenant or tenants of the dwelling.

(4) This section is subject to *Chapter 6*; without limiting the generality of this subsection, *subsections (2) and (3)* are not to be read as derogating from the operation of *Chapter 6* in circumstances where a person referred to in *subsection (3)* is a multiple tenant (within the meaning of that Chapter) of the dwelling concerned.

(5) Irrespective of the number of instances of the application to the same dwelling of *subsection (2)* (by reason of a series of deaths of tenants), the *Part 4* tenancy concerned shall not continue in being any longer than it would otherwise have continued in being had the first of those deaths not occurred.

#### CHAPTER 4

##### *Additional statutory right — further Part 4 tenancy*

Interpretation (*Chapter 4*).

**40.**—(1) In *section 41* “4 year period” means, in relation to the *Part 4* tenancy concerned, the period mentioned in *section 28(2)(a)*.

(2) References in *sections 41(4) and 42* to *section 34* or *Chapter 3* are references to that section or Chapter as applied by *section 47*.

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**41.**—(1) If a *Part 4* tenancy continues to the expiry of the 4 year period without a notice of termination under *section 34* or *36* having been served in respect of it before that expiry, then a new tenancy shall, by virtue of this section, come into being between the landlord and the tenant on that expiry. Pt.4  
Further *Part 4*  
tenancy on expiry  
of 4 year period.

(2) Such a tenancy is referred to in this Act as a “further *Part 4* tenancy”.

(3) The commencement date of a further *Part 4* tenancy is the expiry of the 4 year period.

(4) A further *Part 4* tenancy shall, subject to *Chapter 3*, continue in being—

- (a) unless *paragraph (b)* or *(c)* applies, for the period of 4 years from its commencement,
- (b) if a notice of termination is served in accordance with *section 42*, until the expiry of the period of notice given by that notice, or
- (c) if a notice of termination under *section 34(b)* is served in respect of the tenancy giving a period of notice that expires after the period of 4 years mentioned in *paragraph (a)*, until the expiry of that period of notice.

**42.**—(1) Not later than 6 months from its commencement, the landlord may serve a notice of termination in respect of a further *Part 4* tenancy. Termination of  
additional rights.

(2) The period of notice given by that notice of termination shall not be less than 112 days.

(3) The means of termination that *subsection (1)* provides in the period of 6 months mentioned in that subsection is in addition to, and accordingly does not prevent the exercise of, the right of termination under *section 34(a)* in that period.

## CHAPTER 5

### *Successive further Part 4 tenancies may arise*

**43.**—This Chapter has effect for the purpose of ensuring that the additional rights provided by *Chapter 4* are regarded as being of a rolling nature, that is to say, that (unless the landlord uses the means under this Part to stop the following happening)— Purposes of  
Chapter.

- (a) on the expiry of a further *Part 4* tenancy, after it has been in existence for 4 years, another such tenancy comes into being, and
- (b) on the expiry of that tenancy, after it has been in existence for 4 years, a further such tenancy comes into being,

and so on.

**44.**—A reference in *section 45* to *section 34*, *Chapter 3* or *section 42* is a reference to that section or Chapter as applied by *section 47*. Construction of  
certain references.

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Further *Part 4* tenancy to arise on expiry of previous tenancy.

**45.**—(1) If a further *Part 4* tenancy continues to the expiry of 4 years from its commencement without a notice of termination under *section 34(b)* having been served in respect of it before that expiry, then a new tenancy shall, by virtue of this section, come into being between the landlord and the tenant on that expiry.

(2) Such a tenancy is also referred to in this Part as a “further *Part 4* tenancy”.

(3) The commencement date of a further *Part 4* tenancy under this section is the expiry of the further *Part 4* tenancy that preceded it.

(4) A further *Part 4* tenancy under this section shall, subject to *Chapter 3*, continue in being—

(a) unless *paragraph (b)* or *(c)* applies, for the period of 4 years from its commencement,

(b) if a notice of termination is served in accordance with *section 42*, until the expiry of the period of notice given by that notice, or

(c) if a notice of termination under *section 34(b)* is served in respect of the tenancy giving a period of notice that expires after the period of 4 years mentioned in *paragraph (a)*, until the expiry of that period of notice.

Terms of a further *Part 4* tenancy.

**46.**—(1) The terms of a further *Part 4* tenancy shall be those of the preceding *Part 4* tenancy or, as the case may be, the preceding further *Part 4* tenancy.

(2) At any time during the period of a further *Part 4* tenancy, the parties may, by agreement, vary its terms.

(3) No term purported to be provided for by a variation under *subsection (2)* shall be a term of a further *Part 4* tenancy if the term is inconsistent with this or any other Part of this Act.

Application of *Chapter 3* and *section 42* to every further *Part 4* tenancy.

**47.**—(1) *Chapter 3* applies to every further *Part 4* tenancy as it applies to a *Part 4* tenancy.

(2) For that purpose, references in that Chapter to a *Part 4* tenancy shall be read as references to a further *Part 4* tenancy.

(3) For that purpose the following modifications of *sections 33* and *34* (in *Chapter 3*) also apply.

(4) In *section 33* “*section 34* or *42*” shall be substituted for “*section 34*”, and *section 33*, as it is to be read and have effect for the purposes of this section, is set out in *paragraph 1* of the Table to this section.

(5) In *paragraph (b)* of *section 34* “4 years from the commencement of the tenancy” shall be substituted, in *subparagraph (ii)*, for “4 years mentioned in *section 28(2)(a)* in relation to the tenancy”, and that *paragraph (b)*, as it is to be read and have effect for the purposes of this section, is set out in *paragraph 2* of the Table to this section.

(6) *Section 42* applies to a further *Part 4* tenancy under *section 45* as it applies to a further *Part 4* tenancy under *section 41*.

1. A further *Part 4* tenancy may not be terminated by the landlord save in accordance with *section 34* or *42*.
2. (b) irrespective of whether any of those grounds exist, if—
  - (i) a notice of termination giving the required period of notice is served by the landlord in respect of the tenancy, and
  - (ii) that period of notice expires on or after the end of the period of 4 years from the commencement of the tenancy.

CHAPTER 6

*Rules governing operation of Part in cases of multiple occupants*

**48.**—(1) In this Chapter “multiple tenants” means, in relation to a dwelling, 2 or more persons who are tenants of the dwelling (whether as joint tenants, tenants-in-common or under any other form of co-ownership) and “multiple tenant” means any one of them. Interpretation  
(Chapter 6).

(2) References in this Chapter to a *Part 4* tenancy coming into existence and cognate references shall be construed as references to the circumstances in which the tenancy referred to in *section 28* is continued in being by virtue of that section.

(3) References in subsequent provisions of this Chapter to a *Part 4* tenancy include, unless the context does not admit of such construction, references to a further *Part 4* tenancy.

**49.**—(1) Subject to this Chapter, the provisions of this Part apply regardless of the fact that the dwelling concerned is occupied at the particular time by either or both— General principle in  
relation to dwellings  
occupied by more  
than one person.

- (a) multiple tenants,
- (b) one or more persons who are also lawfully in occupation of the dwelling as licensees of the tenant or the multiple tenants, as the case may be.

(2) In particular, the fact that the continuous period of occupation, as respects a particular dwelling, by one or more of the multiple tenants is less than 6 months at a particular time does not prevent a *Part 4* tenancy coming into existence at that time in respect of the dwelling if—

- (a) another of the multiple tenants has been in continuous occupation of the dwelling for 6 months, and
- (b) the condition specified in *section 28(3)* is satisfied.

**50.**—(1) *Subsection (2)* applies unless the multiple tenant concerned benefits, by virtue of the preceding Chapters of this Part, from the protection of the *Part 4* tenancy on its coming into existence. Entitlement of  
multiple occupant  
to benefit from *Part*  
*4* tenancy.

(2) A multiple tenant who was in occupation of a dwelling immediately before the coming into existence of a *Part 4* tenancy in respect of it shall, on his or her having been in occupation of the dwelling



for a continuous period of 6 months (and that tenancy still subsists), benefit from the protection of that tenancy; accordingly the rights, restrictions and obligations under this Part shall, on and from the expiry of that period of 6 months, apply in relation to that multiple tenant as they apply in relation to the multiple tenant whose continuous occupation gave rise to the *Part 4* tenancy's existence.

(3) Any person who the landlord accepts as a tenant of a dwelling on, or subsequent to, a *Part 4* tenancy coming into existence in respect of it, shall, on his or her having been in occupation of the dwelling for a continuous period of 6 months (and that tenancy still subsists), benefit from the protection of that tenancy; accordingly, the rights, restrictions and obligations under this Part shall, on and from the expiry of that period of 6 months, apply in relation to that person as they apply in relation to the multiple tenant whose continuous occupation gave rise to the *Part 4* tenancy's existence.

(4) The reference in *subsection (3)* to a landlord's accepting a person as a tenant is a reference to his or her accepting a person as a tenant—

- (a) whether as a replacement for any of the existing multiple tenants or as an additional tenant to them, and
- (b) whether or not the person was immediately before that acceptance a licensee in occupation of the dwelling.

(5) For the purpose of reckoning the continuous period of occupation referred to in *subsections (2) and (3)*, any period of continuous occupation by the person concerned of the dwelling as a licensee (whether that period begins before, on or after the *Part 4* tenancy came into existence) may be counted with any continuous period of occupation by that person of the dwelling as a tenant that follows on immediately from it.

(6) For the purpose of, amongst other things, ensuring that the distinction that exists between licences and tenancies does not operate to frustrate the objectives of this Part in cases to which this Chapter applies, *subsections (7) and (8)* are enacted.

(7) A person who is lawfully in occupation of the dwelling concerned as a licensee of the tenant or the multiple tenants, as the case may be, during the subsistence of a *Part 4* tenancy may request the landlord of the dwelling to allow him or her to become a tenant of the dwelling.

(8) The landlord may not unreasonably refuse to accede to such a request; if the request is acceded to—

- (a) an acknowledgement in writing by the landlord that the requester has become a tenant of the landlord suffices for the purpose,
- (b) the requester shall hold the dwelling—
  - (i) on the same terms, or as appropriately modified, as those on which the existing tenant or multiple tenants hold the dwelling (other than terms comprising the rights, restrictions and obligations which arise by virtue of a *Part 4* tenancy being in existence in respect of the dwelling),

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- (ii) upon (if such be the case) *subsection (3)* being satisfied in respect of the requester, subject to the same rights, restrictions and obligations as those subject to which the multiple tenant whose continuous occupation gave rise to the *Part 4* tenancy's existence holds the dwelling. Pt.4 S.50

**51.**—(1) Without prejudice to *subsection (3)*, no act done by any one or more of the multiple tenants of a dwelling that, apart from this subsection, would have either of the following results, namely— Act of one of multiple tenants cannot prejudice the other's or others' rights.

- (a) the termination of the *Part 4* tenancy, or
- (b) rendering the *Part 4* tenancy liable to be terminated by the landlord,

shall have either such result if another of those tenants provides an explanation or information to the landlord from which a landlord acting reasonably in the circumstances would conclude that that act was done without that person's consent.

(2) For the purposes of *subsection (1)* a landlord acts reasonably in the circumstances concerned if—

- (a) he or she requires the last-mentioned tenant in that subsection to provide such information or assistance as he or she may reasonably need to ascertain with whose consent (if any) and by whom the act concerned was done, and
- (b) in case that requirement is not complied with, he or she concludes, on account of that non-compliance, that the act concerned was done with the tenant's consent.

(3) Instead of the result mentioned in *paragraph (a)* or *(b)* of *subsection (1)*, an act referred to in that subsection that is shown to have been done without the consent of one or more of the other multiple tenants results in—

- (a) the tenant responsible for the act (and any tenant who consented to that act) losing the benefit of the protection, if he or she otherwise has the benefit of it, of the *Part 4* tenancy, or
- (b) the rendering of the benefit for him or her (and any tenant who consented to that act) of that protection, if he or she otherwise has the benefit of it, liable to be terminated by the landlord in accordance with this Part as adapted by *subsection (4)*,

as the case may be.

(4) For the purposes of *subsection (3)*, any provision of this Part which—

- (a) provides for the termination of a *Part 4* tenancy,
- (b) renders such a tenancy liable to termination by the landlord, or
- (c) makes provision incidental to, or consequential on, the foregoing,

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shall, in relation to a case to which that subsection applies, be construed and operate as a provision which, as appropriate—

- (i) provides for the loss of the benefit of the protection of the *Part 4* tenancy for the tenant or tenants concerned,
- (ii) renders the benefit for that tenant or those tenants of that protection liable to be terminated by the landlord, or
- (iii) makes provision incidental to, or consequential on, the matter referred to in *paragraph (i)* or *(ii)*.

(5) Without limiting the generality of the foregoing, such adaptation of this Part allows the landlord to obtain a determination under *Part 6* requiring the tenant who is in default to vacate possession of the dwelling concerned (without prejudice to the other multiple tenant's or tenants' possession of the dwelling).

(6) For the purpose of *subsection (4)*, *Part 5* has effect as if every provision it makes with respect to a notice of termination were a provision with respect to a notice terminating the benefit of the protection of the *Part 4* tenancy concerned.

(7) In this section a reference to the doing of an act includes the making of an omission.

Immaterial that tenant whose occupation gave rise to *Part 4* tenancy quits or dies.

**52.**—For the avoidance of doubt, neither—

- (a) the vacating of possession of the dwelling concerned by the multiple tenant whose continuous occupation gave rise to the *Part 4* tenancy's existence in respect of that dwelling, nor
- (b) the death of that tenant,

of itself, deprives the other multiple tenant or tenants of the benefit of that tenancy's protection.

No separate *Part 4* tenancy to arise in multiple tenant's favour.

**53.**—The conferral of the benefit of the protections under this Part on a person referred to in *section 50(2)* or *(3)* shall not be read as operating to bring into existence a separate *Part 4* tenancy in his or her favour as respects the dwelling concerned.

CHAPTER 7

*Miscellaneous*

No contracting out from terms of Part permitted.

**54.**—(1) No provision of any lease, tenancy agreement, contract or other agreement (whether entered into before, on or after the relevant date) may operate to vary, modify or restrict in any way a provision of this Part.

(2) This section is without prejudice to *section 26* (which allows more beneficial rights for a tenant than those accorded by this Part).

Protection under this Part and long occupation equity.

**55.**—(1) For the avoidance of doubt, occupation under a *Part 4* tenancy or a further *Part 4* tenancy shall be reckoned for the purposes of *section 13(1)(b)* of the Landlord and Tenant (Amendment) Act 1980.

(2) Neither—

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- (a) a termination under *section 34* on one or more of the grounds specified in *paragraphs 2 to 6* of the Table to that section, nor
- (b) a termination under *section 42*,

of a *Part 4* tenancy or a further *Part 4* tenancy shall be regarded as a termination of that tenancy for the purposes of *section 17(1)(a)* of the Landlord and Tenant (Amendment) Act 1980.

**56.**—(1) This section applies where—

Damages for abuse of *section 34* termination procedure.

- (a) a tenant under a *Part 4* tenancy, or under a further *Part 4* tenancy, has vacated possession of the dwelling concerned on foot of a notice of termination served under *section 34(a)*,
- (b) that notice of termination cited as the reason for the termination one or more of the grounds specified in *paragraphs 3 to 6* of the Table to *section 34*, and
- (c) (i) in case the ground cited is that specified in *paragraph 3* of that Table, the thing mentioned in that paragraph is not done within the period specified in that paragraph,
  - (ii) in case the ground cited is that specified in *paragraph 4* of that Table, the occupation by the person concerned does not take place within a reasonable time after the service of the notice of termination or, in circumstances where such a requirement arises, the landlord does not comply with the requirement to make the offer referred to in that paragraph,
  - (iii) in case the ground cited is that specified in *paragraph 5* of that Table, the thing mentioned in that paragraph is not done within a reasonable time after the service of the notice of termination or, in circumstances where such a requirement arises, the landlord does not comply with the requirement to make the offer referred to in that paragraph,
  - (iv) in case the ground cited is that specified in *paragraph 6* of that Table, the thing mentioned in that paragraph is not done within a reasonable time after the service of the notice of termination or, in circumstances where such a requirement arises, the landlord does not comply with the requirement to make the offer referred to in that paragraph.

(2) Where this section applies, the tenant may make a complaint to the Board under *Part 6* that, by reason of the matters mentioned in *subsection (1)*, he or she has been unjustly deprived of possession of the dwelling concerned by the landlord.

(3) An adjudicator or the Tribunal, on the hearing of such a complaint, may, if he or she or it considers it proper to do so, make—

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- (a) a determination comprising a direction that the landlord shall pay to the complainant an amount by way of damages for that deprivation of possession,
  - (b) subject to *section 118*, a determination comprising a direction that the complainant be permitted to resume possession of the dwelling concerned, or
  - (c) subject to *section 118*, a determination comprising both of the foregoing directions.
- (4) Damages may not be directed to be paid to a particular person, in respect of the same deprivation of possession, under both *subsection (3)* and *section 118(1)*.
- (5) If 2 or more of the grounds specified in *paragraphs 3 to 6* of the Table to *section 34* were cited in the notice of termination concerned, then *paragraph (c)* of *subsection (1)* shall be read as meaning that an omission of the kind mentioned in that paragraph must have occurred in relation to each of those grounds.

(6) For the avoidance of doubt—

- (a) this section applies even though the tenant vacated possession of the dwelling only after a dispute in relation to the validity of the notice of termination was finally determined under *Part 6* (but in such a case *subsection (1)* has effect as if the paragraph set out in the Table to this section were substituted for *paragraph (c)* of that subsection), and
- (b) this section is without prejudice to the tenant's right to put in issue, in a dispute in relation to the validity of the notice of termination referred to the Board under *Part 6*, the bona fides of the intention of the landlord to do or, as appropriate, permit to be done the thing or things mentioned in the notice.

TABLE

- (c) (i) in case the ground cited is that specified in *paragraph 3* of that Table, the thing mentioned in that paragraph is not done within the period of 3 months after the dispute in relation to the validity of the notice of termination is finally determined,
- (ii) in case the ground cited is that specified in *paragraph 4* of that Table, the occupation by the person concerned does not take place within a reasonable time after the dispute is so determined or, in circumstances where such a requirement arises, the landlord does not comply with the requirement to make the offer referred to in that paragraph,
- (iii) in case the ground cited is that specified in *paragraph 5* of that Table, the thing mentioned in that paragraph is not done within a reasonable time after the dispute is so determined or, in circumstances where such a requirement arises, the landlord does not comply with the requirement to make the offer referred to in that paragraph,
- (iv) in case the ground cited is that specified in *paragraph 6* of that Table, the thing mentioned in that paragraph is not done within a reasonable time after the dispute is so determined or, in circumstances where such a requirement arises, the landlord does not comply with the requirement to make the offer referred to in that paragraph.

PART 5

TENANCY TERMINATIONS — NOTICE PERIODS AND OTHER PROCEDURAL REQUIREMENTS

CHAPTER 1

*Scope of Part and interpretation provisions*

**57.**—The purpose of this Part is to specify the requirements for a valid termination by the landlord or tenant of a tenancy of a dwelling, whether the dwelling is— Purpose of Part.

- (a) one to which this Act applies but to which *Part 4* does not apply (by reason of the operation of *section 25*), or
- (b) one to which both this Act and that Part applies (in which case those requirements are in addition to the requirements of that Part with regard to the termination of a *Part 4* tenancy or a further *Part 4* tenancy).

**58.**—(1) From the relevant date, a tenancy of a dwelling may not be terminated by the landlord or the tenant by means of a notice of forfeiture, a re-entry or any other process or procedure not provided by this Part. Termination of tenancies restricted to means provided by this Part.

(2) Accordingly, the termination by the landlord or the tenant of—

- (a) more beneficial rights referred to in *section 26* that the tenant enjoys under a tenancy than those created by *Part 4*, or
- (b) a tenancy to which *section 25* applies,

must be effected by means of a notice of termination that complies with this Part.

(3) Each of the following—

- (a) a tenancy referred to in *subsection (2)(a)* (unless it expressly excludes this means of termination),
- (b) a tenancy referred to in *subsection (2)(b)*, and
- (c) a tenancy of a dwelling created before or after the relevant date in so far as its operation is not affected by *Part 4*,

shall be construed as including a term enabling its termination by means of a notice of termination that complies with this Part (but, in the case of a tenancy that is for a fixed period, unless it provides otherwise, only where there has been a failure by the party in relation to whom the notice is served to comply with any obligations of the tenancy).

**59.**—Subject to *section 60*, neither—

- (a) any rule of law, nor
- (b) provision of any enactment in force immediately before the commencement of this Part,

Exclusion of existing rules and enactments.

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which applies in relation to the termination of a tenancy (and, in particular, requires a certain period of notice or a period of notice ending on a particular day to be given) shall apply in relation to the termination of a tenancy of a dwelling.

Greater notice periods not affected.

**60.**—If, in every case or a particular case or cases in which a right of termination is to be exercised, the lease or tenancy agreement comprising the tenancy requires a greater period of notice to be given by a notice of termination than that required by this Part, then, subject to *section 65(4)*, that greater period of notice shall be given by that notice in (as appropriate) every such case or such particular case or cases.

Construction of certain references to periods of notice and duration of tenancies.

**61.**—(1) A reference in this Part to a particular period of notice to be given by the notice of termination concerned is a reference to such a period that begins on the day immediately following the date of service of the notice.

(2) A reference in this Part to the duration of a tenancy is a reference to the period beginning on the day on which the tenancy came into existence or the relevant date, if later, and ending on the date of service of the notice of termination concerned.

CHAPTER 2

*What a valid notice of termination must contain*

Requirements for a valid notice of termination.

**62.**—(1) A notice of termination to be valid shall—

- (a) be in writing,
- (b) be signed by the landlord or his or her authorised agent or, as appropriate, the tenant,
- (c) specify the date of service of it,
- (d) be in such form (if any) as may be prescribed,
- (e) if the duration of the tenancy is a period of more than 6 months, state (where the termination is by the landlord) the reason for the termination,
- (f) specify the termination date, that is to say, the day (stating the month and year in which it falls)—
  - (i) on which the tenancy will terminate, and
  - (ii) on or before which (in the case of a termination by the landlord) the tenant must vacate possession of the dwelling concerned, (and indicating that the tenant has the whole of the 24 hours of the termination date to vacate possession),

and

- (g) state that any issue as to the validity of the notice or the right of the landlord or tenant, as appropriate, to serve it must be referred to the Board under *Part 6* within 28 days from the date of receipt of it.

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(2) *Subsection (1)* is without prejudice to *Chapter 4* and *section 81(3)* (which specify additional requirements in respect of a tenancy that has been sub-let). Pt.5 S.62

**63.**—For the purposes of *section 62(1)(f)*, the day that is to be specified in a notice of termination is the last day of— Date to be specified for purposes of *section 62(1)(f)*.

(a) the period which, by reason of *Chapter 3*, is the period of notice to be given by that notice of termination, or

(b) such longer period of notice as the landlord or tenant (as appropriate) chooses, subject to *section 65(4)*, to give by that notice of termination.

**64.**—(1) For the avoidance of doubt, the specification in a notice of termination of a date as being its date of service does not comply with *section 62(1)(c)* if any relevant step in the service of that notice remains untaken on that date. Reference to and validity of date of service of notice of termination.

(2) A relevant step in the service of a notice remains untaken for the purposes of *subsection (1)* if any of the steps that are within the power or control of the landlord or tenant or agent (as appropriate) to take for the purpose of effecting such service remains untaken.

(3) A reference in this Part to the date of service of a notice of termination is a reference to the date the specification of which, in the notice of termination, complies with *subsection (1)*.

### CHAPTER 3

#### *Period of notice to be given*

**65.**—(1) This Chapter states the period of notice to be given by a notice of termination. What this Chapter does.

(2) Nothing in this Chapter is to be read as requiring the period of notice concerned to be actually mentioned in the notice of termination; compliance with *section 62(1)(f)* (which relates to the termination date) suffices for the purposes of communicating the length of notice being given.

(3) Subject to *subsection (4)*, a greater period of notice than that required by this Chapter may be given if the landlord or tenant (as appropriate) so chooses.

(4) If the duration of the tenancy concerned is less than 6 months, a period of notice of more than 70 days may not be given in respect of it.

**66.**—(1) This section applies where the tenancy is being terminated— Period of notice where *section 67* or *68* is inapplicable.

(a) otherwise than by reason of the landlord's or tenant's failure to comply with any of the obligations of the tenancy, or

(b) by reason of such a failure but a condition in another section of this Chapter is required to be satisfied if the period of



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notice provided by that section is to apply and that condition is not satisfied.

(2) Where this section applies the period of notice to be given by the notice of termination is—

(a) in the case of a termination by the landlord, the period mentioned in *column (2)* of *Table 1* to this section opposite the mention of the duration of the tenancy concerned in *column (1)* of that Table, and

(b) in the case of a termination by the tenant, the period mentioned in *column (2)* of *Table 2* to this section opposite the mention of the duration of the tenancy concerned in *column (1)* of that Table.

(3) This section is subject to *section 69*.

TABLE 1  
Termination by Landlord

Duration of Tenancy (1)	Notice Period (2)
Less than 6 months	28 days
6 or more months but less than 1 year	35 days
1 year or more but less than 2 years	42 days
2 years or more but less than 3 years	56 days
3 years or more but less than 4 years	84 days
4 or more years	112 days

TABLE 2  
Termination by Tenant

Duration of Tenancy (1)	Notice Period (2)
Less than 6 months	28 days
6 or more months but less than 1 year	35 days
1 year or more but less than 2 years	42 days
2 or more years	56 days

Period of notice for termination by landlord where tenant in default.

**67.—**(1) This section applies where the tenancy is being terminated by the landlord by reason of the failure of the tenant to comply with any of the obligations of the tenancy.

(2) Where this section applies the period of notice to be given by the notice of termination is—

(a) 7 days, if the tenancy is being terminated by reason of behaviour of the tenant that is—

(i) behaviour falling within *paragraph (a)* or *(b)* of the definition of “behave in a way that is anti-social” in *section 17(1)*, or

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- (ii) threatening to the fabric of the dwelling or the property containing the dwelling, Pt.5 S.67

or

(b) 28 days, if the tenancy is being terminated—

- (i) for any other reason (but not a failure to pay an amount of rent due), or
- (ii) for failure to pay an amount of rent due and the condition specified in *subsection (3)* is satisfied,

regardless of the duration of the tenancy.

(3) The condition mentioned in *subsection (2)(b)(ii)* is that the tenant has been notified in writing by the landlord that an amount of rent due has not been paid and 14 days elapse from the receipt of that notice without the amount concerned having been paid to the landlord.

(4) This section is subject to *section 69*.

**68.**—(1) This section applies where—

- (a) the tenancy is being terminated by the tenant by reason of the failure of the landlord to comply with any obligations of the tenancy, and
- (b) in a case falling within *subsection (2)(b)*, the condition specified in *subsection (3)* in relation to a termination in such a case is satisfied.

Period of notice for termination by tenant where landlord in default.

(2) Where this section applies the period of notice to be given by the notice of termination is—

- (a) 7 days, if the tenancy is being terminated by reason of behaviour of the landlord that poses an imminent danger of death or serious injury or imminent danger to the fabric of the dwelling or the property containing the dwelling, or
- (b) 28 days, if the tenancy is being terminated for any other reason,

regardless of the duration of the tenancy.

(3) The condition mentioned in *subsection (1)(b)* is—

- (a) the landlord has been notified in writing of the failure concerned by the tenant, and
- (b) the landlord does not remedy the failure within a reasonable time after being so notified.

(4) In *subsection (3)* “remedy the failure” means—

- (a) in the case of a failure that does not result in financial loss or damage to the tenant or his or her property, to desist from the conduct that constitutes the failure, or if the failure consists of an omission to comply with an obligation, comply with that obligation, and

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- (b) in the case of a failure that does result in financial loss or damage to the tenant or his or her property—
- (i) to pay adequate compensation to the tenant or repair the damage fully, and
- (ii) unless the failure is not of a continuing nature, to desist from the conduct that constitutes the failure or comply with the obligation concerned, as the case may be.

(5) This section is subject to *section 69*.

Exception to requirements of sections 66 to 68.

**69.**—(1) Subject to *subsection (2)*, the landlord or tenant may agree to a lesser period of notice being given than that required by a preceding provision of this Chapter and such lesser period of notice may be given accordingly.

(2) Such an agreement to a lesser period of notice being given may only be entered into at, or after, the time it is indicated to the tenant or landlord (as appropriate) by the other party that he or she intends to terminate the tenancy.

(3) For the avoidance of doubt, a term of a lease or tenancy agreement cannot constitute such an agreement.

CHAPTER 4

*Additional requirements and procedures where tenancy sub-let*

Notices of termination in cases of tenancies that are sub-let.

**70.**—(1) This section applies where—

- (a) the tenancy (“the head-tenancy”) of the dwelling concerned is the subject of a sub-tenancy (“the sub-tenancy”), and
- (b) the landlord under the head-tenancy proposes to terminate the head-tenancy.

(2) Where this section applies, a notice of termination in respect of the head-tenancy must, in addition to its complying with *section 62*, state whether or not the landlord under the head-tenancy requires the head-tenant to terminate the sub-tenancy.

(3) If a requirement to terminate the sub-tenancy is stated in such a notice, then, in addition to its being served on the head-tenant, a copy of that notice must be served on the tenant of the sub-tenancy (“the sub-tenant”).

Procedures on foot of service of notice mentioned in *section 70* in non-contentious case.

**71.**—(1) Where—

- (a) *section 70* applies,
- (b) a requirement is stated in the notice of termination of the head-tenancy to terminate the sub-tenancy, and
- (c) no dispute in relation to the termination of the head-tenancy is referred under *Part 6* to the Board,

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the head-tenant must, within 28 days from the receipt of that notice, comply with that requirement, that is to say, serve a notice of termination in respect of the sub-tenancy on the sub-tenant. Pt.5 S.71

(2) “Head-tenancy”, “head-tenant”, “sub-tenancy” and “sub-tenant” in this section shall be construed in accordance with *section 70*.

**72.**—(1) Where—

- (a) *section 70* applies,
- (b) the notice of termination of the head-tenancy does not require the termination of the sub-tenancy, and
- (c) no dispute in relation to the termination of the head-tenancy is referred under *Part 6* to the Board,

Procedures on foot of service of notice in cases not falling under *section 71*.

the head-tenant must, within 28 days from the receipt of that notice, notify the sub-tenant of the contents of that notice.

(2) Where—

- (a) *section 70* applies,
- (b) the notice of termination of the head-tenancy does not require the termination of the sub-tenancy, and
- (c) a dispute in relation to the termination of the head-tenancy is referred under *Part 6* to the Board,

the head-tenant must, within 28 days from the receipt of that notice, notify the sub-tenant—

- (i) of the contents of that notice, and
- (ii) of the fact that that dispute has been referred to the Board.

(3) The particulars of the determination order (if any) made by the Board on foot of that reference must be notified by the head-tenant to the sub-tenant within 14 days from the receipt by the head-tenant of the order.

(4) “Head-tenancy”, “head-tenant”, “sub-tenancy” and “sub-tenant” in this section shall be construed in accordance with *section 70*.

CHAPTER 5

*Miscellaneous*

**73.**—(1) *Subsection (2)* applies where a notice of termination is being served in respect of a dwelling by all of the multiple tenants of the dwelling. Notice of termination by multiple tenants.

(2) Where this subsection applies, it suffices, for the purposes of *section 62(1)(b)*, that the notice of termination is signed by one of the multiple tenants if—

- (a) the notice states it is signed by that person on behalf of himself or herself and the other tenant or tenants, and
- (b) the other tenant or each other tenant is named in the notice.

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(3) Any rule of law that a notice of termination served by any of 2 or more multiple tenants under a periodic tenancy of a dwelling without the concurrence of the other or others, or without the knowledge of the other or others, is effective to terminate that tenancy is abolished.

(4) In this section “multiple tenants” has the same meaning as it has in *Chapter 6 of Part 4*.

Offence to do certain acts on foot of invalid termination.

**74.—**(1) A person is guilty of an offence if—

(a) a notice of termination that is invalid purports to be served by the person (or on his or her behalf) in respect of a tenancy, and

(b) the person does any act, in reliance on the notice, that affects adversely, or is calculated to affect adversely, any interest of the person on whom the notice is served.

(2) In proceedings for an offence under this section, it is a defence to show that the defendant neither knew nor could reasonably be expected to have known of the existence of any fact that gave rise to the invalidity of the notice concerned.

(3) For the purposes of *subsection (1)*, an act is done by a person in reliance on a notice if—

(a) its doing is accompanied or preceded by a statement made by the person (in writing or otherwise and however expressed) that it is being done, or will be done, in reliance on the notice, or

(b) in all the circumstances it is reasonable to infer that it is done in reliance on the notice.

(4) For the avoidance of doubt, references in this section to the doing of an act include references to the making of a statement (whether in writing or otherwise).

PART 6

DISPUTE RESOLUTION

CHAPTER 1

*Referral of matters to Board for resolution*

Interpretation  
(Part 6).

**75.—**(1) References in this Part to the referral of a matter to the Board for resolution are references to the referral of the matter for the purposes of mediation, a determination by an adjudicator or a determination by the Tribunal under this Part (or more than one of those things) being carried out or made in relation to it.

(2) References in this Part to a dispute include references to a disagreement and, unless the context does not admit of such a construction, a complaint mentioned in *section 56(2), 76(4), 77 or 195(4) or paragraph 8(2) of the Schedule* to this Act.

(3) For the purposes of *subsection (2)* “disagreement” shall be deemed to include—

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- (a) any issue arising between the parties with regard to the compliance by either with his or her obligations as landlord or tenant under the tenancy, Pt.6 S.75
- (b) any matter with regard to the legal relations between the parties that either or both of them requires to be determined (for example, whether the tenancy has been validly terminated),

and, without prejudice to the generality of the foregoing, shall be deemed to include a claim by the landlord for arrears of rent to which the tenant has not indicated he or she disputes the landlord's entitlement but which it is alleged the tenant has failed to pay.

(4) References in this Part to a party, without qualification, are references to—

- (a) a party to the dispute or disagreement concerned,
- (b) in the case of proceedings referred to in *section 23* to recover rent or other charges where the landlord or the person alleged to owe the rent or other charges is deceased, the personal representative of the landlord or that other person,
- (c) the personal representative of the landlord or the tenant in any other case where, if the matter were a cause of action (within the meaning of the Civil Liability Act 1961), it would have survived for the benefit of, or against, the estate of the landlord or the tenant,
- (d) in the case of a complaint mentioned in *section 76(4)*, the licensee and the landlord, and
- (e) in the case of a complaint mentioned in *section 77*—
- (i) the complainant, and
- (ii) the landlord of the dwelling concerned.

**76.—**(1) Either or both of the parties to an existing or terminated tenancy of a dwelling may, individually or jointly, as appropriate, refer to the Board for resolution any matter relating to the tenancy in respect of which there is a dispute between them. Right of referral by parties to tenancy and certain other persons.

(2) In the case of a tenancy that has been terminated a dispute as to the amount of any rent that had been agreed to or paid by the former tenant may not be referred by him or her to the Board for resolution at any time after the period of 28 days from the termination of the tenancy.

(3) The landlord may refer to the Board for resolution any matter relating to a dwelling in respect of which there is a dispute between the landlord and another, not being the tenant but through whom the other person claims any right or entitlement.

(4) A licensee referred to in *section 50(7)* may refer to the Board for resolution a complaint by him or her that the landlord referred to in that provision has unreasonably refused to accede to a request of the licensee made under that provision.

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Right of referral in respect of breach of duty under section 15.

**77.**—(1) A person referred to in *section 15* may, if the conditions specified in *subsection (2)* are satisfied, refer to the Board for resolution a complaint by him or her that the landlord of a dwelling has breached the duty owed to him or her under that section.

(2) The conditions mentioned in *subsection (1)* are—

- (a) the referrer of the complaint is or was directly and adversely affected by the breach of duty alleged in the complaint, and
- (b) before making the reference, the referrer, by communicating or attempting to communicate, with the relevant parties or former parties to the tenancy concerned, took all reasonable steps to resolve the matter (but this requirement shall not be read as requiring the institution of legal proceedings or those parties being given to understand that such proceedings might be instituted).

(3) For the purposes of facilitating the person's compliance with *subsection (2)(b)*, the Board may furnish to a person who proposes to make a reference under this section the name and address of the landlord or his or her authorised agent (or the former landlord or his or her authorised agent) of the dwelling concerned if it appears to the Board that the first-mentioned person is a person who may make a reference under this section in relation to the matter concerned.

Particular matters that may be referred (non-exhaustive list).

**78.**—(1) Without prejudice to the generality of *sections 76* and *77*, the matters in respect of which disputes and, where appropriate, complaints may be referred to the Board for resolution include—

- (a) the retention or refund of a deposit,
- (b) the amount that ought to be initially set (in compliance with *section 19*) as the amount of rent under a tenancy,
- (c) the time at which a review of rent referred to in *Part 3* should take place or the amount of rent that should be determined on foot of that review,
- (d) an alleged failure by the tenant to comply with any of the obligations applicable to the tenant, including those contained in any lease or tenancy agreement,
- (e) an alleged failure by the landlord to comply with any of the obligations applicable to the landlord, including those contained in any lease or tenancy agreement,
- (f) an allegation that the landlord has sought to terminate a tenancy other than in accordance with the provisions of *Part 4*,
- (g) an allegation that the ground stated by the landlord for the purposes of terminating a tenancy was not valid or that the notice used to terminate a tenancy did not comply with this Act,
- (h) the appropriate period of notice to be given by a notice of termination in respect of a tenancy,

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- (i) whether a tenancy stands terminated notwithstanding the absence of the service of a notice of termination by the tenant and where the tenant has allegedly vacated the dwelling concerned, Pt.6 S.78
- (j) an alleged failure by the tenant or other occupant to offer up, by the specified date, vacant possession of a dwelling on foot of receipt by him or her of a notice of termination validly served by the landlord,
- (k) an alleged failure by a sub-tenant to offer up, by the specified date, vacant possession of a dwelling on foot of receipt by him or her of a notice of termination validly served by a head-tenant,
- (l) a claim for recovery of costs or damages or both by a landlord or tenant in respect of a failure by either to comply with his or her obligations applicable to the tenancy including those contained in any lease or tenancy agreement,
- (m) a claim for costs or damages or both by a landlord or tenant for the purported termination of a tenancy otherwise than in accordance with this Act,
- (n) an alleged failure by a person to comply with a determination order made by the Board,
- (o) an allegation that a landlord has contravened *section 14* (prohibition on penalisation of tenants),
- (p) an allegation that an agreement referred to in *section 35(6)* has not been complied with,
- (q) a claim by a landlord for arrears of rent or other charges.

(2) For the avoidance of doubt, a dispute may, subject to the provisions of this Part, be referred by a sub-tenant to the Board for resolution with regard to a notice of termination served in respect of the head-tenancy out of which the sub-tenant's tenancy arises whether or not such a dispute is also so referred by the head-tenant.

(3) On such a reference by the sub-tenant he or she shall have standing to put in issue any matter relating to the notice of termination concerned despite the head-tenant's—

- (a) not having taken any issue with the head-landlord in relation to that matter, or
- (b) having made any representation to the landlord or done any act that estops him or her from taking any such issue with the head-landlord, or
- (c) not putting in issue that matter in any dispute so referred by himself or herself with regard to the notice of termination.

**79.**—There may be included in the same reference to the Board under *section 76* or *77* disputes and, where appropriate, complaints in respect of 2 or more different matters.

Different matters may be the subject of a single reference.



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Time limit for referring particular type of dispute.

**80.**—A dispute relating to the validity of a notice of termination which has been served or purported to be served may not be referred to the Board for resolution at any time after the period of 28 days has elapsed from the date of receipt of that notice.

Tenancies and sub-tenancies: referral of disputes concerning their termination.

**81.**—(1) The purpose of this section is to—

(a) limit, in certain circumstances, the right of referral to the Board by a sub-tenant of a dispute concerning the termination of the tenancy out of which his or her sub-tenancy arises, and

(b) require the tenant of such a tenancy (in addition to employing the procedures under *Chapter 4 of Part 5*) to make a certain inquiry of the sub-tenant before the tenant may himself or herself refer to the Board for resolution a dispute concerning the termination of that tenancy.

(2) If a landlord, in serving a notice of termination on a tenant in respect of a tenancy, requires the tenant to terminate any sub-tenancy arising out of the tenancy, the tenant shall, if the tenant intends to refer to the Board for resolution a dispute concerning the termination of the tenancy, require the sub-tenant to inform him or her, within 10 days from receipt of the notice mentioned in *subsection (3)*, whether or not the sub-tenant intends to refer to the Board for resolution any dispute that the sub-tenant considers thereby arises or exists in the circumstances relating to the termination of the tenancy.

(3) That requirement shall be stated in the notice of termination required by the landlord to be served by the head-tenant on the sub-tenant.

(4) If a sub-tenant does not comply with the requirement mentioned in *subsection (2)* within the period specified in that subsection then the sub-tenant may not refer to the Board for resolution any dispute concerning the termination of the tenancy concerned.

(5) If the tenant—

(a) does not comply with the second-mentioned requirement in *subsection (2)*, then the tenant may not refer to the Board for resolution any dispute concerning the termination of the tenancy concerned, or

(b) does comply with that requirement, the tenant may not refer to the Board for resolution such a dispute until 15 days elapse from the date of service of the notice concerned mentioned in *subsection (3)*.

Withdrawal of matter referred to Board.

**82.**—(1) A party who has referred under this Part any matter to the Board may, at any stage, withdraw the matter.

(2) Subject to *subsection (3)*, a party shall indicate his or her wish to withdraw such a matter by serving a notice in writing on the Board to that effect.

(3) If the matter is being dealt with by a mediator, an adjudicator or the Tribunal, it suffices for the party to indicate, orally to him or her or it, that the party is withdrawing the matter.

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(4) Without prejudice to *subsection (5)*, on oral or written notice, as appropriate, being given in respect of the withdrawal, the Board, the mediator, the adjudicator or the Tribunal shall consider the matter concerned withdrawn and, accordingly, shall not deal with it any further. PT.6 S.82

(5) On such notice being given to it or him or her, the Board, the mediator, the adjudicator or the Tribunal shall ascertain whether the other party to the dispute concerned objects to the withdrawal and, if he or she does so, the Board, mediator, adjudicator or Tribunal may direct that the party withdrawing the matter shall pay to the other party such costs and expenses incurred by that other party as it or he or she determines.

**83.**—(1) Subject to *subsection (3)*, the Board shall not—

- (a) deal initially with a dispute referred to it under this Part, or
- (b) allow any other procedure under this Part to be followed in relation to a dispute referred to it under this Part,

Board not to deal with reference if fee not paid or tenancy not registered.

if the fee of the specified amount prescribed by rules under *section 109* in relation to that initial dealing or the following of that procedure has not been paid to it.

(2) Subject to *subsection (3)*, the Board shall not deal with a dispute in relation to a tenancy referred to it under this Part by the landlord of the dwelling concerned if the tenancy is not registered under *Part 7*.

(3) The Board may, in the case of a default in payment of a particular fee or registration under *Part 7* of a particular tenancy, notify the person or persons concerned of the default and afford the person or persons concerned a reasonable opportunity to rectify the matter; if the matter is rectified within a reasonable time the Board shall, subject to this Part, deal with the dispute or permit the other procedure to be followed in relation to it, as the case may be.

**84.**—(1) If the Board is of opinion that, in relation to a dispute referred to the Board—

- (a) the dwelling, the subject of the dispute, is not a dwelling to which this Act applies,
- (b) for any other reason, the dispute does not come within the Board's jurisdiction (including by reason of a failure to comply with any condition for its being referred to the Board),
- (c) proceedings in any court in respect of the subject matter of the dispute, would, were they to be capable of being instituted at the date of the reference, be statute-barred, or
- (d) the matter or matters concerned are trivial or vexatious,

Further right of Board not to deal with certain references.

then the Board shall serve a notice on the party who referred the matter to it stating that it is of that opinion and, unless the party establishes, in accordance with the following subsections, that the opinion is not well founded, that it will not (subject to *subsection (6)*) deal with the matter.

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(2) For the purposes of *subsection (1)*, the notice referred to in that subsection shall state that the party concerned may, within a period specified in the notice, make submissions to the Board as to why the party considers the opinion of the Board is not well founded.

(3) The Board shall consider any submissions made to it by that party within the period specified in the notice concerned.

(4) Unless the Board decides that any such submissions establish that the opinion of the Board referred to in *subsection (1)* was not well founded, the Board shall not, subject to *subsection (6)*, deal with the dispute referred to it; the other party or parties to the dispute shall be notified in writing of a decision made by the Board that that opinion was not well founded and shall be furnished by the Board, on request, with a copy of the foregoing submissions (or, if they were not written submissions, a written summary of them prepared by the Board).

(5) The party who referred the dispute concerned to the Board or, as the case may be, any other party to the dispute may appeal to the Circuit Court against a decision of the Board (made in consequence of the procedures under this section having been employed) not to deal with or, as appropriate, to deal with the dispute.

(6) On the hearing of such an appeal the Circuit Court may, as it thinks fit, allow the appeal and direct the Board to deal with or, as appropriate, not to deal with the dispute concerned or dismiss the appeal; an appeal under this section shall be heard by the judge of the Circuit Court for the circuit in which the tenancy or dwelling is or was situated.

(7) For the purpose of *subsection (1)(c)*, proceedings are statute-barred if a defence under the Statute of Limitations 1957 or any other limitation enactment is available in relation to them.

Right of Tribunal or adjudicator not to deal with reference.

**85.—**(1) The Tribunal or an adjudicator shall, if the Tribunal or adjudicator is of opinion that *paragraph (a), (b), (c) or (d) of section 84(1)* applies to a dispute with which it or he or she is dealing, not deal any further with the dispute.

(2) *Subsection (1)* does not apply if—

(a) previously the Board, in consequence of the procedures under *section 84* having been employed by it in relation to the dispute, decided that an opinion formed by it (being a like opinion to that subsequently formed by the Tribunal or adjudicator) in relation to the dispute was not well founded, or

(b) a decision of the Board, in consequence of those procedures having been employed by it, in relation to the dispute (being a decision of a like kind to the opinion subsequently formed by the Tribunal or adjudicator) was the subject of an appeal under *section 84(5)* and the Circuit Court, on that appeal, directed the Board to deal with the dispute.

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**86.**—(1) Subject to *subsection (2)*, pending the determination of a dispute that has been referred to the Board (but subject to that determination when it is made)—

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Status of certain matters pending determination of dispute.

- (a) the rent payable under the tenancy concerned and the rent payable under any sub-tenancy arising out of it shall continue to be payable,
- (b) if the dispute relates to the amount of rent payable, no increase in the amount of the rent may be made, and
- (c) a termination of the tenancy concerned may not be effected.

(2) *Subsection (1)* does not apply if—

- (a) in the case of *paragraph (a)* of that subsection, the parties concerned agree to payment of the rent being suspended,
- (b) in the case of *paragraph (b)* of that subsection, the parties concerned agree to an increase in the amount of the rent being made,
- (c) in the case of *paragraph (c)* of that subsection (unless the dispute is a dispute specified in *subsection (3)*), the notice of termination concerned was served—
  - (i) before the dispute was referred to the Board for resolution, or
  - (ii) after the dispute was so referred and the required period of notice to be given by the notice of termination is 28 days or less and that period of notice has been given,

or

- (d) in any of the cases, the dispute is not dealt with, or ceases to be dealt with, under this Part pursuant to *section 82, 83, 84 or 85*.

(3) The dispute mentioned in *subsection (2)(c)* is a dispute relating to the validity of the notice of termination concerned or the right of the landlord or tenant, as appropriate, to serve it.

**87.**—If a dispute referred to the Board relates to the termination of a tenancy for failure by the landlord or tenant to fulfil his or her obligations relating to the tenancy, any remedial action taken by the other party subsequent to the receipt of the notice of termination shall not be taken into consideration by the Board, a mediator, an adjudicator or the Tribunal in dealing with the dispute.

Remedial action taken by party in certain cases to be disregarded.

**88.**—(1) The Board may, on application to it, extend the time limited by any provision of this or any other Part for the referral of a dispute to it for resolution.

Extension of time for referring disputes to Board.

(2) The Board shall not extend the time concerned unless the applicant for the extension shows good grounds for why the time should be extended.

(3) The reference in this section to the time limited by any provision of this or any other Part for the referral of a dispute to the

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Board for resolution includes a reference to the time limited by such a provision for fulfilling any condition precedent that is required by the provision to be fulfilled before a particular dispute may be referred to the Board for resolution.

(4) An appeal shall lie to the Circuit Court (by the applicant for the extension or, as the case may be, any other party to the dispute concerned) against a decision of the Board under this section to, as appropriate—

(a) refuse to extend the time concerned, or

(b) extend the time concerned,

and, on the hearing of such an appeal, the Circuit Court may, as it thinks fit, confirm, vary or cancel the decision of the Board.

(5) An appeal under this section shall be heard by the judge of the Circuit Court for the circuit in which the tenancy or dwelling concerned is or was situated.

CHAPTER 2

*Relationship between Part and certain other dispute resolution mechanisms*

Dispute subject of discontinued court proceedings may be subject of reference.

**89.**—For the avoidance of doubt, any dispute that has been the subject of proceedings instituted in any court before the commencement of this Part and which proceedings were discontinued by agreement of the parties after such commencement but before the court made its final determination in the matter may be the subject of a reference to the Board under this Part.

Arbitration agreement not effective to oust Board’s jurisdiction save in certain circumstances.

**90.**—(1) Notwithstanding any other enactment or any provision of the agreement itself, an arbitration agreement shall not operate to preclude a dispute to which the agreement applies from being referred to the Board for resolution unless the tenant at or after the time the dispute arises consents to the dispute being referred to arbitration.

(2) In this section “arbitration agreement” has the same meaning as it has in the Arbitration Act 1954.

Dispute may not be referred to Board where alternative remedy is being pursued.

**91.**—(1) To the extent that an alternative remedy is available in respect of any dispute falling within this Part and a person takes any steps to avail himself or herself of that remedy, that person may not refer the dispute to the Board for resolution.

(2) If a person, other than the person mentioned in *subsection (1)*, refers a dispute to the Board for resolution, being a dispute—

(a) to which that other person is a party, and

(b) as respects which that other person takes or has taken steps of the kind mentioned in that subsection,

then the Board, a mediator, an adjudicator or the Tribunal may, in dealing with the dispute, take account (with regard to the relief that may be granted and to such extent as it or he or she considers just) of the existence of that alternative remedy.

*Preliminary steps by Board (include power to refer matter to Tribunal)*

**92.**—(1) As soon as practicable after a dispute is referred to it, the Board may communicate with the parties for the purpose of—

Initial steps that may be taken by Board to resolve matters referred.

- (a) endeavouring to ensure that they are fully aware of the nature of the issue or issues the subject of the reference, and
- (b) in cases where it considers the dispute is due to some basic misunderstanding of either or both of them as to the rights or obligations of landlords and tenants, achieving the objective mentioned in *subsection (2)*.

(2) That objective is to have the issue or issues between the parties resolved by agreement between them without recourse being needed to the other procedures in this Part.

(3) Without prejudice to the generality of *subsection (1)*, the communications by the Board under this section with the parties may, where it would be of assistance to the parties, include an indication by the Board, based on appropriate assumptions stated to the parties, of the typical outcome of issues of the kind concerned being determined under this Part.

(4) Any such indication shall be communicated by the Board as fully to one of the parties as the other or others and the Board, in its communications generally with the parties under this section, shall bear in mind the right of the parties to invoke all of the procedures under this Part that are available to them.

**93.**—(1) Unless the steps (if any) taken under *section 92* have resulted in the parties agreeing a resolution of the matter concerned, the Board shall request each of the parties to state whether he or she consents to the dispute being the subject of mediation under *section 95*.

Invitation to parties to resolve matter through mediation.

(2) If each of the parties states, in response to that request, that he or she consents to the dispute being the subject of such mediation the Board shall arrange for the matter to be the subject of mediation by a person appointed by it from amongst the panel of mediators under *section 164(4)*.

(3) If any of the parties fails to respond to a request under *subsection (1)* or responds by stating that he or she does not consent to the matter concerned being the subject of mediation under *section 95*, the Board shall arrange for the matter to be the subject of adjudication under *section 97* by a person appointed by it from amongst the panel of adjudicators under *section 164(4)*.

(4) This section is subject to *section 94*.

**94.**—Notwithstanding *section 93*, the Board shall not be required to arrange for—

Exceptions to *section 93*: direct reference of matter to Tribunal, etc.

- (a) mediation of the kind mentioned in that section in relation to a dispute if it has made an application to the Circuit Court under *section 189* in relation to the dispute, in which case the Board may, as it thinks appropriate—

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(i) arrange for the dispute to be the subject of adjudication under *section 97* by a person appointed by it from amongst the panel of adjudicators under *section 164(4)*, or

(ii) refer the dispute to the Tribunal,

or

(b) mediation or adjudication of the kind mentioned in that section in relation to a dispute if, in all the circumstances, it considers it would be more appropriate for it to refer the dispute to the Tribunal and refers it accordingly.

CHAPTER 4

*Mediation and adjudication*

Mediation.

**95.**—(1) The following provisions apply to a mediation which the Board has arranged under *section 93* in relation to a dispute.

(2) The person appointed under *section 93(2)* to conduct the mediation (“the mediator”) shall inquire fully into each relevant aspect of the dispute concerned, provide to, and receive from, each party such information as is appropriate and generally make such suggestions to each party and take such other actions as he or she considers appropriate with a view to achieving the objective mentioned in *subsection (3)*.

(3) That objective is to have the issue or issues between the parties resolved by agreement between them without further recourse to the procedures under this Part being needed.

(4) As soon as practicable after the mediation is completed, the mediator shall prepare a report containing the following—

(a) a statement of what matters, if any, relating to the dispute are agreed by the parties to be fact,

(b) a summary of the matter or matters, if any, whether they go in whole or part to resolving the dispute or not, agreed to by the parties (and this summary shall be contained in a document signed by each of the parties acknowledging that the matter or those matters are agreed to by them), and

(c) relevant particulars in relation to the conduct of the mediation (including particulars in relation to the number and duration of sessions held by the mediator and the persons who attended any such session) and a list of any documents submitted to the mediator (but without disclosing any of their contents).

(5) The mediator shall, after preparing a report under *subsection (4)*, furnish a copy of it to the Director.

(6) There shall then be furnished to the Board by the Director—

(a) if the report contains a document of the kind mentioned in *subsection (4)(b)*, a copy of that document (but not any other part of the report), or

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- (b) if the report does not contain such a document, a statement that no matters have been agreed to by the parties which resolve in whole or part the dispute (but not any part of the report).

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96.—(1) After the receipt by it of the document or statement referred to in *section 95(6)*, the Board shall serve a copy of the document or statement on each of the parties, together with the following notice.

Procedures to be followed on foot of Board's receipt of information under *section 95(6)*.

(2) That notice is a notice requiring the party to inform the Board—

(a) if the information served on the parties indicates that there is agreement between the parties such as to resolve in whole the dispute concerned, whether that agreement still exists,

(b) if the information served does not indicate that to be the case, whether there now exists such an agreement between the parties.

(3) If—

(a) the Board is informed by the parties that an agreement of the kind referred to in *subsection (2)* exists, or

(b) in the case of *paragraph (a) of subsection (2)*, one or more of the parties fails to indicate whether the agreement referred to in that paragraph still exists,

the Board shall, subject to *subsections (4) and (5)*, follow the procedures under *section 121* (which concerns the making of determination orders) in relation to the agreement.

(4) Those procedures shall not be followed—

(a) any sooner than 21 days, nor

(b) any later than 28 days,

from the date of service of the notice mentioned in *subsection (2)* on each of the parties (or if the date of service of the notice on each of them is not the same whichever of the dates of service is the later or latest).

(5) The Board shall also not follow those procedures, if one or more of the parties, having stated, in the course of being communicated with under the preceding subsections, that agreement of the kind referred to in *subsection (2)* exists, subsequently, (but not later than 21 days from service of the notice mentioned in *subsection (2)* on him or her) states to the Board that such agreement no longer exists.

(6) The Board shall, at the request of either or both of the parties, refer the dispute to the Tribunal for its determination if either—

(a) as a result of the steps taken under *subsection (1)*, the Board ascertains that an agreement of the kind referred to in *subsection (2)* does not exist, or



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(b) a statement of the kind referred to in *subsection (5)* is made to it.

Adjudication.

**97.**—(1) The following provisions and *sections 98* and *99* apply to an adjudication which the Board has arranged under *section 93(3)* or *94(a)* in relation to a dispute.

(2) The person appointed under *section 93(3)* or *94(a)* to conduct the adjudication (“the adjudicator”) shall inquire fully into each relevant aspect of the dispute concerned and provide to, and receive from, each party such information as is appropriate.

(3) For that purpose, the adjudicator may require either party to furnish to him or her, within a specified period, such documents or other information as he or she considers appropriate.

(4) The adjudicator shall determine the dispute by either—

(a) reaching a decision himself or herself in the matter, or

(b) subject to *section 98*, declaring to the parties that he or she has adopted, as his or her determination of the dispute, a decision reached (through the adjudicator’s assistance under *subsection (5)*) by the parties themselves in resolution of the matter,

and the reference in *paragraph (a)* to the adjudicator’s reaching a decision in the matter shall be deemed to include a reference to his or her deciding not to deal with the dispute in accordance with *section 85*.

(5) Where the adjudicator considers it would be of practical benefit, the adjudicator may provide assistance to the parties with a view to the parties themselves reaching a decision in resolution of the matter concerned; such assistance may include the adjudicator’s stating to the parties any provisional conclusion he or she has reached in relation to any of the issues concerned.

(6) Any statement of such a conclusion shall—

(a) not be made in relation to any issue of fact which is in dispute between the parties, unless the parties request the making of such a statement,

(b) not be made before every document submitted to the adjudicator by the parties and any initial oral submissions made by them have been considered by the adjudicator, and

(c) be accompanied by a statement, whether oral or in writing, that the conclusion is of a provisional nature and its making does not absolve the adjudicator of his or her duty to determine the dispute impartially and in accordance with the requirements of procedural fairness.

(7) The adjudicator may, in his or her discretion, permit another person to appear on a party’s behalf at any hearing before the adjudicator.

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98.—(1) A decision reached by the parties themselves in resolution of the matter concerned may not be the subject of a declaration under *section 97(4)(b)* unless—

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“Cooling-off”  
period for purposes  
of *section 97(4)(b)*.

- (a) a period of 21 days has elapsed from the date on which the parties first inform the adjudicator that such a decision has been reached by them, and
- (b) in that period none of the parties has informed the adjudicator that he or she no longer accepts that decision.

(2) If, in the period mentioned in *subsection (1)*, the adjudicator is informed by any of the parties that he or she no longer accepts the decision mentioned in that subsection, the adjudicator shall, subject to conducting any further hearings in the matter as he or she thinks appropriate, proceed to reach a decision himself or herself in the matter.

(3) The adjudicator shall indicate to the parties the effect of this section upon being first informed by them that a decision has been reached by them in resolution of the matter concerned.

(4) That indication of the adjudicator shall also include an indication that the decision reached is not capable of being appealed to the Tribunal and shall become binding on the parties on a determination order under *section 121* being made in relation to it.

99.—(1) As soon as practicable after an adjudicator has made a determination under *section 97* in relation to a dispute, the adjudicator shall prepare a report containing the following—

Adjudicator’s  
report.

- (a) a statement of what matters, if any, relating to the dispute are agreed by the parties to be fact,
- (b) a summary of the matters (whether they go in whole or part to resolving the dispute or not) agreed to by the parties,
- (c) the terms of the determination made by the adjudicator,
- (d) in the case of a determination under *section 97(4)(a)*, a summary of the reasons for the determination, and
- (e) relevant particulars in relation to the conduct of the adjudication (including particulars in relation to the number and duration of hearings held by the adjudicator, the persons who attended any such hearing and any documents submitted to the adjudicator).

(2) The adjudicator shall, after preparing a report under *subsection (1)*, furnish a copy of it to the Board.

(3) After the receipt by it of a report under *subsection (2)*, the Board shall serve on each of the parties a copy of the report and the following statement.

(4) That statement is one to the effect that the Board will follow the procedures under *section 121* (which concerns the making of determination orders) in relation to the determination of the adjudicator unless, in the case of a determination under *section 97(4)(a)*, an appeal is made under, and in accordance with, *section 100* against the determination and that appeal is not subsequently abandoned.

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Appeal to Tribunal against adjudicator's determination.

**100.**—(1) One or more of the parties may appeal to the Tribunal against a determination of an adjudicator under *section 97(4)(a)*.

(2) Such an appeal shall be made within 21 days from the date the Board serves on the party the report and statement referred to in *section 99(3)*.

Provisions common to mediators and adjudicators.

**101.**—(1) In respect of a matter dealt with by him or her under this Chapter, the mediator or adjudicator shall—

(a) declare to the parties at the outset of dealing with the matter any potential conflict of interest of which he or she is aware or ought reasonably be aware,

(b) act at all times in accordance with the highest standards of the professional body, if any, of which he or she is a member,

(c) maintain the confidentiality of the proceedings concerned and shall not disclose any report prepared by him or her under *section 95(4)* or *99*, otherwise than in accordance with those sections.

(2) Where a declaration referred to in *subsection (1)(a)* is made to the parties then, unless the parties agree to the mediator or the adjudicator continuing to deal with the matter, the Board shall appoint another person from amongst the panel of mediators or adjudicators under *section 164(4)* to deal with the matter.

(3) References in this Part to the person appointed under *section 93(2)* or *(3)* or *section 94(a)* to conduct the mediation or adjudication concerned shall be construed as including references to the person appointed for that purpose pursuant to *subsection (2)*.

(4) Subject to any rules under *section 109*, the manner in which a mediation or adjudication is conducted shall be at the discretion of the mediator or adjudicator concerned but it shall be the duty of that person to ensure that the mediation or adjudication is conducted without undue formality.

CHAPTER 5

*Tenancy Tribunal*

Tenancy Tribunals and the “Tribunal”.

**102.**—(1) From time to time as occasion requires the Board shall cause to be constituted, for the purposes of this Part, one or more tribunals which or each of which shall be known as a “Tenancy Tribunal”.

(2) A reference in *section 103* or any other provision of this Act to the “Tribunal” is a reference to whichever of the tribunals constituted under this section the provision concerned falls to be applied.

Membership of Tribunal, etc.

**103.**—(1) The number of members of the Tribunal shall be 3.

(2) Each of the members of the Tribunal shall be a person who is, for the time being, a member of the Dispute Resolution Committee.

(3) The members of the Tribunal shall be appointed by the Board.

(4) One of the members of the Tribunal shall be the chairperson of the Tribunal; subject to *subsection (5)*, the Board shall determine which of the members shall be the chairperson.

(5) If a member of the Board is a member of the Tribunal he or she shall be the chairperson of the Tribunal or, if 2 or more members of the Board are members of the Tribunal, whichever of them the Board determines shall be the chairperson.

(6) The Tribunal shall be independent in the performance of its functions.

(7) A decision of a majority of the members of the Tribunal suffices for any purpose.

CHAPTER 6

*Dispute resolution by Tribunal*

**104.**—(1) This section and the other sections of this Chapter contain the principal provisions regarding the procedures to be adopted by the Tribunal in relation to the determination by it of a dispute, whether that dispute—

Determination of disputes by Tribunal: procedures generally.

- (a) has been referred to it by the Board under *section 94* (which provides for the direct reference of a matter without mediation or adjudication taking place in relation to it),
- (b) has been referred to it by the Board under *section 96(6)* (which provides for the reference of a matter after mediation has not resulted in the matter being resolved), or
- (c) is the subject of an appeal under *section 100* from a determination of an adjudicator of the matter.

(2) The Tribunal shall hold one or more hearings for the purposes of determining the dispute.

(3) The parties to the dispute shall be given by the Tribunal notice (to be of the duration specified in *subsection (5)*) of the holding of a hearing.

(4) The following information shall be included in such a notice—

- (a) the date, time, venue and purpose of the hearing,
- (b) an outline of the substance of the matters to be dealt with at the hearing,
- (c) an outline of the procedures to be adopted at the hearing,
- (d) a reference to the provisions of this Act and any rules made under it that are relevant to the holding of the hearing,
- (e) a statement that the Tribunal will, unless substantial grounds arise for its deciding to do otherwise, proceed with the hearing at the date and time concerned notwithstanding that a party does not attend the hearing,

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(f) a statement that the Tribunal will determine the dispute notwithstanding that a party does not take part in the proceedings before the Tribunal, and

(g) any other information the Tribunal considers appropriate.

(5) The duration of the notice under *subsection (3)* shall be—

(a) at least 21 days beginning on the date of the giving of the notice, or

(b) such lesser period as the Board may specify where—

(i) one or more of the parties requests the Board to specify such a period and the other party or parties consent to such a specification, or

(ii) the dispute concerns alleged behaviour by the landlord or the tenant that poses an imminent danger of death or serious injury or imminent danger to the fabric of the dwelling concerned or the property containing that dwelling.

(6) Each of the parties shall be entitled to and be given the opportunity to be heard at the hearing and to be represented and to present evidence and witnesses before the Tribunal.

(7) In the case of an appeal under *section 100*, the Tribunal may have regard to the report of the adjudicator.

Provisions in relation to evidence, summoning of witnesses, etc.

**105.**—(1) The Tribunal may require that the evidence of a witness before it be given on oath.

(2) Each witness of a party before the Tribunal (including the party as a witness) may be cross-examined by or on behalf of every other party.

(3) For the purposes of its functions under this Part, the Tribunal may—

(a) summon witnesses to attend before it,

(b) administer an oath, and

(c) require any person to produce to the Tribunal any document in his or her power or control.

(4) A witness before the Tribunal shall be entitled to the same immunities and privileges as if he or she were a witness before the High Court.

(5) Any person who—

(a) on being duly summoned as a witness before the Tribunal and having had tendered to him or her the sum, if any, which has been directed under *subsection (6)(a)* to be paid in respect of the expenses of his or her attendance makes default in attending,

(b) being in attendance as a witness refuses to take an oath legally required by the Tribunal to be taken, or to produce any document in his or her power or control

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legally required by the Tribunal to be produced by him or her, or to answer any question to which the Tribunal may legally require an answer, or

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- (c) does any other thing which, if the Tribunal were a court having power to commit for contempt of court, would be contempt of such court,

is guilty of an offence.

(6) The Tribunal may, out of moneys at the disposal of the Board, direct that the whole or part of the reasonable expenses—

- (a) that will be incurred by a person summoned to attend before it in so attending, or  
(b) that have been incurred by a person summoned to attend before it in so attending,

shall, as it thinks appropriate, be paid to him or her before he or she so attends or, as the case may be, be re-imbursed to him or her.

**106.**—(1) Proceedings before the Tribunal shall be conducted in public; this is without prejudice to an order that may be made under *subsection (2)*. Proceedings to be in public.

(2) In the particular circumstances of a case, if the Board considers it appropriate to do so, it may make an order directing that the identities of all or one or more of the parties to a dispute over which the Tribunal has jurisdiction shall not be disclosed.

(3) A person who contravenes an order under *subsection (2)* is guilty of an offence.

**107.**—The Tribunal may adjourn the hearing by it of a matter until a date specified by it. Adjournments of hearing.

**108.**—(1) Unless it has sooner made a determination of the kind specified in *subsection (2)*, the Tribunal shall, on completion of its hearing in relation to the dispute, make its determination in relation to the dispute and notify the Board of that determination. Determination by Tribunal of dispute and notification to Board.

(2) The determination firstly mentioned in *subsection (1)* is a decision by the Tribunal not to deal with the dispute in accordance with *section 85*; such a determination shall be notified to the Board by the Tribunal.

## CHAPTER 7

### *Supplementary procedural matters*

**109.**—(1) The procedure to be followed under this Part in relation to a dispute shall, subject to this Part, be such as shall be determined by the Board by rules made by it with the consent of the Minister. Power of Board to make procedural rules.

(2) Without prejudice to the generality of *subsection (1)*, rules under this section may—

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- (a) specify the forms to be used for referring a dispute to the Board under this Part,
- (b) require specified notifications to be given in respect of the referral of a dispute to the Board under this Part,
- (c) specify that a fee of specified amount shall be paid to the Board in respect of the Board's initially dealing with a dispute or the following of any other procedure under this Part in relation to it,
- (d) specify the period within which—
  - (i) a mediator or adjudicator must be appointed under *section 93(2) or (3) or section 94(a)* to deal with or determine a dispute referred to the Board,
  - (ii) a mediator or adjudicator must furnish his or her report under *section 95 or 99* to the Board,
  - (iii) the Board must serve the documents referred to in *subsection (1) of section 96* on each of the parties and ascertain the matters referred to in that section,
  - (iv) the Board must serve the documents referred to in *section 99(3)* on each of the parties,
  - (v) a dispute must be referred under *section 94, 96(6) or 100* to the Tribunal,
  - (vi) the Board must, from the date of receipt by it of a determination of an adjudicator under *section 97(4)(a)* (contained in a report made to it under *section 99*), make a determination order on foot of that determination,
  - (vii) the Tribunal must, from the date of a dispute being referred to it, or a determination in relation to a dispute being appealed to it, arrange a hearing in relation to the dispute,
  - (viii) the Tribunal must, from the date of completion by it of a hearing or hearings in relation to a dispute, make its determination in relation to the dispute,
  - (ix) the Board must, from the date of receipt by it of a determination of the Tribunal under *section 108* make a determination order on foot of that determination, and
  - (x) the Board must make an application under *section 124* to enforce a determination order on being notified that that order is not being complied with.

(3) In the absence of a specification, by rules under this section, of the period within which a thing referred to in a provision of this Act specified in *subsection (2)(d)* must be done, the provision shall be construed as requiring the thing to be done as soon as practicable after the doing of the thing that immediately precedes it.

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**110.**—The title to any lands or property shall not be drawn into question in any proceedings before a mediator, an adjudicator or the Tribunal under this Part.

PT.6  
Title to lands or property not to be drawn into question.

**111.**—(1) Subject to *subsection (3)*, a mediator, an adjudicator or a member of the Tribunal or the Board who is dealing with a dispute under this Part may, for the purposes of his or her functions under this Part, enter and inspect any dwelling to which the dispute relates.

Power to enter and inspect dwelling.

(2) The powers under *subsection (1)* may be exercised in relation to a dwelling to which a dispute relates even though the dwelling is occupied by a person who takes no part in the proceedings concerned or initially takes part in them but subsequently withdraws from them.

(3) The powers under *subsection (1)* shall not, without the consent of that person, be exercised in relation to a dwelling occupied by a person referred to in *subsection (2)* unless, at least 24 hours before the date on which the person concerned intends to exercise those powers, he or she serves on the first-mentioned person a notice of that intention.

(4) A person mentioned in *subsection (1)* may authorise in writing a person who he or she is satisfied has an expertise in any area relevant to the dispute concerned (for example, engineering, valuation or surveying) to exercise the powers under that subsection in relation to the dwelling concerned; a person so authorised shall, if requested, produce to any person concerned his or her authorisation under this subsection before exercising the powers under *subsection (1)*.

(5) A person who obstructs or impedes a person mentioned in *subsection (1)*, or a person authorised under *subsection (4)*, in the exercise of his or her powers under this section is guilty of an offence.

**112.**—(1) A mediator or adjudicator shall not disclose to any person any statement or information of a confidential nature made or supplied to the mediator or adjudicator in connection with the performance of his or her functions under this Part unless one or more of the conditions specified in *subsection (2)* is complied with.

Obligations of confidentiality.

(2) The conditions referred to in *subsection (1)* are—

- (a) the person who makes the statement or supplies the information consents to its disclosure,
- (b) the mediator or adjudicator has reasonable grounds for believing that the disclosure is necessary to prevent or reduce the danger of injury to any person or damage to any property,
- (c) the disclosure is for the purpose of proceedings for an offence under *section 113*,
- (d) it would not be possible for the mediator or adjudicator to deal with or determine the dispute concerned without disclosing the statement or information.

(3) A statement or information is of a confidential nature for the purposes of *subsection (1)* if—

- (a) it was expressed to be of such a nature by the maker or supplier of it to the mediator or adjudicator, or



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(b) from the circumstances in which it was made or supplied to him or her or its subject matter, the mediator or adjudicator ought reasonably to have concluded that it was of such a nature.

(4) A person who contravenes *subsection (1)* is guilty of an offence.

Offence of providing false information to Board.

**113.**—A person is guilty of an offence if—

(a) he or she makes a statement or supplies information to an adjudicator, the Tribunal or the Board in connection with the performance by the adjudicator, Tribunal or Board of his or her or its functions under this Part in relation to a dispute,

(b) that statement or information is false or misleading in a material respect, and

(c) the person knows that that statement or information is so false or misleading.

Certain proceedings and acts privileged.

**114.**—(1) Any report or other document prepared, or communication made, by the Board, the Tribunal, a mediator or an adjudicator for the purposes of, or in connection with, proceedings under this Part dealt with by it or him or her shall, for the purposes of the law of defamation, enjoy absolute privilege.

(2) Any report or other document prepared, or communication made, by the Board, the Tribunal, a mediator or an adjudicator that does not fall within *subsection (1)* but which is prepared or made for the purposes of, or in connection with, the performance by it or him or her of functions under this or any other Part of this Act shall, for the purposes of the law of defamation, enjoy qualified privilege.

## CHAPTER 8

### *Redress that may be granted under this Part*

Redress that may be granted on foot of determination.

**115.**—(1) A power conferred by this Part on an adjudicator or the Tribunal to make a determination in relation to a dispute includes a power to make such declarations or give such directions as the adjudicator or the Tribunal thinks appropriate for the purpose of providing relief to one, or more than one as appropriate, of the parties.

(2) Without prejudice to the generality of *subsection (1)* and the subsequent provisions of this Chapter, one or more of the following declarations or directions, as appropriate, may be made or given in respect of a dispute—

(a) a direction that a specified amount of rent or other charge shall be paid on, or on and from, or by a specified date,

(b) a declaration as to whether or not an amount of rent set under a tenancy of a dwelling complies with *section 19(1)* (and if the declaration is that that amount does not so comply, the declaration shall be accompanied by an indication by the adjudicator or the Tribunal as to what amount, in his or her or its opinion, would comply with *section 19(1)*),

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- (c) a direction as to the return or payment, in whole or in part, of the amount of a deposit, Pt.6 S.115
- (d) a direction that a specified amount of damages or costs or both be paid,
- (e) a direction that a dwelling be quitted by a specified date,
- (f) a declaration as to the validity or otherwise of a notice of termination of a tenancy,
- (g) a declaration with regard to the right to return to, or continue in, occupation of a dwelling (and such a declaration may include provision to the effect that any period of interruption in possession that has occurred is to be disregarded for one or more purposes),
- (h) a declaration that a term of a lease or tenancy agreement is void by reason of *section 184*,
- (i) in the special circumstances of a dispute heard under this Part, a direction that the whole or part of the costs or expenses incurred by the adjudicator or the Tribunal in dealing with the dispute shall be paid by one or more of the parties.

(3) The amount (or, as appropriate, the aggregate of the amounts), other than costs or expenses of whatsoever kind, that an adjudicator or the Tribunal may direct to be paid to a party in respect of the matter (or, as appropriate, all of the matters) the subject of a dispute referred to the Board for resolution shall not exceed—

- (a) if the amount or amounts consist solely of damages — €20,000,
- (b) if the amount or amounts consist solely of an amount or amounts by way of arrears of rent or other charges — €20,000 or an amount equal to twice the annual rent of the dwelling concerned, whichever is the higher (but subject to a maximum under this paragraph of €60,000),
- (c) if the amount or amounts consist of both damages and an amount or amounts referred to in *paragraph (b)*—
- (i) in so far as the amount or amounts consist of damages — €20,000,
- (ii) in so far as the amount or amounts consist of such other amount or amounts — €20,000 or an amount equal to twice the annual rent of the dwelling concerned, whichever is the higher (but subject to a maximum under this subparagraph of €60,000).

**116.—If—**

- (a) the determination of an adjudicator or the Tribunal includes a direction that a dwelling, the subject of a tenancy, be quitted by a specified date,
- (b) that tenancy is one out of which a sub-tenancy has been created, and

Determination may require sub-tenancy to be quitted in certain cases.

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- (c) the landlord, when he or she served a notice of termination on the tenant in respect of that tenancy, required the tenant to terminate that sub-tenancy,

then the determination may include a direction requiring the sub-tenant to quit the dwelling by a specified date.

Redress of an interim nature may be granted.

**117.**—(1) In addition to the powers conferred by this Part with respect to the determination of disputes, an adjudicator or the Tribunal, in dealing with a dispute, may give such directions as he or she or it thinks appropriate for the purpose of providing relief of an interim nature to one, or more than one as appropriate, of the parties.

(2) Such a direction shall indicate that the relief it provides for may not necessarily be the relief provided for by the final determination made in the matter.

(3) As soon as such a direction is given, the adjudicator or the Tribunal shall reduce it to writing and forward it immediately to the Board.

(4) This section is without prejudice to *section 189* and the power under *subsection (1)* may not be exercised in a manner which is inconsistent with or would derogate from any interim or interlocutory relief granted by the Circuit Court under that section.

Discretion to refuse direction for possession.

**118.**—(1) If the inclusion of a direction in a determination that a party (“the first-mentioned person”) be permitted to resume possession of a dwelling, the subject of a tenancy, would cause hardship or injustice to a person (“the second-mentioned person”) not party to the dispute who is in possession of that dwelling, then the determination may, instead of including such a direction, include—

(a) a declaration that the first-mentioned person was wrongfully deprived of possession of the dwelling, and

(b) a direction that damages of a specified amount be paid by the landlord to that person in respect of that deprivation.

(2) In deciding whether the inclusion in a determination of a direction of the kind firstly mentioned in *subsection (1)* would cause hardship or injustice to the second-mentioned person, the matters to which regard shall be had shall include—

(a) the length of time the second-mentioned person has been in possession of the dwelling concerned,

(b) any involvement the second-mentioned person may have had in the first-mentioned person being deprived of possession of the dwelling, and

(c) any knowledge the second-mentioned person may have had, before he or she took possession of the dwelling, of the existence of a dispute concerning the right of the first-mentioned person to possession of the dwelling.

(3) The second-mentioned person shall be afforded an opportunity to make submissions with regard to whether a determination should include a direction of the kind firstly mentioned in *subsection*

(1); if necessary, for that purpose, the proceedings concerned shall be adjourned and the second-mentioned person notified of the matter. Pt.6 S.118

**119.**—(1) Any amount of arrears stipulated to be paid by a determination shall be the gross amount of the rent and other charges (if any) concerned which the adjudicator or the Tribunal considers to be in arrears as reduced by— Certain directions to be given in the case of arrears of rent.

- (a) any relevant debts due, in the opinion of the adjudicator or the Tribunal, by the landlord to the tenant in accordance with section 48 of the Landlord and Tenant Law Amendment Act Ireland 1860,
- (b) any set-off for expenditure on repairs the tenant would be entitled to make under section 87 of the Landlord and Tenant (Amendment) Act 1980,
- (c) any compensation due by the landlord to the tenant in circumstances where section 61 of the Landlord and Tenant (Amendment) Act 1980 applies,
- (d) any other amount which the adjudicator or the Tribunal considers warranted in the circumstances of the case,

and as increased by any amount that the adjudicator or the Tribunal, in all the circumstances of the matter, considers appropriate in respect of—

- (i) costs reasonably incurred by the landlord in pursuit of the arrears of rent,
- (ii) damages,
- (iii) an amount in respect of the cost of any repairs which fell to be carried out by reason of the failure of the tenant to comply with *section 16(f)*.

(2) A determination of an adjudicator or the Tribunal in respect of an amount referred to in *subsection (1)* shall, if any of *paragraphs (a) to (d)* or *paragraphs (i) to (iii)* of that subsection have had to be applied in calculating the amount, indicate how the amount was calculated by reason of the application of the paragraph or paragraphs concerned.

**120.**—(1) If the dispute being dealt with by a mediator, adjudicator or the Tribunal relates to the amount of the rent that ought to be set under a tenancy at a particular time or as to when a review of such rent ought to take place, the circumstances, financial or otherwise, of the landlord or tenant may not be taken into consideration— Circumstances of landlord or tenant not to be taken account of in certain cases.

- (a) by the mediator in taking any of the steps mentioned in *section 95*, or
- (b) by the adjudicator or the Tribunal in determining the dispute.

(2) The reference in *subsection (1)* to the setting of the rent under a tenancy shall be construed in accordance with *section 19(2)*.

*Determination orders and enforcement generally*

Determination orders.

**121.**—(1) Each of the following—

- (a) an agreement mentioned in a report of a mediator under *section 95(4)*,
- (b) a determination mentioned in a report of an adjudicator under *section 99*,
- (c) a determination of the Tribunal notified to the Board under *section 108*,
- (d) a direction given by an adjudicator or the Tribunal under *section 82(5)* or *117*,

shall be the subject of a written record (in this Act referred to as a “determination order”) prepared by the Board and issued by it to the parties concerned.

(2) A determination order shall contain the terms of the agreement, determination or direction concerned; those terms may be expressed in the order in a manner different from the manner in which they are expressed in the agreement, determination or direction if the Board considers it appropriate to do so for the purpose mentioned in *subsection (3)*.

(3) That purpose is to remove any ambiguity that the Board considers exists in the terms of the agreement, determination or direction or to clarify, generally, those terms in a manner that it considers will be of benefit to the parties or will facilitate compliance with the agreement, determination or direction.

(4) In considering whether it is appropriate to exercise the power under *subsection (2)* with respect to the terms of a particular agreement or determination referred to in *paragraph (a)* or *(b)* of *subsection (1)*, the Board shall have regard to—

- (a) in the case of such an agreement, the relevant document furnished to it under *section 95(6)*,
- (b) in the case of such a determination, the relevant report of the adjudicator furnished to it under *section 99(2)*.

(5) In the case of doubt as to whether it is appropriate to exercise that power the Board may also consult with, as appropriate, the mediator, the adjudicator or the Tribunal and with the parties themselves.

(6) The seal of the Board shall be affixed to a determination order.

(7) *Subsection (1)* is, in the case of an agreement to which *paragraph (a)* of that subsection applies, subject to *subsections (4)* and *(5)* of *section 96*.

(8) The reference in *subsection (1)(b)* to a determination mentioned in a report of an adjudicator under *section 99* does not include a reference to such a determination against which an appeal has been made under, and in accordance with, *section 100* unless that appeal has been subsequently abandoned.

**122.**—(1) If, on consideration of a determination of the Tribunal, the Board is of opinion that the determination is not consistent with previous determinations of the Tribunal in relation to disputes of a similar nature to the dispute concerned then the Board may exercise the powers under *subsection (2)*.

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Provision to ensure consistency between determinations.

(2) Those powers are—

(a) to notify the members of the Tribunal who made the determination concerned of that opinion and request each of them to submit any views he or she has in relation to the matter to the Board,

(b) having had regard to the views, if any, submitted by those members to it, pursuant to that request, to notify the parties to the dispute concerned of that opinion and request each of them to indicate whether he or she consents to a fresh determination being made pursuant to *paragraph (c)* by the Tribunal in relation to the dispute or wishes to make representations to the Board in relation to the matter,

(c) if the parties consent to such a fresh determination being made or the Board, having had regard to the representations, if any, made to it by one or more of them pursuant to the request under *paragraph (b)*, considers it appropriate to direct the Tribunal to do so, to direct the Tribunal to make a fresh determination in relation to the dispute.

(3) The making of any such fresh determination shall be preceded by a re-hearing of the matter by the Tribunal and the provisions of *Chapters 5 to 7* shall apply accordingly.

(4) For the purposes of *subsection (1)*, one dispute is of a similar nature to another dispute if the issues involved in each of them are the same and the facts that gave rise to each of them, as appearing from any record kept by the Tribunal in relation to its proceedings or any other record available to the Board, are the same in all material respects.

**123.**—(1) A determination order embodying the terms of an agreement mentioned in a mediator's report under *section 95(4)* or the determination of an adjudicator under *section 97* shall become binding on the parties concerned on the order being issued to them.

Binding nature of determination orders.

(2) A determination order embodying the terms of a determination of the Tribunal shall, on the expiry of the relevant period, become binding on the parties concerned unless, before that expiry, an appeal in relation to the determination is made under *subsection (3)*.

(3) Any of the parties concerned may appeal to the High Court, within the relevant period, from a determination of the Tribunal (as embodied in a determination order) on a point of law.

(4) The determination of the High Court on such an appeal in relation to the point of law concerned shall be final and conclusive.

(5) The High Court may, as a consequence of the determination it so makes, direct the Board to cancel the determination order concerned or to vary it in such manner as the Court specifies and the

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Board shall cancel or vary the order accordingly; if the cancellation or variation directed to be made relates to a determination of the Tribunal not to deal with the dispute in accordance with *section 85*, the Board shall, in addition, refer all or part, as appropriate, of the dispute to the Tribunal for determination by the Tribunal and the provisions of this Part shall, with any necessary modifications, apply to that determination.

(6) References in *section 124* to a determination order shall, where that order embodies the terms of a determination of the Tribunal, be construed as references to—

- (a) such an order as respects which an appeal against the determination embodied in it has not been made under this section within the relevant period or, if such appeal has been brought, it has been abandoned, or
- (b) if such an appeal has been brought (and the result of the appeal does not require the Board to cancel the order under *subsection (5)*), as the case may be—
  - (i) such an order in the terms as it was originally made, or
  - (ii) such an order in the terms as it stands following the variation of it by the Board under *subsection (5)*.

(7) The Board may publish, in such manner as it thinks fit—

- (a) a determination order issued by it (including such an order as it stands varied by it under *subsection (5)*),
- (b) notice of the cancellation of such an order under *subsection (5)* or *section 125*.

(8) In this section “relevant period” means the period of 21 days beginning on the date that the determination order concerned is issued to the parties.

Enforcement of determination orders.

**124.**—(1) If the Board or a party mentioned in a determination order is satisfied that another party has failed to comply with one or more terms of that order, the Board or the first-mentioned party may make an application under this section to the Circuit Court for an order under *subsection (2)*.

(2) On such an application and subject to *section 125*, the Circuit Court shall make an order directing the party concerned (the “respondent”) to comply with the term or terms concerned if it is satisfied that the respondent has failed to comply with that term or those terms, unless—

- (a) it considers there are substantial reasons (related to one or more of the matters mentioned in *subsection (3)*) for not making an order under this subsection, or
- (b) the respondent shows to the satisfaction of the court that one of the matters specified in *subsection (3)* applies in relation to the determination order.

(3) The matters mentioned in *subsection (2)* are—

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- (a) a requirement of procedural fairness was not complied with Pt.6 S.124 in the relevant proceedings under this Part,
- (b) a material consideration was not taken account of in those proceedings or account was taken in those proceedings of a consideration that was not material,
- (c) a manifestly erroneous decision in relation to a legal issue was made in those proceedings,
- (d) the determination made by the adjudicator or the Tribunal, as the case may be, on the evidence before the adjudicator or Tribunal, was manifestly erroneous.

(4) If, on the hearing of an application under this section, it appears by credible testimony that there is reason to believe the respondent will be unable to pay the costs of the applicant of so much of the hearing as relates to the determination of whether any of the matters specified in *subsection (3)* have been established by the respondent (in the event that none of them is established) the court may require sufficient security to be given for those costs.

(5) If the determination order, the subject of an application under this section, is one requiring a dwelling to be vacated and—

- (a) the basis for that requirement is that the tenancy concerned was validly terminated by service of a notice of termination, and
- (b) that notice was served by reason of the tenant's failure to pay an amount of rent due,

the court may, before hearing any arguments or receiving any evidence in relation to whether any of the matters specified in *subsection (3)* have been established, require the respondent to lodge in court or pay to the applicant, as it thinks appropriate, that amount of rent together with such amount as it specifies in respect of the dwelling's continued occupation by the respondent after the service of that notice.

(6) If the applicant under this section is not the Board, the respondent shall give notice to the Board that he or she proposes to oppose the application and the Board shall be entitled to appear and be heard at the hearing of the application.

(7) The court may make such ancillary or other orders as it considers just on the hearing of an application under this section.

(8) The Board may furnish to the registrar of the court such information derived from the register as, in its opinion, is likely to assist in the execution of an order made by the court under *subsection (2)* (including, if the court gives a direction authorising the Board to give that number to the registrar, the personal public service number of any party concerned).

(9) An application under this section to the Circuit Court shall be made to the judge of the Circuit Court for the circuit in which the tenancy or dwelling concerned is or was situated.



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Cancellation of determination order in cases of non-appearance.

**125.**—(1) A person who establishes to the satisfaction of—

(a) the Board, or

(b) if the determination order is the subject of an application under *section 124*, the Circuit Court, on the hearing of that application,

that, in relation to a determination order embodying the terms of a determination of the Tribunal or an adjudicator, there are good and substantial reasons for his or her having failed to appear at the relevant hearing conducted by the Tribunal or the adjudicator, the Board or the Circuit Court may, subject to *subsection (3)*, exercise the powers referred to in *subsection (2)*.

(2) The powers mentioned in *subsection (1)* are to cancel the determination order and direct that a fresh determination of the matter shall be made by the adjudicator or the Tribunal as appropriate (and the making of any such fresh determination shall be preceded by a re-hearing of the matter by the adjudicator or the Tribunal and the provisions of *Chapters 4 to 7* shall apply accordingly).

(3) The Board or the Circuit Court, as the case may be, may direct that that cancellation shall not have effect unless specified conditions are, within a specified period, complied with by the person referred to in *subsection (1)* (being conditions analogous to the terms the High Court may impose under the Rules of the Superior Courts (S.I. No. 15 of 1986) for setting aside a judgment obtained in circumstances where one of the parties did not appear at the trial concerned).

(4) Without prejudice to *subsection (3)*, if it is sought to oppose an application under *section 124* on the grounds that the determination order ought to be cancelled under this section, *subsections (4) and (5) of section 124* shall apply as if references to the determination of, or evidence in relation to, whether any of the matters specified in *subsection (3)* of that section have been established include references to the determination of, or evidence in relation to, the issue as to whether the grounds for the court's exercising its powers under this section have been established.

(5) The Board, before deciding whether to exercise the powers under this section, shall afford the other party or parties concerned an opportunity to be heard.

(6) The reference in *subsection (3)* to the Rules of the Superior Courts is a reference to those Rules as amended for the time being; if those Rules should be revoked then the reference to them in that subsection shall be read as a reference to such rules corresponding to those Rules as may be for the time being in force.

Offence for failure to comply with determination order.

**126.**—(1) A person who fails to comply with one or more terms of a determination order is guilty of an offence.

(2) *Subsection (1)* has effect notwithstanding the means provided under *section 124* for enforcement of a determination order.

(3) A person convicted of an offence under this section shall not be sentenced to any term of imprisonment in respect of that offence

if he or she shows that the failure to comply with the term or terms concerned was due to his or her limited financial means. Pt.6 S.126

PART 7

REGISTRATION OF TENANCIES

CHAPTER 1

*Private residential tenancies register*

**127.**—(1) The Board shall, as soon as practicable after the establishment day, establish and maintain a register which shall be known as the “private residential tenancies register” and is in this Act referred to as the “register”. Establishment of register.

(2) There shall be registered in the register each tenancy of a dwelling in the State the subject of an application for registration made under, and in accordance with, this Part.

(3) The form of the register, the types of information to be contained in it, the format of any aspect of that information and any other matters relevant to the maintenance of the register shall be such as the Board determines from time to time.

(4) Save under and in accordance with this Act and subject to subsection (5), no information contained in the register shall be disclosed to any person.

(5) Subsection (4) does not apply to a disclosure of information contained in the register by—

- (a) a member of the Board,
- (b) a member of a committee of the Board,
- (c) a member of staff of the Board,
- (d) a mediator or adjudicator, or
- (e) a person whose services are provided to the Board under section 167,

in the performance of any of his or her functions under this Act, being a disclosure the making of which is necessary for the performance by him or her of any such function.

**128.**—(1) The Board shall, as soon as practicable after the establishment of the register, prepare a document (in this Act referred to as the “published register”). Published register.

(2) Subject to subsections (3) and (4), the published register shall consist of an extract of the information contained in the register.

(3) The extent of that extract shall be such as the Board determines is likely to make the published register useful to members of the public.

(4) The published register shall not contain any information, as respects a particular dwelling, that discloses or could reasonably lead to the disclosure of—

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(a) the identity of the landlord or the tenant or tenants of the dwelling,

(b) the amount of the rent payable under a tenancy of the dwelling.

(5) The form of the published register, the format of any aspect of the information contained in it and any other matters relevant to its maintenance shall be such as the Board determines from time to time.

Inspection of published register.

**129.**—(1) The published register shall be kept at an office that is designated, for the time being, by the Board for that purpose.

(2) The published register shall be made available for inspection, at all reasonable times, at that office and by such other means, if any, as the Board may determine.

(3) A fee of such amount as the Board determines to be reasonable may be charged in respect of the inspection of the published register.

Register and published register may be kept in electronic form.

**130.**—The register and the published register may each be prepared and maintained otherwise than in a legible form but only if that form allows the particular register to be converted into a legible form and any entry in it to be copied or reproduced in a legible form.

Publication of aggregated details derived from register.

**131.**—(1) Without prejudice to *section 128*, the Board may publish details concerning the private rented sector derived from the register, being details of an aggregated nature.

(2) In this section—

“details of an aggregated nature” means details of such a nature as could not reasonably lead to a disclosure of the kind mentioned in *section 128(4)* occurring;

“private rented sector” has the same meaning as it has in *section 151*.

Furnishing of entries in registers, etc.

**132.**—(1) On application by the landlord or tenant of a dwelling, the Board shall, on being supplied by the landlord or tenant with such information as it may require for the purpose of confirming the identity of the applicant concerned, provide to him or her a copy of the entry in respect of that dwelling in the register.

(2) On application by a person who is not the landlord or tenant of a particular dwelling, the Board shall provide to him or her a copy of the entry in respect of that dwelling in the published register (but not the entry in the register).

(3) A fee of such amount as the Board determines to be reasonable may be charged in respect of the provision of a copy of an entry under *subsection (1)* or *(2)*.

(4) A copy of an entry in the register or the published register purporting to be certified by an officer of the Board as being a true copy of that entry shall, without proof of that person’s authority to so certify the copy, of any signature of the person appearing on the copy or that he or she is or was an officer of the Board, be received

in evidence in any proceedings and shall be presumed to be such a copy unless the contrary is shown. Pt.7 S.132

(5) Evidence that any particular matter in respect of a dwelling stood registered in the register on a particular date may be given by the production of a copy of the entry in respect of that dwelling under *subsection (4)* and which copy bears that date beside, or as part of, the certification mentioned in that subsection.

**133.**—(1) Either party to a tenancy of a dwelling may request the Board to confirm to him or her what are the particulars specified in an application made under *section 134* to register the tenancy.

Confirmation to parties to tenancy as to particulars specified in an application under *section 134*.

(2) The Board shall comply with such a request if it is satisfied, having been supplied by the person making the request with such information as it may require, that the person is a party to the tenancy.

## CHAPTER 2

### *Procedure for registration*

**134.**—(1) The landlord of a dwelling shall apply to the Board to register the tenancy of the dwelling under this Part.

Obligation to apply to register tenancy.

(2) An application under this section shall be made—

(a) in the case of a tenancy that commences on a date that falls 3 or more months from the commencement of this Part — within 1 month from the commencement of the tenancy,

(b) in the case of a tenancy that has commenced on a date falling before or after the commencement of this Part (other than one to which *paragraph (a)* applies but including one that commenced before the passing of this Act)—

(i) in case it commenced before the passing of this Act — within 3 months from the commencement of this Part,

(ii) in any other case — within whichever of the following periods expires the later—

(I) the period of 3 months from the commencement of this Part, or

(II) the period of 1 month from the commencement of the tenancy.

(3) An application under this section shall be in the prescribed form and, subject to *subsection (4)*, be accompanied by the fee specified in *section 137*.

(4) The foregoing requirement with respect to the application being accompanied by a fee does not apply in relation to an application (the “relevant application”) by a person (the “applicant”) in respect of a particular dwelling (the “relevant dwelling”) if the application is made within the period specified in *subsection (2)(a)* or *(b)* and one of the following conditions is satisfied.

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(5) Those conditions are that, in the 12 months preceding the relevant application—

- (a) 2 applications, each accompanied by the fee specified in *section 137*, have been made under this section by the applicant in respect of the relevant dwelling (and each within the period specified in *subsection (2)(a)* or *(b)*),
- (b) the applicant has paid, in respect of several applications falling within *subsection (3)* of *section 137*, the single fee referred to in *subsection (2)* of that section and the dwellings to which those several applications related included the relevant dwelling,
- (c) an application, under the Housing (Registration of Rented Houses) Regulations 1996 and accompanied by the fee specified in those Regulations, to register a tenancy in respect of the relevant dwelling has been made by the applicant.

(6) An application under this section may not relate to more than one tenancy of a dwelling; accordingly separate applications under this section are required for separate tenancies.

*Section 134:*  
supplemental  
provisions.

**135.**—(1) For the avoidance of doubt—

- (a) a fresh application must be made under *section 134* in respect of each new tenancy that is created in respect of a dwelling,
- (b) the fact that a tenancy is continued in being as a *Part 4* tenancy does not give rise to any requirement under *section 134* to apply to register the *Part 4* tenancy, and
- (c) the coming into being of a further *Part 4* tenancy in respect of a dwelling does, however, give rise to a requirement under *section 134* to apply to register that further *Part 4* tenancy.

(2) The form used for making an application under *section 134* shall—

- (a) be signed by the landlord of the dwelling concerned or his or her authorised agent and bear the date on which it is so signed, and
- (b) be signed by the tenant or each of the tenants, as the case may be, of the dwelling concerned and bear the date or dates on which it is signed by the tenant or tenants.

(3) The Board shall assign a unique number to each application made under *section 134* to register a tenancy and that number shall be used by the Board as the reference number for the tenancy when it is registered.

(4) An acknowledgement, in such form as the Board considers appropriate, shall be given to an applicant under *section 134* of the receipt by the Board of his or her application and the fee mentioned in *subsection (3)* of that section.

(5) When an application under *section 134* is received by the Board that is incomplete or is not accompanied by the fee mentioned

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in *subsection (3)* of that section, the Board shall notify the applicant of the omission concerned and afford him or her a reasonable opportunity to rectify the matter. Pt.7 S.135

**136.**—An application under *section 134* shall contain the following particulars— Particulars to be specified in application under *section 134.*

- (a) the address of the dwelling,
- (b) the name, address for correspondence and personal public service number (if any) of the landlord and, where the application is made by his or her authorised agent, the name, address for correspondence and personal public service number (if any) of the agent,
- (c) if the landlord is a company, the registered number and registered office of that company,
- (d) if (where the application is made by the landlord's authorised agent) the authorised agent is a company, the registered number and registered office of that company,
- (e) the number of occupants of the dwelling,
- (f) the name and, unless it cannot be ascertained by reasonable inquiry, personal public service number of the tenant, or (as the case may be) of each of the tenants, of the dwelling,
- (g) the name of the housing authority in whose functional area the dwelling is situated,
- (h) if the dwelling is one of a number of dwellings comprising an apartment complex, the name of the management company (if any) of the complex and the registered number and registered office of that company,
- (i) a description of the dwelling, indicating—
  - (i) the estimated floor area,
  - (ii) the number of bed spaces,
  - (iii) a statement as to which of the following categories it belongs namely, a whole or part of a house, a maisonette, an apartment, a flat or a bedsitter and, in case it falls within the category of a house or maisonette, an indication as to whether the house or maisonette is detached, semi-detached or terraced, and
  - (iv) the number of bedrooms,
- (j) the date the tenancy of the dwelling commenced,
- (k) the amount of the rent payable under that tenancy, the frequency with which it is required to be paid and any taxes or other charges required to be paid by the tenant,
- (l) if the tenancy is for a fixed term, the period of that term,

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- (m) if the tenancy consists of a sub-letting, an indication to that effect,
- (n) the number assigned under *section 135(3)* in respect of a previous tenancy that was registered under this Part in respect of the dwelling (but only if the particulars provided under *paragraph (f)* in respect of that tenancy were the same as those that are being provided, under that paragraph, in respect of the immediate tenancy), and
- (o) such other matters as may be prescribed.

Fee to accompany application under *section 134*.

**137.**—(1) The fee to accompany an application under *section 134* shall, subject to *subsections (2)* and *(6)*, be—

- (a) if the application is made in the period of 12 months beginning on the commencement of *section 134*, a fee of the amount of €70, or
- (b) if the application is made in any subsequent period of 12 months—
  - (i) unless *subparagraph (ii)* applies, a fee of that amount, or
  - (ii) such fee of a greater or lesser amount as may stand declared for the time being under *section 138(1)* for the purposes of this paragraph.

(2) The requirement under *section 134(3)* for a fee specified in this section to accompany an application under *section 134* shall be regarded as satisfied, as respects the applications mentioned in *subsection (3)*, if the applicant mentioned in that subsection opts to pay to the Board a single fee of the amount specified in *subsection (4)* in respect of those applications.

(3) The applications referred to in *subsection (2)* are applications made by the same person at the same time in respect of tenancies of dwellings comprised in the same property.

(4) The amount of the single fee referred to in *subsection (2)* is—

- (a) if the applications concerned are made in the period of 12 months beginning on the commencement of *section 134*, €300, or
- (b) if the applications concerned are made in any subsequent period of 12 months—
  - (i) unless *subparagraph (ii)* applies, €300, or
  - (ii) such greater or lesser amount as may stand declared for the time being under *section 138(1)* for the purposes of this paragraph.

(5) The option of paying the single fee referred to in *subsection (2)* is not available to the person mentioned in *subsection (3)* if the applications concerned are not made within the period specified in *section 134(2)(a)* or *(b)*.

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(6) If an application under *section 134* is not made within the period specified in *subsection (2)(a)* or *(b)* of that section then the fee to accompany that application shall be a fee of an amount that is double the amount referred to in *paragraph (a)* or *(b)(i)* or, as the case may be, *paragraph (b)(ii)* of *subsection (1)*. PT.7 S.137

**138.**—(1) If the Board is satisfied that, having regard to changes in the value of money generally in the State that have occurred in— Variation of fee in line with changes in value of money.

(a) any period ending on or before the date that falls 12 months after the commencement of *section 134*, or

(b) any period subsequent to that date,

it is appropriate for it to declare a fee of a greater or lesser amount than—

(i) in the case of *section 137(1)(b)*—

(I) €70, or

(II) the amount that was last previously declared (in exercise of the power under this section) for the purposes of that provision,

or

(ii) in the case of *section 137(4)(b)*—

(I) €300, or

(II) the amount that was last previously declared (in exercise of the power under this section) for the purposes of that provision,

it may, subject to *subsection (2)*, declare in writing, for the purposes of *subsection (1)(b)* or *(4)(b)* of *section 137*, a fee of such a greater or lesser amount.

(2) The amount (expressed as a percentage) by which the amount of a fee declared under this section is greater or lesser than the amount of the relevant fee mentioned in *subsection (1)* shall be such as, in the opinion of the Board, approximates to the percentage increase or decrease in the value of money generally in the State that has occurred in—

(a) unless *paragraph (b)* applies, the period beginning on the commencement of *section 134* and ending on the making of the declaration, or

(b) if the power under this section has previously been exercised for the purpose of *subsection (1)(b)* or *(4)(b)* of *section 137*, as the case may be, the period beginning on the date that that power was last exercised and ending on the making of the declaration.



*Updating of register and enforcement of requirement to register*

Updating of particulars entered in the register.

**139.**—(1) Within 1 month from an alteration of the rent payable under a tenancy registered in the register taking effect, the landlord under the tenancy shall furnish to the Board the information mentioned in *subsection (2)* in the prescribed form.

(2) That information is—

(a) the amount of that rent as it stands altered and the date from which that alteration took effect, and

(b) so far as any of the other matters in respect of which particulars were entered in the register in respect of the tenancy have changed in any material respect since, as appropriate—

(i) the tenancy was registered in the register, or

(ii) information in respect of them was last previously furnished to the Board under *subsection (1)*,

particulars in respect of those other matters as they stand at the date of this furnishing of information under *subsection (1)*.

(3) No fee shall be payable in respect of the furnishing to the Board of the information mentioned in this section.

(4) The Board, as soon as may be after receipt of the information mentioned in this section, shall amend the relevant particulars in the register with respect to the tenancy concerned.

Amendment of register by Board of its own volition.

**140.**—(1) If the Board becomes aware that any particular entered in the register is incorrect it shall amend the register to correct the matter.

(2) For the purpose of complying with *subsection (1)* and, in particular, for the purpose of determining what needs to be stated in the register by way of correction of the matter, the Board may make such inquiries as it thinks fit (whether of the landlord or tenant under the tenancy concerned or any other person).

Deletion from register of a tenancy.

**141.**—(1) Where, in the opinion of the landlord of the dwelling, a dwelling in respect of which a tenancy has been registered in the register has ceased to be a dwelling to which this Act applies, the landlord shall notify in writing the Board of that opinion and the grounds for it.

(2) That notification shall be made within 1 month from the date that, in the opinion of the landlord, the cessation concerned occurred.

(3) Having considered the grounds stated in a notification made to it under *subsection (1)*, the Board shall—

(a) if it is satisfied that the dwelling concerned is no longer a dwelling to which this Act applies, delete the entry in the

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register in respect of the dwelling and notify the landlord of that deletion, or Pt.7 S.141

(b) if it is not satisfied that the dwelling is no longer a dwelling to which this Act applies, notify the landlord that it is not so satisfied.

(4) For the avoidance of doubt, no refund of the whole or part of the fee charged under *section 134* in respect of the registration under this Part of the dwelling concerned may be made to the landlord in a case to which *subsection (3)(a)* applies.

(5) Despite the deletion, under *subsection (3)(a)*, of the entry in the register in respect of a tenancy of a dwelling, the Board may, if it considers it appropriate to do so for the purpose of its functions under *section 151*, keep a record of all or any of the particulars in respect of that tenancy that were contained in the entry.

**142.**—In any proceedings under *Part 6*, it shall be presumed until the contrary is shown that the date stated in the register as the date on which the tenancy, the subject of the proceedings, commenced is the date on which that tenancy commenced. Presumption in relation to date of commencement of tenancy.

**143.**—A person who, in purported compliance with *section 134* or *139*, furnishes information to the Board which is false or misleading in a material respect knowing it to be so false or misleading or being reckless as to whether it is so false or misleading is guilty of an offence. Offence for furnishing false or misleading information.

**144.**—(1) If it appears to the Board that a particular tenancy that ought to be registered in the register has not been the subject of an application for registration under *section 134*, it shall serve the notice referred to in *subsection (2)* on the person whom it considers to be the landlord under that tenancy. Provision in aid of enforcement of registration requirements.

(2) That notice is a notice—

(a) stating the Board's opinion that the tenancy mentioned in the notice is required to be registered in the register and, accordingly, that an application for registration of the tenancy under *section 134* must be made by the addressee of the notice, and

(b) requesting the addressee of the notice to furnish to the Board, within a period specified in the notice, the reasons why the addressee considers (if such be the case) that the opinion is not well founded.

(3) If the addressee of the notice referred to in *subsection (2)*—

(a) does not furnish to the Board, in accordance with the notice, the reasons requested, or

(b) furnishes, in accordance with the notice, reasons to the Board which do not result in its altering the opinion stated in that notice,

the Board shall (unless an application has by then been made under *section 134* to register the tenancy) serve a further notice on the addressee stating that he or she is required to apply to the Board

under *section 134* to register the tenancy in the register and that, if he or she fails to do so within 14 days from the receipt by him or her of the notice, he or she is guilty of an offence.

(4) A person who fails to comply with a notice under *subsection (3)* within the period of 14 days from the receipt by him or her of the notice is guilty of an offence.

(5) For the purpose of a person's complying with the requirement in a notice under *subsection (2)* or *(3)* to register a tenancy under *section 134*, that section shall apply as if *subsection (2)* were omitted from it (but for that purpose only and not so as to affect the application of *section 137(6)* (fee of double the ordinary amount to be paid on late application)).

(6) Proceedings for an offence under *subsection (4)* may not be brought if more than a year has elapsed between the date of service of the notice under *subsection (2)* and of the notice under *subsection (3)* in relation to the matter concerned.

(7) The reference in *subsection (1)* to a particular tenancy that ought to be registered shall be deemed to include a reference to a tenancy which, in the opinion of the Board, exists in respect of a dwelling and, accordingly, ought to be registered; where the Board is of that opinion in respect of a dwelling then the notice referred to in *subsection (2)* concerning that dwelling shall expressly state that as part of the opinion stated by the Board in the notice.

Further provisions  
in aid of  
enforcement of  
registration  
requirements.

**145.—**(1) A person authorised in writing by the Board for the purposes of this section as respects the particular dwelling may, at all reasonable times, enter into and inspect a dwelling for the purposes of determining the correctness of any particular specified in an application made under *section 134* in respect of a tenancy of that dwelling.

(2) A person shall not be authorised under *subsection (1)* unless the Board has reasonable grounds for believing that a particular specified in the application mentioned in that subsection is false or misleading in a material respect.

(3) A person who obstructs or impedes a person authorised under *subsection (1)* in the exercise by that person of his or her powers under that subsection is guilty of an offence.

(4) If it appears to the Board that a particular tenancy that ought to be registered in the register has not been the subject of an application for registration under *section 134* it may, by service of a notice on the tenant under the tenancy, require the tenant to supply to it, within a period specified in the notice, the name and address of the landlord under the tenancy or, if those particulars are not known to the tenant, any information in the possession of the tenant that could reasonably lead to the Board's ascertaining the identity of the landlord or his or her address.

(5) A person who fails to comply with a notice under *subsection (4)* or supplies information to the Board in purported compliance with the notice which is false or misleading in a material respect knowing it to be so false or misleading or being reckless as to whether it is so false or misleading is guilty of an offence.

*Data exchange — private residential tenancies*

**146.**—(1) A local authority shall, at such intervals as are specified by the Board, supply to the Board such information in its possession as falls within any class of information specified by the Board for the purpose of this subsection, being a class of information the supply of which to the Board is reasonably necessary for the performance by the Board of its functions. Data exchange — private residential tenancies.

(2) The Minister for Social and Family Affairs shall, at such intervals as are specified by the Board, supply to the Board such information in his or her possession as falls within any class of information specified by the Board for the purpose of this subsection, being a class of information the supply of which to the Board is reasonably necessary for the performance by the Board of its functions.

(3) The Board shall, at such intervals as are specified by a local authority, supply to the local authority such information in the possession of the Board as falls within any class of information specified by the local authority for the purpose of this subsection, being a class of information the supply of which to the authority is reasonably necessary for the performance by the authority of its functions relating to houses, dwellings or other structures (either generally or those which have been provided by it).

(4) The Board shall, at such intervals as are specified by the Minister for Social and Family Affairs, supply to that Minister of the Government such information in the possession of the Board as is reasonably necessary for the performance by that Minister of his or her functions under Chapter 11 of Part III of the Social Welfare (Consolidation) Act 1993.

**147.**—(1) A local authority shall, at such intervals as are specified by the Minister for Social and Family Affairs, supply to that Minister of the Government such information in its possession as falls within any class of information specified by that Minister for the purpose of this subsection, being a class of information the supply of which to that Minister is reasonably necessary for the performance by that Minister of his or her functions under Chapter 11 of Part III of the Social Welfare (Consolidation) Act 1993. Exchange of public service data.

(2) The Minister for Social and Family Affairs shall, at such intervals as are specified by a local authority, supply to the local authority such information in his or her possession as falls within any class of information specified by the local authority for the purpose of this subsection, being a class of information the supply of which to the authority is reasonably necessary for the performance by the authority of its functions relating to houses, dwellings or other structures (either generally or those which have been provided by it).

**148.**—(1) In this section “identification number” means— Provision of details of tenancy to Revenue Commissioners.

- (a) in the case of an individual, the individual’s personal public service number, and
- (b) in the case of a company, the registered number of the company.

(2) On the request of—

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(a) a landlord of a dwelling, on his or her furnishing—

(i) his or her identification number, or

(ii) his or her name and the identification number of his or her authorised agent,

or

(b) the Revenue Commissioners, on their furnishing—

(i) the identification number of a landlord of a dwelling, or

(ii) the name of a landlord of a dwelling and the identification number of his or her authorised agent,

the Board shall, at such time or times as are reasonably specified in the request, furnish to the Revenue Commissioners—

(I) confirmation as to whether the landlord has registered a tenancy in respect of a dwelling, and

(II) in the event of there being one or more than one tenancy so registered, such of the particulars registered in respect of it or them as the Revenue Commissioners may require.

## PART 8

### PRIVATE RESIDENTIAL TENANCIES BOARD

#### CHAPTER 1

##### *Establishment and principal functions of Board*

Establishment day. **149.**—The Minister shall by order appoint a day to be the establishment day for the purposes of this Part.

Establishment of Board. **150.**—(1) On the establishment day there shall stand established a board to be known as An Bord um Thionóntachtaí Cónaithe Príobháideacha or, in the English language, the Private Residential Tenancies Board (in this Act referred to as “the Board”) to perform the functions conferred on it by this Act.

(2) The Board shall be a body corporate with perpetual succession and an official seal and power to sue and be sued in its corporate name and, with the consent of the Minister, to acquire, hold and dispose of land, or an interest in land and to acquire, hold and dispose of any other property.

(3) The Board shall, subject to the provisions of this Act, be independent in the performance of its functions.

(4) The Board shall have all such powers as are necessary or expedient for or incidental to the performance of its functions under this Act.

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151.—(1) The principal functions of the Board shall be—

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Functions of Board.

- (a) the resolution of disputes between tenants and landlords in accordance with the provisions of *Part 6*,
- (b) the registration of particulars in respect of tenancies in accordance with the provisions of *Part 7*,
- (c) the provision to the Minister of advice concerning policy in relation to the private rented sector,
- (d) the development and publication of guidelines for good practice by those involved in the private rented sector,
- (e) the collection and provision of information relating to the private rented sector, including information concerning prevailing rent levels,
- (f) where the Board considers it appropriate, the conducting of research into the private rented sector and monitoring the operation of various aspects of the private rented sector or arranging for such research and monitoring to be done,
- (g) the review of the operation of this Act (and, in particular, *Part 3*) and any related enactments and the making of recommendations to the Minister for the amendment of this Act or those enactments,
- (h) the performance of any additional functions conferred on the Board under *subsection (3)*.

(2) The Board shall provide information to the Minister on such matters related to its functions and the private rented sector as may be requested by the Minister from time to time.

(3) The Minister may, if he or she so thinks fit or if so requested by another Minister of the Government, after consultation with—

- (a) the Board,
- (b) that other Minister of the Government, and
- (c) the Minister for Finance,

by order—

- (i) confer on the Board such additional functions connected with the functions for the time being of the Board or activities that the Board is authorised for the time being to undertake as he or she considers appropriate,
- (ii) make such provision as he or she considers necessary or expedient in relation to matters ancillary to or arising out of the conferral on the Board of functions under this subsection or the performance by the Board of functions so conferred.

(4) In this section “private rented sector” means the sector of commercial activity in the State consisting of the letting of dwellings.

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Model lease.

**152.**—(1) Guidelines published under *section 151(1)(d)* may include a precedent for a model lease of a dwelling.

(2) Such a precedent shall—

- (a) contain all of the provisions necessary to make the lease of the dwelling concerned an instrument which is consistent with this Act and any other relevant enactments,
- (b) be worded, so far as is practicable, in plain language, and
- (c) to the extent necessary having regard to the requirements of *paragraph (a)*, contain provisions best calculated to ensure harmonious relations between the parties to the lease as regards their conduct towards one and another in their capacity as such parties.

CHAPTER 2

*Composition of Board*

Membership of  
Board.

**153.**—(1) The members of the Board shall be such number, not less than 9 and not more than 15, as the Minister considers appropriate from time to time.

(2) The members of the Board shall be appointed by the Minister as soon as may be after the establishment day and shall be persons who, in the Minister's opinion, have experience in a field of expertise relevant to the Board's functions.

(3) Except as provided for by *subsection (2)*, the members of the Board shall be appointed from time to time as occasion requires by the Minister.

(4) The Minister shall, in so far as is practicable, ensure an equitable balance between the numbers of members of the Board who are women and the number of them who are men.

(5) The Minister when appointing a member shall fix such member's period of membership which shall not exceed 5 years and, subject to this section, membership shall be on such terms as the Minister may determine.

(6) The members of the Board (including the chairperson) may be paid such remuneration as the Minister, with the consent of the Minister for Finance, may determine.

Supplemental  
provisions as to  
membership of  
Board.

**154.**—(1) A member of the Board may at any time resign his or her membership by letter addressed to the Minister and the resignation shall take effect from the date specified in the letter or upon receipt of the letter by the Minister, whichever is the later.

(2) A member of the Board may, at any time, be removed from membership of the Board by the Minister if, in the Minister's opinion, the member has become incapable through ill-health of performing his or her functions, or has committed stated misbehaviour, or his or her removal appears to the Minister to be necessary for the effective performance by the Board of its functions.

(3) A person shall cease to be, and shall be disqualified from being, a member of the Board where he or she—

- (a) is adjudicated bankrupt,
- (b) makes a composition or arrangement with creditors,
- (c) is sentenced by a court of competent jurisdiction to a term of imprisonment, or
- (d) is disqualified or restricted from being a director of any company.

(4) If a member of the Board dies, resigns, becomes disqualified or is removed from membership, the Minister may appoint a person to be a member of the Board and fill the casual vacancy so caused.

(5) A member of the Board whose term of membership of the Board expires shall be eligible for re-appointment as a member of the Board.

**155.**—(1) The Minister shall appoint a person, from among the members of the Board, as chairperson of the Board. Chairperson of Board.

(2) Where the chairperson of the Board ceases to be a member of the Board he or she shall also thereupon cease to be chairperson of the Board.

(3) The chairperson of the Board may at any time resign his or her office as chairperson of the Board while continuing to serve as a member of the Board and the resignation, unless previously withdrawn, shall take effect at the commencement of the meeting of the Board held after the Board has been informed by the Minister of the resignation.

(4) The chairperson of the Board shall, unless he or she sooner dies or otherwise ceases to be chairperson by virtue of *subsection (2)*, hold office until the expiry of his or her period of membership of the Board and, if re-appointed as a member of the Board, shall be eligible for re-appointment as chairperson of the Board.

### CHAPTER 3

#### *Meetings and committees*

**156.**—(1) The Board shall hold such and so many meetings as may be necessary for the performance of its functions. Meetings of Board.

(2) The Minister shall fix the date, time and place of the first meeting of the Board and the Board shall fix the date, time and place of subsequent meetings.

(3) The quorum for a meeting of the Board shall be 5.

(4) At a meeting of the Board the chairperson of the Board shall, if present, chair the meeting and if not present, or if the office of chairperson is vacant, the members of the Board present at the meeting shall choose one of their number to chair the meeting.

(5) At a meeting of the Board each person present, including the chairperson, shall have a vote and any question on which a vote is required so as to establish the Board's position on a matter shall be determined by a majority of the votes of the members present and voting on the question and, in the case of an equal division of the



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votes, the chairperson of the meeting shall have a second and casting vote.

(6) The Board may act notwithstanding one or more vacancies among its members (but this subsection is without prejudice to *subsection (3)*).

(7) Subject to the provisions of this Act, the Board may regulate its own procedures and business.

Committees of Board.

**157.**—(1) The Board may establish committees consisting in whole or in part of persons who are members of the Board—

(a) to assist and advise the Board on matters relating to any of its functions or on such matters as the Board may from time to time determine, or

(b) to perform such functions of the Board as may be delegated by it from time to time.

(2) Without prejudice to the generality of *subsection (1)*, the Board shall establish a committee which shall be known and is in this Act referred to as the “Dispute Resolution Committee”.

(3) The Board, when appointing a member of a committee, shall—

(a) have regard to the range of qualifications and experience necessary for the proper and effective discharge of the functions of the committee,

(b) have regard to the desirability of such balance between the numbers of each sex on the committee as is appropriate and determined from time to time,

(c) fix the member’s period of membership (which, in the case of a member of the Dispute Resolution Committee, shall not be less than a period of 3 years),

(d) fix the terms of his or her membership.

(4) The members of a committee may be paid by the Board such fees as the Board may determine, subject to the consent of the Minister and the Minister for Finance.

Supplemental provisions as to committees of Board.

**158.**—(1) In this section “committee” means a committee established under *section 157*.

(2) A member of a committee may be removed by the Board at any time for stated reasons.

(3) The acts of a committee and the performance by a committee of functions delegated to it under *section 157* shall be subject to confirmation by the Board, unless the Board otherwise determines.

(4) The Board may, subject to this Act, determine the terms of reference and regulate, by standing orders or otherwise, the procedures and business of a committee including the filling of casual vacancies but, subject to any such regulation, a committee may regulate its own procedures.

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(5) A committee shall appoint, from time to time, a chairperson from among its members. Pt.8 S.158

(6) The Board may at any time dissolve a committee.

(7) A committee shall provide the Board with such information as the Board may from time to time require, in respect of its activities and operation, for the purposes of the performance of the functions of the Board.

(8) *Subsections (4) to (6)* do not apply to the Dispute Resolution Committee.

**159.**—(1) There shall be delegated to the Dispute Resolution Committee by the Board such of the functions of the Board under *Part 6* (except those under *sections 109, 121 and 124*) as the Board determines; functions under that Part may not be delegated to any other committee established under *section 157*. Dispute Resolution Committee.

(2) The Dispute Resolution Committee shall consist of not more than 40 members, of which at least 4 must be members of the Board (including the member of the Board appointed as chairperson of the Dispute Resolution Committee).

(3) A member of the Board shall not be eligible for appointment as a member of the Dispute Resolution Committee unless the unexpired period of his or her term of office as a member of the Board is 3 or more years at the date of his or her appointment as a member of the Committee.

(4) The members of the Dispute Resolution Committee shall be appointed by the Board after consultation with the Minister.

(5) The Board, after consultation with the Minister, shall appoint a member of the Dispute Resolution Committee as chairperson of the Committee; that member must be a person who is also a member of the Board.

(6) The Dispute Resolution Committee shall adopt, subject to the approval of the Board and the Minister, rules and procedures for the conduct of its meetings and the performance of its functions generally.

(7) A member of staff of the Board shall act as secretary to the Dispute Resolution Committee.

#### CHAPTER 4

##### *Management of Board*

**160.**—(1) There shall be a chief officer of the Board who shall be known and is referred to in this Act as the “Director”. Director of Board.

(2) The Director shall be appointed by the Board in accordance with procedures that have been determined by the Board with the consent of the Minister.

(3) The first appointment by the Board of a person to be the Director shall be made within 3 years from the establishment day.

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(4) The Director may, at any time, for stated reasons be removed from office by the Board with the consent of the Minister.

(5) The Director shall carry on, manage and control generally the administration and business of the Board and perform such other functions as may be determined by the Board.

(6) The Director shall hold office for such period and upon and subject to such terms and conditions (including terms and conditions relating to remuneration) as may be determined from time to time by the Minister, after consultation with the Board and with the consent of the Minister for Finance.

Supplemental provisions in relation to Director.

**161.**—(1) The Director shall perform his or her functions subject to such policies as may be determined from time to time by the Board and shall be answerable to the Board for the efficient and effective management of the Board and for the due performance of his or her functions.

(2) The Director may delegate any of his or her functions to a member of staff of the Board (other than functions that have been delegated to the Director subject to a condition that they are not to be sub-delegated), and the member of staff shall be accountable to the Director for the performance of the functions so delegated.

(3) Notwithstanding *subsection (2)*, the Director shall at all times remain accountable to the Board for the performance of functions delegated by him or her.

(4) The Director may make proposals to the Board on any matter relating to the activities of the Board.

(5) The Director shall not be a member of the Board or of any committee of the Board, but he or she may, in accordance with procedures established by the Board or a committee, as the case may be, attend meetings of the Board or the committee or both and shall be entitled to speak at and advise such meetings.

CHAPTER 5

*Staff of Board and superannuation matters*

Staff of Board.

**162.**—(1) In addition to the Director, the Board may, from time to time, appoint such and such number of persons to be members of the staff of the Board as it may determine with the consent of the Minister and the Minister for Finance.

(2) The grades of the staff of the Board, the numbers of staff in each grade and the appropriate level of remuneration for each grade shall be determined by the Board with the consent of the Minister and the Minister for Finance.

(3) Subject to such conditions as it thinks fit, the Board may delegate to the Director any of the functions of the Board in relation to the employment of staff and the determination of selection procedures.

(4) The staff of the Board shall—

(a) be paid out of moneys available to the Board,

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(b) perform such functions as determined from time to time by the Director, and Pt.8 S.162

(c) hold office or employment for such period and upon and subject to such terms and conditions as may be determined from time to time by the Director, with the consent of the Minister and the Minister for Finance.

(5) Every member of the staff of the Minister designated by order made by the Minister for the purposes of this section shall, on being so designated, be transferred to and become a member of the staff of the Board.

(6) The Minister may make an order for the purposes of *subsection (5)* at any time but shall not do so without first having—

(a) notified in writing any recognised trade union or staff association concerned of the Minister's intention to do so, and

(b) considered, within such time as may be specified in the notification, any representations made by such trade unions or staff associations in relation to the matter.

(7) Except in accordance with a collective agreement negotiated with any recognised trade unions or staff associations concerned, a person referred to in *subsection (5)* shall not, while in the service of the Board, receive a lesser scale of pay or be made subject to less beneficial terms and conditions of service than the scale of pay to which he or she was entitled and the terms and conditions of service to which he or she was subject immediately before his or her transfer into such service.

**163.**—(1) As soon as practicable after the establishment day, the Board shall prepare and submit to the Minister a scheme or schemes for the granting of superannuation benefits to or in respect of such members of the staff of the Board as it may think fit. Superannuation.

(2) Every such scheme shall fix the time and conditions of retirement for all persons to or in respect of whom superannuation benefits are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons.

(3) Every such scheme may be amended or revoked by a subsequent scheme prepared, submitted and approved under this section.

(4) A scheme submitted by the Board under this section shall, if approved by the Minister, with the consent of the Minister for Finance, be carried out by the Board in accordance with its terms.

(5) Superannuation benefits granted under schemes under this section to persons, who immediately before their being designated by an order under *section 162*, were members of the staff of the Minister, and the terms and conditions relating to those benefits, shall not be less favourable to those persons than those to which they were entitled immediately before such designation.

(6) No superannuation benefit shall be granted by the Board nor shall any other arrangements be entered into by the Board for the provision of such a benefit to or in respect of a member of the staff of the Board otherwise than in accordance with a scheme under this

section or, if the Minister, with the consent of the Minister for Finance, sanctions the granting of such a benefit, in accordance with that sanction.

(7) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit payable in pursuance of a scheme or schemes under this section, such dispute shall be submitted to the Minister who shall refer it to the Minister for Finance, whose decision shall be final.

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

## CHAPTER 6

### *Appointment or engagement of certain persons*

Mediators and  
adjudicators.

**164.**—(1) The Board may from time to time appoint such and so many persons who shall be known and are in this Act referred to as “mediators” to carry out the functions assigned to them by the Board in accordance with *Part 6*.

(2) The Board may from time to time appoint such and so many persons who shall be known and are in this Act referred to as “adjudicators” to carry out the functions assigned to them by the Board in accordance with *Part 6*.

(3) The Board may appoint a person as both a mediator and an adjudicator.

(4) The Board shall form 2 panels, one comprising the names of the persons who stand appointed as mediators and the other comprising the names of the persons who stand appointed as adjudicators.

(5) Mediators and adjudicators shall each be appointed for such period (not being less than 3 years) as the Board may determine and shall be paid such fees and expenses as the Board, with the consent of the Minister and of the Minister for Finance, may determine from time to time; the other terms and conditions on which each of them shall stand appointed shall be such as the Board may determine from time to time.

(6) Those other terms and conditions shall, in relation to adjudicators, include such terms and conditions as are likely, in the opinion of the Board, to secure the independence and impartiality of the adjudicators.

(7) A mediator or adjudicator may at any time resign from his or her appointment as mediator or adjudicator.

(8) Neither the Civil Service Commissioners Act 1956 (or any enactment that replaces in whole or in part that Act) nor the Civil Service Regulation Acts 1956 to 1996 shall apply to a mediator or an adjudicator.

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**165.**—(1) The Board may, in accordance with this section, remove an adjudicator from the panel formed under *section 164(4)* (“the panel”).

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Removal of an  
adjudicator from  
the panel.

(2) If it appears to the Board that an adjudicator has been guilty of misconduct in his or her capacity as an adjudicator, it may apply to the District Court for an order under *subsection (3)* authorising the removal of the adjudicator from the panel.

(3) On the hearing of an application under this section and having considered the evidence adduced by the Board in the matter and any evidence adduced by or on behalf of the adjudicator, the District Court shall, if it finds that the adjudicator has been guilty of misconduct in his or her capacity as an adjudicator, make an order authorising the Board to remove the adjudicator from the panel.

(4) On the making of such an order (or, if the order is appealed to the Circuit Court and the Circuit Court confirms the order, on the order being so confirmed), the Board shall remove the adjudicator from the panel.

(5) Save where the period of his or her appointment has expired or a failure (not amounting to misconduct) by him or her to comply with the terms and conditions upon which he or she was appointed occurs, an adjudicator shall not be removed from the panel otherwise than in accordance with this section or with his or her consent.

(6) In this section “misconduct” means any conduct likely to bring the procedures for determinations by adjudicators under *Part 6* into disrepute and includes—

- (a) any demonstration by an adjudicator of bias towards the interests of a party before him or her,
- (b) gross discourtesy by an adjudicator to one or more of the parties before him or her, and
- (c) wilful failure by an adjudicator to attend to his or her duties as an adjudicator.

**166.**—(1) Subject to such conditions (if any) as may for the time being stand specified by the Minister for the purposes of this section, the Board may from time to time engage such consultants or advisers as it may consider necessary for the performance of its functions and any fees due to a consultant or adviser engaged pursuant to this section shall be paid by the Board out of moneys at its disposal.

Consultants and  
advisers.

(2) Any person who wishes to be engaged by the Board as a consultant or adviser pursuant to this section may notify the Board in writing of this fact and any notification for that purpose shall include particulars of the person’s qualifications and experience.

(3) The Board shall maintain a list of the persons who notify the Board pursuant to *subsection (2)*.

(4) The Board shall, in engaging a consultant or adviser under this section, have regard to the list maintained under *subsection (3)*, but nothing in this subsection shall be construed as precluding the Board from engaging as a consultant or adviser a person whose name is not on that list.

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(5) The Board shall include in its annual report under *section 180* a statement of the names of the persons (if any) engaged pursuant to this section during the year to which the report relates.

Provision of services to Board.

**167.**—(1) For the purposes of enabling the Board to perform its functions as and from the establishment day, the Minister may, for such period as he or she thinks appropriate, supply to the Board any services, including services of staff, required by the Board and the Board may avail itself of such services for which arrangements are made under this section.

(2) The supply of services of staff under *subsection (1)* may include the supply of services of a person to perform the functions of the Director under this Part and *Part 6*.

(3) For so long as the services of a person are provided for the purpose mentioned in *subsection (2)*—

- (a) the functions mentioned in that subsection shall be performable by that person, and
- (b) *sections 160(6)* and *161* shall apply to that person.

CHAPTER 7

*Supplemental provisions with regard to Board's administration and management*

Indemnification of certain persons.

**168.**—(1) Where the Board is satisfied that a person to whom this section applies has discharged the functions appropriate to that person in relation to the functions of the Board in good faith, it shall indemnify that person against all actions or claims however they arise in respect of the discharge by that person of those functions.

(2) This section applies to—

- (a) a member of the Board,
- (b) a member of a committee of the Board,
- (c) a member of staff of the Board,
- (d) a mediator or adjudicator,
- (e) an adviser or consultant to the Board engaged under *section 166*, and
- (f) a person whose services are provided to the Board under *section 167*.

Membership of either House of the Oireachtas, etc.

**169.**—(1) Where a member of the Board or the Dispute Resolution Committee or a member of the staff of the Board—

- (a) accepts nomination as a member of Seanad Éireann,
- (b) is elected to either House of the Oireachtas or to the European Parliament,

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(c) is regarded, pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997, as having been elected to that Parliament, or

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(d) becomes a member of a local authority,

he or she shall thereupon—

(i) in the case of a member of the Board or the Dispute Resolution Committee, cease to be a member of the Board or that Committee,

(ii) in the case of a member of the staff of the Board, stand seconded from employment by the Board for the period specified in *subsection (2)*.

(2) A person who stands seconded under *subsection (1)(ii)* shall not be paid by, or be entitled to receive from, the Board any remuneration in respect of the period commencing on such nomination or election or his or her membership of the local authority or the date on which he or she is so regarded as having been elected, as the case may be, and ending on the date on which he or she ceases to be a member of either such House or such Parliament or such local authority.

(3) Without prejudice to the generality of *subsection (2)*, that subsection shall be construed as prohibiting, among other things, the reckoning of a period mentioned in that subsection as service with the Board for the purposes of any superannuation benefits.

(4) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a representative in the European Parliament or a member of a local authority shall, while he or she is so entitled or is such a representative or member, be disqualified from becoming a member of the Board or the Dispute Resolution Committee or a member of the staff of the Board.

**170.—(1)** Where a member of the Board, a member of a committee of the Board, a member of the staff of the Board or a consultant or adviser engaged under *section 166* has a pecuniary interest or other beneficial interest in, or material to, any matter which falls to be considered by the Board or a committee, he or she shall comply with the following requirements:

Disclosure of interests.

(a) he or she shall disclose to the Board the fact of such interest and the nature of the interest in advance of any consideration of the matter;

(b) he or she shall neither influence nor seek to influence a decision in relation to the matter;

(c) he or she shall take no part in any consideration of the matter;

(d) if he or she is a member of the Board or a committee or both or a member of the staff of the Board, he or she shall withdraw from any meeting concerned for so long as the matter is being discussed or considered and shall not vote or otherwise act as such Board or committee member or member of staff in relation to the matter.



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(2) For the purposes of this section, but without prejudice to the generality of *subsection (1)*, a person shall be regarded as having a beneficial interest in, or material to, a matter referred to in that subsection if—

- (a) the person or any member of his or her household, or any nominee of him or her or of his or her household, is a member of a company or any other body which has a beneficial interest in, or material to, such a matter,
- (b) the person or any member of his or her household is in partnership with or is in the employment of a person who has a beneficial interest in, or material to, such a matter,
- (c) the person or any member of his or her household is a party to any arrangement or agreement (whether or not enforceable) concerning property to which such a matter relates, or
- (d) any member of his or her household has a beneficial interest in, or material to, such a matter.

(3) A person shall not be regarded as having a beneficial interest in, or material to, any matter by reason only of an interest of the person or of any company or of any other body or person mentioned in *subsection (2)* which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering, discussing or voting on any question with respect to the matter, or in performing any function in relation to that matter.

*Section 170:*  
supplemental  
provisions.

**171.**—(1) Where at a meeting or proceeding of the Board or a committee of the Board a question arises as to whether or not a course of conduct, if pursued by a person, would constitute a failure by the person to comply with the requirements of *section 170*, then, if the meeting or proceeding is of a committee, it shall be adjourned until the question has been referred to and determined by the Board, and if the meeting is of the Board, the question shall be determined by the Board, whose decision in all cases shall be final, and particulars of the determination shall be recorded in the minutes of the Board's meeting.

(2) Where a disclosure is made under *section 170*, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being considered or discussed by the meeting, the person by whom the disclosure is made, where he or she is a member of the Board, shall not be counted in the quorum for the meeting unless the Board otherwise determines.

(3) A person who contravenes *section 170* is guilty of an offence.

(4) In any proceedings for an offence under *subsection (3)*, it shall be a defence for the defendant to prove that at the time of the alleged offence he or she did not know and had no reason to believe that a matter in which, or in relation to which, he or she had a beneficial interest had fallen to be considered by him or her, by the Board or by a committee of the Board or that the beneficial interest to which the alleged offence relates was one in relation to which a requirement of *section 170* applied.

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(5) A member of the Board, or of a committee of the Board, if convicted of an offence under *subsection (3)* shall, on such conviction, cease to be and be disqualified from being such a member. Pt.8 S.171

**172.**—(1) Save as otherwise provided by law and subject to *subsection (3)*, a person shall not, other than with the consent of the Board, disclose confidential information obtained by him or her while performing (or as a result of having performed) functions as— Disclosure of information.

- (a) a member of the Board,
- (b) a member of the staff of the Board,
- (c) a member of a committee of the Board,
- (d) an adviser or consultant to the Board engaged under *section 166*.

(2) A person who contravenes *subsection (1)* is guilty of an offence.

(3) Nothing in *subsection (1)* shall prohibit the disclosure of information by means of a report made to the Board or made by, or on behalf of, the Board to the Minister.

(4) In this section “confidential information” includes—

- (a) information that is expressed by the Board or a committee of the Board, as the case may be, to be confidential either as regards particular information or as regards information of a particular class or description,
- (b) proposals of a commercial nature or tenders submitted to the Board by contractors, consultants or any other person,
- (c) information the disclosure of which is prohibited by virtue of *section 128(4)*.

(5) A member of the Board or of a committee of the Board, if convicted of an offence under *subsection (2)* shall, on such conviction, cease to be and be disqualified from being such a member.

**173.**—(1) The Board shall, as soon as may be after its establishment, provide itself with a seal. Seal of Board.

(2) The seal of the Board shall be authenticated by the signature of—

- (a) the chairperson of the Board or another member of the Board authorised by the Board to act in that behalf, and
- (b) the Director or a member of the staff of the Board authorised by the Board to act in that behalf.

(3) Judicial notice shall be taken of the seal of the Board and every document purporting to be an instrument made by the Board and to be sealed with the seal of the Board (purporting to be authenticated in accordance with *subsection (2)*) shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown.

*Financial and accountability provisions*

Grants to Board. **174.**—The Minister may, in each financial year, after consultation with the Board in relation to its proposed work programme and projected expenditure for that year, make to the Board a grant of such amount, as may be sanctioned by the Minister for Finance, out of moneys provided by the Oireachtas for the purposes of expenditure by the Board in the performance of its functions.

Borrowings by Board. **175.**—(1) The Board may, for the purpose of providing for current or capital expenditure, from time to time, borrow money (whether on the security of the assets of the Board or otherwise).

(2) The exercise of this power is subject to the consent of the Minister and the Minister for Finance and to such conditions as they may specify.

Fees. **176.**—(1) The Board may charge, receive and recover such fees as the Board may from time to time determine, subject to the consent of the Minister, in relation to the performance by the Board of its functions, the provision by it of services (other than a service consisting of the provision of information or advice to the Minister) and the carrying on by it of activities.

(2) *Subsection (1)* does not apply in respect of any fee provision for the charging for, or payment of, which is made by any other provision of this Act.

(3) Without prejudice to the generality of *subsection (1)*, the Board may charge fees in respect of all or any of the following:

- (a) access to records of determination orders made under *section 121*,
- (b) provision of a sealed and certified copy of a determination order made under *section 121*,
- (c) copies of publications produced by the Board,
- (d) the provision of details of an aggregated nature under *section 131*.

(4) The Board may recover, as a simple contract debt in any court of competent jurisdiction, from the person by whom it is payable, any amount due and owing to it under this or any other provision of this Act.

(5) Fees received by the Board under this Act shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister may direct.

(6) The Public Offices Fees Act 1879 shall not apply to any fees payable under this Act.

Accounts. **177.**—(1) The Director shall submit estimates of income and expenditure of the Board to the Minister in such form, in respect of such periods, and at such times as may be required by the Minister and shall furnish to the Minister any information which the Minister

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may require in relation to such estimates, including proposals and future plans relating to the discharge by the Board of its functions over a period of years, as required. Pt.8 S.177

(2) The Director shall consult with the Board in performing the functions under *subsection (1)* and may submit to the Minister any estimates, information, proposals or other matters under that subsection only after obtaining the Board's consent to do so.

(3) The Director, under the direction of the Board, shall cause to be kept on a continuous basis and in a legible or a machine readable form or both all proper books and records of account of all income and expenditure of the Board, and of the sources of such income and the subject matter of such expenditure, and of the property, assets and liabilities of the Board; the Director shall also keep and shall account to the Board for all such special accounts as the Minister or the Board, with the consent of the Minister, may from time to time direct should be kept.

(4) The financial year of the Board shall be the period of 12 months ending on 31 December in any year and, for the purposes of *section 174*, this section and *section 178*, the period commencing on the establishment day and ending on the following 31 December shall be deemed to be a financial year.

**178.**—(1) The Board, the Director and any relevant member of the staff of the Board shall, whenever so requested by the Minister, permit any person appointed by the Minister to examine the books or other records of account of the Board in respect of any financial year or other period and shall facilitate any such examination, and the Board shall pay such fee therefor as may be fixed by the Minister. Further provisions with respect to accounts (including their audit).

(2) In *subsection (1)* "relevant member of the staff of the Board" means a member of the staff of the Board to whom there has been duly assigned functions relating to the books or other records of account referred to in that subsection.

(3) The accounts of the Board for each financial year shall be prepared in such a form and manner as may be specified by the Minister and be prepared by the Director and approved by the Board as soon as practicable but not later than three months after the end of the financial year to which they relate for submission, as soon as practicable, to the Comptroller and Auditor General for audit.

(4) A copy of such of the accounts referred to in *subsection (3)* as the Minister directs and the report of the Comptroller and Auditor General thereon shall be presented to the members of the Board and to the Minister, as soon as practicable after the audit of them is completed, and the Minister shall cause a copy of those documents to be laid before each House of the Oireachtas.

**179.**—(1) The Director shall, whenever he or she is so required by a Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General, give evidence to that Committee on— Accountability of Director to Oireachtas Committees.

(a) the regularity and propriety of the transactions recorded or required to be recorded in any account subject to audit by the Comptroller and Auditor General which the

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Director or the Board is required by or under statute to prepare,

- (b) the economy and efficiency of the Board in the use of its resources,
- (c) the systems, procedures and practices employed by the Board for the purpose of evaluating the effectiveness of its operations, and
- (d) any matter affecting the Board referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993 or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in *paragraph (a), (b) or (c)*) that is laid before Dáil Éireann.

(2) The Director shall, at the request in writing of any other Oireachtas Committee, attend before it and give evidence to it on any matter related to the functions of the Board.

(3) In *subsection (2)*, “other Oireachtas Committee” means a committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the committee referred to in *subsection (1)*) or a subcommittee of such a committee.

Reports and information to Minister.

**180.**—(1) The Board shall, not later than 30 June in each year subsequent to the year in which the establishment day falls, make a report to the Minister (in this section referred to as the “annual report”) in such form as the Minister may approve, on the performance of its functions and activities during the preceding year and the Minister shall cause copies of each annual report to be laid before each House of the Oireachtas.

(2) Each annual report shall include information in such form and regarding such matters as the Minister may direct.

(3) The Board may, from time to time, make such other reports to the Minister relating to its functions as it thinks fit and shall, whenever so requested by the Minister, supply to the Minister such information, in addition to that provided in its annual report, regarding the performance of its functions as the Minister may from time to time require.

(4) The Board may publish such other reports on matters related to its activities and functions as it may from time to time consider relevant and appropriate.

Reports to Board.

**181.**—(1) The Board may, on its request, be furnished with reports on any matter which, in the Board’s opinion, concerns the private rented sector by the appropriate Minister of the Government or local authority who or which has responsibility for the area to which the matter pertains.

(2) The Board may make a report furnished to the Board under this section available to the Minister.

(3) In this section “private rented sector” has the same meaning as it has in *section 151*.

PART 9

MISCELLANEOUS

**182.**—(1) On and from the commencement of *Part 6*, proceedings may not be instituted in any court in respect of a dispute that may be referred to the Board for resolution under that Part unless one or more of the following reliefs is being claimed in the proceedings—

Limitation on certain disputes being the subject of court proceedings.

- (a) damages of an amount of more than €20,000,
- (b) recovery of arrears of rent or other charges, or both, due under a tenancy of an amount, or an aggregate amount, of more than €60,000 or such lesser amount as would be applicable in the circumstances concerned by virtue of *section 115(3)(b)* or *(c)(ii)*.

(2) In this section “dispute” has the same meaning as it has in *Part 6*.

**183.**—(1) The Minister may, from time to time, issue to the Board such guidelines in relation to the performance of its functions under this Act (other than functions under *Part 6*) as he or she considers appropriate and the Board shall have regard to such guidelines in the performance of those functions.

Guidelines to Board.

(2) The Minister may amend or revoke guidelines issued under this section.

**184.**—(1) A provision of a lease or tenancy agreement in relation to a dwelling that imposes an obligation on a party (the “first party”) to do or refrain from doing any thing is void if, from all the circumstances (including any of the matters specified in *subsection (3)*), it is a reasonable inference that the sole or main purpose for the provision being included is that mentioned in *subsection (2)*.

Voidance of provisions designed to facilitate terminations.

(2) That purpose is to allow the other party (the “second party”) to serve a notice of termination in respect of the tenancy concerned (for a failure to comply with the provision) for any reason that suits the interests of that party at the particular time rather than because the failure to comply has occurred.

(3) The matters mentioned in *subsection (1)* are—

- (a) the provision concerned cannot, in its ordinary operation, be reasonably regarded as conferring any practical benefit on the second party or in respect of his or her interest in the dwelling,
- (b) compliance with the provision concerned by the first party is likely to be impracticable,
- (c) the terms in which the provision concerned is framed are such that the situations in which the provision must be complied with and those in which it need not be complied with are arbitrary.

(4) Any tenancy or sub-tenancy of a dwelling (the “first-mentioned tenancy”) purported to be created is void if, from all the cir-

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cumstances, it is a reasonable inference that it is a transaction not of a bona fide nature effected at arm's length but effected solely or mainly for the purpose of facilitating the termination (through collusion between some or all of the parties to that transaction) of any sub-tenancy created out of the first-mentioned tenancy.

(5) If the first-mentioned tenancy in *subsection (4)* is void by reason of that subsection any sub-tenancy created out of it that is not so void shall be deemed to be a tenancy held by the person in whose favour the sub-tenancy was granted from the person who purported to create the first-mentioned tenancy (but of no greater term than the term of the sub-tenancy).

Obligation to inform prospective sub-tenant of nature of tenancy.

**185.**—(1) A tenant of a dwelling who proposes to create in favour of any person a sub-tenancy out of the tenancy shall, before he or she—

(a) creates the sub-tenancy, or

(b) if its creation is preceded by the entering into of an agreement to create (whether the word “create” or any other word is used) such a tenancy, enters into that agreement,

inform the person of the fact that it is a sub-tenancy that will be created in the person's favour.

(2) A person who fails to comply with *subsection (1)* is guilty of an offence.

(3) If, in respect of the entering into of an agreement referred to in *paragraph (b)* of *subsection (1)*, a failure to comply with that subsection occurs, the agreement shall not be enforceable by the tenant referred to in that subsection.

Tenant may terminate where consent to assignment or sub-letting withheld.

**186.**—(1) This section has effect—

(a) despite the fact that the tenancy concerned is one for a fixed period, and

(b) despite anything to the contrary in the lease or tenancy agreement concerned.

(2) If a landlord of a dwelling refuses his or her consent to an assignment or sub-letting of the tenancy concerned by the tenant, the tenant may serve a notice of termination in respect of the tenancy and terminate it accordingly.

(3) The period of notice to be given by that notice of termination is—

(a) that specified in *section 66*, or

(b) such lesser period of notice as may be agreed between the landlord and the tenant in accordance with *section 69*,

even if the lease or tenancy agreement provides for a greater period of notice to be given.

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**187.**—(1) This section applies where a tenant of a dwelling which is one of a number of dwellings comprising an apartment complex makes a complaint of the kind referred to in *section 12(1)(h)* to the landlord of the dwelling and that complaint (the “relevant complaint”) is forwarded to the management company of the complex (the “relevant company”).

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Duty of management companies in relation to certain complaints.

(2) Where this section applies the relevant company, in performing any of its functions in relation to the apartment complex concerned, shall have regard to the relevant complaint and shall furnish to the landlord mentioned in *subsection (1)* (for the purpose of its being forwarded to the tenant concerned) a statement in writing as to the steps, if any, it has taken to deal with the matter or matters to which the complaint relates.

**188.**—(1) A tenant of a dwelling which is one of a number of dwellings comprising an apartment complex may request the management company (if any) of the complex (“the company”) to furnish to him or her particulars in writing of the service charges made by the company in respect of the dwelling in a specified period and how those charges have been calculated.

Provision of information in relation to service charges by management companies.

(2) Subject to *subsection (3)*, it shall be the duty of the company to comply with such a request.

(3) If the owner of the dwelling were to make a request of the company to furnish to him or her the particulars mentioned in *subsection (1)* and the company would not be obliged to furnish all of those particulars to him or her then the duty of the company under *subsection (2)* shall be read as extending only to the particulars that the company would be obliged to furnish to the owner were such a request to be made.

(4) In this section “service charges” means charges made by the company in respect of the performance of functions by it in relation to the apartment complex concerned.

**189.**—(1) In this section “dispute” means a dispute falling within the jurisdiction of the Board under *Part 6*.

Jurisdiction in aid of *Part 6* resolution procedure.

(2) The following provisions have effect if the circumstances giving rise to or involving the dispute are such that, were proceedings in the Circuit Court to be brought in relation to the dispute, it would be appropriate to apply to that court for interim or interlocutory relief in the matter.

(3) On being requested by the person (the “referrer”) who has referred or is referring a dispute to it to do so, the Board may apply, on the referrer’s behalf, to the Circuit Court for such interim or interlocutory relief in the matter as the Board considers appropriate.

(4) In deciding whether to accede to such a request the Board may have regard to—

- (a) the merits, as they appear to it, of the referrer’s contentions that will be dealt with by an adjudicator or the Tribunal,
- (b) the amount of damages the Board is likely to have to pay to the respondent to the application (on foot of an undertaking required of it by the court to pay such damages) in the event such damages have to be paid,



but the Board's opinion—

(i) that those contentions of the referrer are unlikely to be accepted by an adjudicator or the Tribunal, or

(ii) that the amount of those damages is likely to be substantial,

shall, in neither case, and without prejudice to *subsection (5)* be conclusive in favour of the Board's refusing to accede to the request if, in all the circumstances, the Board considers that it ought to accede to it.

(5) The fact of the Board's being of the opinion referred to in *subsection (4)(ii)* shall not be taken into account by it in deciding whether to accede to a request under *subsection (3)* if the referrer undertakes to defray in whole the amount of damages the Board may become liable to pay in the circumstances mentioned in *subsection (4)* and the Board is satisfied the referrer has the means to be able to comply with that undertaking.

(6) On application to the Circuit Court by the Board under this section, the Circuit Court may grant such interim or interlocutory relief in the matter as it thinks appropriate.

*Section 189:*  
supplemental  
provisions.

**190.**—(1) For the purpose of *section 189* there is, by virtue of this section, vested in the Circuit Court, with the modifications specified in *subsection (2)*, the jurisdiction vested in that court with respect to the grant, variation and discharge of interim or interlocutory relief in proceedings brought in that court in respect of any matter.

(2) The modifications mentioned in *subsection (1)* are that the rules of law (including those of equity) and enactments relating to the foregoing jurisdiction shall be construed and operate so as to enable the Circuit Court to—

(a) provide that any interlocutory relief granted by it, on foot of an application under *section 189*, may have effect until the final determination of the dispute concerned under *Part 6*,

(b) if it considers it appropriate so to provide, authorise an adjudicator or the Tribunal, as the case may be, to include in his or her or its determination under *section 97* or *108* in relation to a dispute an award of costs with respect to the application or applications under *section 189* in the matter.

(3) Costs the subject of such an award may be taxed in the same manner as costs the subject of an award made by the Circuit Court.

Long occupation  
equity (ability to  
renounce  
entitlement to it).

**191.**—(1) In this section the “Act of 1980” means the Landlord and Tenant (Amendment) Act 1980.

(2) On and from the relevant date, section 17(1)(a) of the Act of 1980 is amended by inserting the following subparagraph after subparagraph (iia) (inserted by the Landlord and Tenant (Amendment) Act 1994):

“(iib) if section 13(1)(b) applies to the tenement (and the tenement is a dwelling to which the *Residential Tenancies Act 2004* applies), the tenant had completed

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and signed, whether for or without valuable consideration, a renunciation of his or her entitlement to a new tenancy in the tenement and had received independent legal advice in relation to such renunciation, or”.

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(3) On and from the relevant date, section 85 of the Act of 1980 is amended by substituting the following subsection for subsection (2) (inserted by the Landlord and Tenant (Amendment) Act 1994):

“(2) Subsection (1) does not apply to a renunciation referred to in—

(a) subparagraph (iiia) (inserted by section 4 of the Landlord and Tenant (Amendment) Act 1994), or

(b) subparagraph (iiib) (inserted by *section 191* of the *Residential Tenancies Act 2004*),

of section 17(1)(a).”.

**192.**—(1) In this section “Act of 1980” has the same meaning as it has in *section 191*.

Long occupation equity (prospective abolition of entitlement to it).

(2) Subject to *subsection (3)*, on and from the fifth anniversary of the relevant date, Part II of the Act of 1980 shall not apply to a dwelling to which this Act applies.

(3) *Subsection (2)* does not have effect in relation to a dwelling in respect of which the tenant has served a notice of intention to claim relief under and in accordance with section 20 of the Act of 1980 before the fifth anniversary mentioned in that subsection.

(4) *Subsection (3)* is without prejudice to the generality of section 21 of the Interpretation Act 1937.

**193.**—None of the following enactments applies to a dwelling to which this Act applies—

Non-application of certain enactments.

(a) section 42 of the Landlord and Tenant Law Amendment Act Ireland 1860,

(b) section 14 of the Conveyancing Act 1881,

(c) sections 2, 3 and 4 of the Conveyancing and Law of Property Act 1892,

(d) sections 66, 67 and 68 of the Landlord and Tenant (Amendment) Act 1980, and

(e) section 16 of the Housing (Miscellaneous Provisions) Act 1992.

**194.**—*Subsections (1) to (4) of section 37* apply to a tenancy of a dwelling in so far as its operation is not affected by *Part 4* or to which that Part does not apply as those subsections apply to a *Part 4* tenancy.

Deemed termination of tenancy to which *Part 4* does not apply.

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Pr.9  
Proposed  
overholding under a  
fixed term tenancy.

**195.**—(1) In this section “relevant dwelling” means a dwelling, the subject of a tenancy that is for a fixed period of at least 6 months.

(2) The tenant of a relevant dwelling, if he or she intends to remain (on whatever basis, if any, that is open to him or her to do so) in occupation of the dwelling after the expiry of the period of the tenancy concerned, shall notify the landlord of that intention.

(3) That notification shall not be made to the landlord—

(a) any later than 1 month before, nor

(b) any sooner than 3 months before,

the expiry of the period of that tenancy.

(4) If a tenant fails to comply with *subsection (2)* and the landlord suffers loss or damage in consequence of that failure the landlord may make a complaint to the Board under *Part 6* that he or she has suffered such loss or damage.

(5) An adjudicator or the Tribunal, on the hearing of such a complaint, may make a determination, if the adjudicator or the Tribunal considers it proper to do so, that the tenant shall pay to the complainant an amount by way of damages for that loss or damage.

Equal Status Act  
2000 not prejudiced.

**196.**—Nothing in this Act—

(a) authorises conduct prohibited by section 6 of the Equal Status Act 2000, or

(b) operates to prejudice the powers under Part III of that Act to award redress in the case of such conduct.

Amendment of  
Housing  
(Miscellaneous  
Provisions) Act  
1997.

**197.**—The Housing (Miscellaneous Provisions) Act 1997 is amended—

(a) in section 1, by—

(i) substituting “Housing Acts 1966 to 2002 or Part V of the Planning and Development Act 2000” for “Housing Acts 1966 to 1997” in each place where those words occur, and

(ii) inserting the following definition after the definition of “housing authority”:

“ ‘relevant purchaser’ means—

(a) a person to whom a housing authority have sold a house under the Housing Acts 1966 to 2002, or

(b) a person in whom there subsequently becomes vested (whether for valuable consideration or not and including by means of inheritance) the interest of the person referred to in paragraph (a) of this definition in the house referred to in that paragraph;”

(b) by substituting the following section for section 3:

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“Excluding orders.

3.—(1) A tenant or relevant purchaser may, in respect of a house—

(a) let to the tenant by a housing authority, or

(b) in respect of which he or she is such a purchaser,

apply to the District Court for an order (to be known and referred to in this Act as an ‘excluding order’) against a person including, in the case of an application by a tenant, a joint tenant (referred to in this Act as ‘the respondent’) whom the tenant or relevant purchaser making the application believes to be engaging in anti-social behaviour.

(2) A housing authority may, in respect of a house referred to in subsection (1), apply to the District Court for an order (which shall also be known and is in this Act referred to as an ‘excluding order’) against a person, other than the tenant or relevant purchaser of the house, (in this Act also referred to as the ‘respondent’) whom the authority believe to be engaging in anti-social behaviour where the authority—

(a) having consulted the tenant or relevant purchaser and the health board in whose functional area the house is situate, believe that the tenant or relevant purchaser—

(i) may be deterred or prevented by violence, threat or fear from pursuing an application for an excluding order, or

(ii) does not intend, for whatever other reason, to make such an application,

and

(b) consider that, in the interest of good estate management, it is appropriate, in all the circumstances, to apply for the excluding order.

(3) Where the court, on application to it, is of the opinion that there are reasonable grounds for believing that the respondent is or has been engaged in anti-social behaviour it may by order—

(a) direct the respondent, if residing at the house in respect of which the application was made, to leave that house, and

(b) whether the respondent is or is not residing at the house—

- (i) prohibit the respondent for the period during which the order is in force from entering or being in the vicinity of that house or any other specified house or being in or in the vicinity of any specified area, being an area one or more of the houses in which are under the control and management of a housing authority, or
- (ii) prohibit the respondent, during the said period, from doing all or any of the things referred to in subparagraph (i) save where specified conditions are complied with.

(4) An excluding order may, if the court thinks fit, prohibit the respondent from causing or attempting to cause any intimidation, coercion, harassment or obstruction of, threat to, or interference with the tenant, relevant purchaser or other occupant of any house concerned.

(5) Where an excluding order has been made, the tenant, the relevant purchaser or the housing authority, as appropriate, or the respondent may apply to have it varied, and the court upon hearing the application shall make such order as it considers appropriate in the circumstances.

(6) An excluding order, whether made by the District Court or by the Circuit Court on appeal from the District Court, shall, subject to subsection (7) and section 9, expire three years after the date of its making or on the expiration of such shorter period as the court may provide for in the order.

(7) On or before the expiration of an excluding order to which subsection (6) relates, a further excluding order may be made by the District Court or by the Circuit Court on appeal from the District Court for a period of three years, or such shorter period as the court may provide for in the order, with effect from the date of expiration of the first-mentioned order.”,

(c) in section 3A (inserted by the Housing (Traveller Accommodation) Act 1998) by—

- (i) substituting in subsection (2) the following paragraph for paragraph (a):

“(a) having consulted the authorised person concerned and the health board in whose functional area the site is situate, believe that such authorised person—

- (i) may be deterred or prevented by violence, threat or fear from pursuing an application for a site excluding order, or

(ii) does not intend, for whatever other reason, to make such an application,

and”,

and

(ii) substituting in subsection (3) the following paragraph for paragraph (b):

“(b) whether the respondent is or is not residing at the site—

(i) prohibit the respondent for the period during which the order is in force from entering or being in the vicinity of that site or any other specified site or being on or being in or in the vicinity of any specified site, or

(ii) prohibit the respondent, during the said period, from doing all or any of the things referred to in subparagraph (i) save where specified conditions are complied with.”,

(d) by substituting the following sections for section 4:

“Interim  
excluding  
order

4.—(1) If, on the making of an application for an excluding order or between the making of the application and its determination, the court is of the opinion that there are reasonable grounds for believing that there is an immediate risk of significant harm to the tenant, relevant purchaser or other occupant of the house if the order is not made immediately, the court may by order (to be known and referred to in this Act as an ‘interim excluding order’)—

(a) direct the respondent, if residing at the house in respect of which the application was made, to leave that house, and

(b) whether the respondent is or is not residing at the house—

(i) prohibit the respondent from entering or being in the vicinity of that house or any other specified house or being in or in the vicinity of any specified area, being an area one or more of the houses in which are under the control and management of a housing authority, until further order of the court or until such other time as the court shall specify, or

(ii) prohibit the respondent, until such further order or time, from doing all or any of the things referred to in subparagraph (i) save where

specified conditions are complied with.

(2) Subsections (4) and (5) of section 3 shall apply to an interim excluding order as they apply to an excluding order.

(3) (a) An interim excluding order may be made *ex parte* where, having regard to the circumstances of the particular case, the court considers it necessary or expedient to do so in the interests of justice.

(b) The application for such an order shall be grounded on an affidavit or information sworn by the applicant.

(c) If an interim excluding order is made *ex parte*—

(i) a note of evidence given by the applicant shall be prepared forthwith—

(I) by the judge,

(II) by the applicant or the applicant's solicitor and approved by the judge, or

(III) as otherwise directed by the judge,

and

(ii) a copy of the order, affidavit or information and note shall be served on the respondent as soon as practicable.

(d) The order shall have effect for a period, not exceeding 8 working days, to be specified in the order, unless, on application by the applicant for the excluding order and on notice to the respondent, the interim excluding order is confirmed within that period by order of the court.

(e) The order shall contain a statement of the effect of paragraph (d).

(f) In paragraph (d) 'working days' means days other than Saturdays, Sundays or public holidays (within the meaning of the Organisation of Working Time Act 1997).

(4) An interim excluding order shall cease to have effect on the determination by the court of the application for an excluding order.

Provision for  
avoidance of  
doubt

4A.—For the avoidance of doubt—

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(a) no order may be made under section 3 or 4 directing anything to be done, or prohibiting anything from being done, in a housing estate none of the houses in which is under the control and management of a housing authority,

(b) a house shall, for the purposes of those sections and paragraph (a), be regarded as being under the control and management of a housing authority despite the fact that the authority has, under section 9 of the Housing (Miscellaneous Provisions) Act 1992, delegated all or one or more of its functions in respect of that house to a designated body.”,

(e) by substituting the following section for section 9:

“9.—(1) Where an excluding order or interim excluding order has been made, the tenant, the relevant purchaser or the housing authority, as appropriate, or the respondent may apply to the court that made the order to have the order discharged and thereupon the court shall discharge the order if it is of the opinion that, in all the circumstances, it is appropriate to do so.

(2) For the purposes of this section and section 3(5), an order made by a court on appeal from another court shall be treated as if it had been made by that other court.”,

and

(f) in section 14, by inserting the following subsections after subsection (3):

“(4) Notwithstanding anything contained in the enactments specified in subsection (5), a housing authority may refuse to sell or lease a dwelling to a person where the authority considers that the person is or has been engaged in anti-social behaviour or that a sale or lease to that person would not be in the interest of good estate management.

(5) The enactments mentioned in subsection (4) are:

(a) section 90 of the Housing Act 1966;

(b) section 3 of the Housing (Miscellaneous Provisions) Act 1992;

(c) section 6 of the Housing (Miscellaneous Provisions) Act 2002; and

(d) Part V of the Planning and Development Act 2000.”.

**198.**—The Housing Act 1966 is amended by deleting “(except tenants for a month or a less period than a month)” where those words occur in section 79(1) and article 4(b) of the Third Schedule. Amendment of  
Housing Act 1966.



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Pr.9  
Amendment of sections 58 and 60 of Landlord and Tenant (Amendment) Act 1980.

**199.**—(1) Section 58 of the Landlord and Tenant (Amendment) Act 1980 is amended by inserting in subsection (1)(b), after “section 13(1)(a)”, “or 13(1)(b)”.

(2) Section 60 of the Landlord and Tenant (Amendment) Act 1980 is amended—

(a) in subsection (1), by substituting the following definition for the definition of “obsolete area”:

“ ‘integrated area plan’ has the meaning assigned to it by section 7 of the Urban Renewal Act 1998.”,

and

(b) in subsection (2), by substituting “area to which an integrated area plan relates” for “obsolete area”.

Amendment of sections 3 and 20 of Housing (Miscellaneous Provisions) Act 1992.

**200.**—(1) Section 3(8)(b) of the Housing (Miscellaneous Provisions) Act 1992 is amended—

(a) in subparagraph (ii), by substituting “1978;” for “1978.”, and

(b) by inserting the following subparagraph after subparagraph (ii):

“(iii) section 60 of the Landlord and Tenant (Amendment) Act 1980.”.

(2) Section 20(8) of the Housing (Miscellaneous Provisions) Act 1992 is amended by substituting “by virtue of any requirement on landlords relating to the registration of tenancies” for “under this section”.

Amendment of section 34 of Housing (Miscellaneous Provisions) Act 1992.

**201.**—Section 34 of the Housing (Miscellaneous Provisions) Act 1992 is amended by substituting the following subsection for subsection (1):

“(1) Any person who, by act or omission, obstructs an authorised person in the lawful exercise of the powers conferred by, or who contravenes a provision of, or a regulation made under, section 17, 18 or 20 shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding €3,000 or imprisonment for a term not exceeding 6 months or both and if the obstruction or contravention is continued after conviction the person shall be guilty of a further offence on every day on which the obstruction or contravention continues and for each such offence shall be liable, on summary conviction, to a fine not exceeding €250.”.

Regulations to remove difficulties.

**202.**—If in any respect any difficulty arises during the period of 3 years after the commencement of this section in bringing any provision of this Act into operation or in relation to the operation of any such provision, the Minister may by regulations do anything that appears to the Minister to be necessary or expedient for the purposes of bringing that provision into operation or securing or facilitating its operation.

PROTECTION FOR SUB-TENANCIES CREATED OUT OF *Part 4* TENANCIES

1. In this Schedule—

“head-landlord” means the landlord under the *Part 4* tenancy concerned;

“head-tenant” means the tenant under the *Part 4* tenancy concerned;

“sub-tenant” means the person in whose favour the sub-tenancy concerned has been created;

“sub-tenancy” means the sub-tenancy referred to in *paragraph 2*;

“*Part 4* tenancy” includes a further *Part 4* tenancy and references to a *Part 4* tenancy continuing in being shall be construed as including references to—

- (a) if it occurs, the circumstance in which a further *Part 4* tenancy comes into being (in respect of the dwelling concerned) after that *Part 4* tenancy and continues in being, and
- (b) if it occurs, the circumstance in which a further *Part 4* tenancy comes into being (in respect of that dwelling) after the further *Part 4* tenancy mentioned in *subparagraph (a)* and continues in being, and
- (c) if it occurs, each further circumstance of the kind mentioned in *subparagraph (b)*.

2. (1) If a sub-tenancy is created out of a *Part 4* tenancy with the written consent of the landlord then the following protection applies for the benefit of the sub-tenant.

(2) Without prejudice to *paragraphs 5* and *6*, that protection is that that sub-tenancy shall (if it would not or might not do so otherwise) continue in being for so long as the *Part 4* tenancy continues in being unless it is sooner terminated under the provisions of *Part 4* as adapted by this Schedule.

3. *Paragraph (a)* of, and the Table to, *section 34* and *sections 35* to *39* apply in relation to the sub-tenancy as they apply in relation to a *Part 4* tenancy with the following modifications—

- (a) for references in them to a *Part 4* tenancy or a tenancy there shall be substituted references to the sub-tenancy,
- (b) for references in them to the landlord there shall be substituted references to the head-tenant,
- (c) for references in them to the tenant there shall be substituted references to the sub-tenant, and
- (d) in *paragraph (a)* of *section 34* for “on one or more of the grounds specified in the Table to this section” there shall be substituted “on one or more of the grounds specified in *paragraphs 1, 2* and *4* of the Table to this section”.

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4. (1) For so long as the sub-tenancy continues in being the following obligations of the head-landlord shall be owed to the sub-tenant, namely the obligations under *paragraphs (a) and (b) of section 12(1)* and, for the purpose of this paragraph—

- (a) the reference in that *paragraph (a)* to the tenant shall, for so long as the sub-tenancy continues in being, be construed as a reference to the sub-tenant, and
- (b) a dispute between the head-landlord and the sub-tenant with respect to compliance by the head-landlord with either or both of those obligations may be referred under *Part 6* to the Board for resolution.

(2) For so long as the sub-tenancy continues in being the following obligations of the sub-tenant shall be owed to the head-landlord, namely the obligations under *paragraphs (f) and (g) of section 16* and, for the purpose of this paragraph—

- (a) references in those paragraphs to the tenancy shall, for so long as the sub-tenancy continues in being, be construed as references to the sub-tenancy,
- (b) references in those paragraphs to the landlord shall, for so long as the sub-tenancy continues in being, be construed as references to the head-landlord, and
- (c) a dispute between the sub-tenant and the head-landlord with respect to compliance by the sub-tenant with either or both of those obligations may be referred under *Part 6* to the Board for resolution.

(3) Save to the extent provided by the foregoing subparagraphs, nothing in this paragraph affects the obligations owed—

- (a) by the head-landlord to the head-tenant (or the head-tenant to the head-landlord), or
- (b) by the head-tenant to the sub-tenant (or the sub-tenant to the head-tenant),

under the *Part 4* tenancy or the sub-tenancy, as appropriate.

5. In addition to the protection provided by *paragraph 2*, where the head-landlord serves a notice of termination in respect of the *Part 4* tenancy out of which the sub-tenancy has been created and does not include in that notice of termination a requirement to terminate the sub-tenancy, then — if the notice of termination is effective to terminate the *Part 4* tenancy — on that termination—

- (a) the sub-tenant shall become the tenant of that landlord and the sub-tenancy under which he or she held the dwelling concerned shall be deemed to be converted into that *Part 4* tenancy (without prejudice to the notice's effect as against the former head-tenant),
- (b) the terms of that *Part 4* tenancy under which he or she holds the dwelling concerned shall be those on which he or she held it under the sub-tenancy (subject to their not being inconsistent with this Act) unless he or she and that landlord agree to a variation of them,

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- (c) the period of that *Part 4* tenancy's duration shall, subject to SCH. *Chapter 3 of Part 4*, be the same as that which would have been its period of duration if the notice of termination mentioned in this paragraph had not been served.

6. *Subparagraphs (a), (b) and (c) of paragraph 5* also apply if the *Part 4* tenancy is validly terminated by the head-tenant and, for this purpose, the relevant references in that paragraph which precede those subparagraphs shall be read accordingly.

7. *Paragraphs 5 and 6* do not affect the liabilities (if any) of the sub-tenant to the head-tenant (or of the head-tenant to the sub-tenant) that have arisen by virtue of the sub-tenancy.

8. (1) This paragraph applies where—

- (a) the sub-tenant has vacated possession of the dwelling concerned on foot of a notice of termination served under *section 34(a)* (as adapted by this Schedule),
- (b) that notice of termination cited as the reason for the termination the ground specified in *paragraph 4* of the Table to *section 34* (as so adapted), and
- (c) the occupation by the person concerned mentioned in that paragraph does not take place within a reasonable time after the service of the notice or, in circumstances where such a requirement arises, the head-tenant does not comply with the requirement to make the offer referred to in that paragraph.

(2) Where this paragraph applies, the sub-tenant may make a complaint to the Board under *Part 6* that, by reason of the matters mentioned in *subparagraph (1)*, he or she has been unjustly deprived of possession of the dwelling concerned by the head-tenant.

(3) An adjudicator or the Tribunal, on the hearing of such a complaint, may make a determination, if the adjudicator or the Tribunal considers it proper to do so, that the head-tenant shall pay to the complainant an amount by way of damages for that deprivation of possession.

(4) For the avoidance of doubt—

- (a) this paragraph applies even though the sub-tenant vacated possession of the dwelling only after a dispute in relation to the validity of the notice of termination was finally determined under *Part 6* (but in such a case *subparagraph (1)* has effect as if the clause set out in the Table to this paragraph were substituted for *clause (c)* of that subparagraph), and
- (b) this paragraph is without prejudice to the sub-tenant's right to put in issue, in a dispute in relation to the validity of the notice of termination referred to the Board under *Part 6*, the bona fides of the intention of the head-tenant to do or, as appropriate, permit to be done the thing mentioned in the notice.

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- (c) the occupation by the person concerned mentioned in that paragraph does not take place within a reasonable time after the dispute in relation to the validity of the notice is finally determined under *Part 6* or, in circumstances where such a requirement arises, the head-tenant does not comply with the requirement to make the offer referred to in that paragraph.



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**RESIDENTIAL TENANCIES ACT 2004**

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**EXPLANATORY MEMORANDUM**

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*[This memorandum is not part of this Act and does not purport to be a legal interpretation.]*

*Background*

This Act provides for the implementation of reforms of the private rented sector recommended by the Commission on the Private Rented Residential Sector and accepted by the Government. It introduces a measure of security of tenure for tenants, specifies minimum obligations applying to landlords and tenants and provides for the establishment of a Private Residential Tenancies Board to resolve disputes arising in the sector, operate a system of tenancy registration and provide information and policy advice. The Act also contains provisions relating to rent setting and reviews and procedures for the termination of tenancies, including graduated notice periods linked to the duration of a tenancy. There are some consequential amendments to the existing landlord and tenant code.

**PART 1**

**PRELIMINARY AND GENERAL**

*(Sections 1 to 11)*

*Sections 1 to 11* contain the usual provisions of a general nature dealing with such matters as citation, commencement, interpretation (see *sections 4* and *5* for definitions of various terms), service of notices, offences, regulations and orders and expenses. *Section 3* spells out the scope of this Act. It does not apply to formerly rent controlled and long occupation lease tenancies and to holiday or business lettings. It also does not apply to owner-occupied or social housing. It applies to rented dwellings where the landlord's spouse, child or parent is a resident if a lease or written tenancy agreement has been entered into.

*Section 10* provides for repeals, including the Housing (Registration of Rented Houses) Regulations 1996, which are replaced by the registration requirements in *Part 7* of the Act.

**PART 2**

**TENANCY OBLIGATIONS OF LANDLORDS AND TENANTS**

*(Sections 12 to 18)*

This *Part* specifies explicit obligations that apply to landlords and tenants of all tenancies regardless of whether or not there is a written

tenancy agreement. In relation to the maintenance of rented dwellings, it imposes an explicit requirement on landlords to maintain the structure of the building and to maintain the interior to the standard that applied at the commencement of the letting. There is a corresponding responsibility on the tenant to remedy any disrepair (other than normal wear and tear) attributable to the tenant's acts or omissions. The obligations applying to tenants include a prohibition on anti-social behaviour. There is an explicit onus on landlords to enforce tenant obligations. Failure to do so will enable another party, who can show that he/she is adversely affected by a tenant's non-compliance with the tenancy obligations, to refer a complaint to the Board concerning the landlord's failure to enforce. Landlords are prohibited from penalising tenants who have referred a dispute to the Board.

#### *Chapter 1 — Provisions regarding landlord's obligations*

*Section 12* lists explicit tenancy obligations applying to all landlords. These relate to allowing the tenant to enjoy peaceful and exclusive occupation, carrying out repairs, insuring the dwelling, providing a point of contact, refunding deposits and reimbursing tenants for expenditure on repairs that were appropriate to the landlord. Certain responsibilities of management companies of apartment complexes with regard to complaints are also specified.

*Section 13* enables the Private Residential Tenancies Board (the Board) to make regulations, where considered appropriate, specifying what parts of a dwelling constitute the structure or interior for the purpose of *section 12*.

*Section 14* prohibits landlords from penalising tenants who have referred a dispute to the Board or from penalising those who make a complaint to a public authority or to the Garda Síochána.

*Section 15* imposes a duty on landlords to enforce the obligations of a tenant so that a third party directly affected by a failure to do so may refer a complaint to the Board under *section 77*.

#### *Chapter 2 — Provisions regarding tenant's obligations*

*Section 16* lists explicit tenancy obligations applying to all tenants. These relate to the paying of rent and any other charges specified in a lease or tenancy agreement, ensuring no act or omission causes the landlord to be non-compliant with relevant obligations (including the provisions of the Housing (Standards for Rented Houses) Regulations 1993), notifying the landlord of any repair requirements and allowing access for repairs to be carried out and by appointment for routine inspections. They also relate to the obligation not to do anything to cause the dwelling to deteriorate beyond normal wear and tear, and if done, to make good such damage, not to engage in or allow anti-social behaviour or act in a way that would invalidate the landlord's insurance and to pay any increase in the insurance premium that is attributable to the tenant, not to assign, sub-let, alter, improve or change the use of the dwelling without the landlord's written consent and to keep the landlord informed of the identity of the occupants.

*Section 17* expands on certain references in *section 16* including defining anti-social behaviour as behaviour within the dwelling that constitutes the commission of an offence, causes fear, danger, injury, damage or loss, or includes violence, intimidation, coercion, harassment, obstruction or threats. It also includes persistent behaviour that prevents or interferes with the peaceful occupation of their dwellings by others in the building or its vicinity.

*Section 18* prohibits written tenancy agreements from varying, modifying or restricting these basic landlord and tenant obligations but allows such agreements to impose additional obligations on the landlord or on the tenant.

### PART 3

#### RENT AND RENT REVIEWS

(*Sections 19 to 24*)

This Part deals with rent setting and rent reviewing. The rent payable may not be greater than the open market rate as defined in *section 24*. Rent reviews should be no more frequent than once a year unless there has been a substantial change in the nature of the accommodation in the interim. Rents may be reviewed upwards or downwards. There are some provisions relating to disputes about rents.

*Section 19* prohibits an initial or reviewed rent from being set at an amount greater than the market rent.

*Section 20* provides that rent reviews may take place no more frequently than once a year unless there has been a substantial change in the nature of the accommodation in the interim.

*Section 21* allows either party to seek a rent review under *section 20* in circumstances where provision is not made for one by way of a lease or tenancy agreement.

*Section 22* requires the tenant to be given 28 days written notice of any rent revision and allows a tenant to refer to the Board a dispute about such a rent only within that period or within 28 days of its receipt, whichever is later.

*Section 23* entitles a person owed arrears of rent to recover such arrears under the dispute resolution procedures in *Part 6*.

*Section 24* defines market rent as the rent that a willing tenant would give and a willing landlord would take for vacant possession having regard to the other tenancy terms and the letting values of dwellings of a similar size, type and character and located in a similar area. The definition is based on that applying to “gross rent” in the Landlord and Tenant (Amendment) Act 1980 (the 1980 Act). It also defines references in Part 3 to reviews of rent and setting of a rent.

### PART 4

#### SECURITY OF TENURE

(*Sections 25 to 56*)

This Part provides for security of tenure on the basis of 4-year cycles whereby tenancies will be deemed terminated at the end of each 4-year period and a new tenancy will come into being, assuming the dwelling continues to be let to the same person/s. For the first 6 months of each tenancy, the landlord will be free to terminate without giving a reason. For the remaining 3½ years, termination will only be possible where one of the grounds specified in *section 34* applies. The first cycle of these tenancies is called a “*Part 4* tenancy” and each subsequent one is called a “further *Part 4* tenancy” in the Act.



The tenant will be free to terminate at any time, subject to any fixed term agreement. Longer notice periods linked to the duration of the tenancy will apply to both landlords and tenants. *Part 5* contains the provisions relating to terminations. More detailed aspects of the application of the security of tenure measure to sub-tenancies are contained in the Schedule to the Act.

#### *Chapter 1 — Preliminary*

*Section 25* provides that the security of tenure measure does not apply in respect of a tenancy of a house that is divided into two where the landlord is residing in the other dwelling and notifies the tenant in writing at the outset of the non-application of the measure. It also provides that *Part 4* does not apply to “section 50” student accommodation or to employment-related lettings.

*Section 26* provides that this Part does not take from a tenant more beneficial rights that a particular tenant may have (for example, under a long lease).

#### *Chapter 2 — Statement of essential protection enjoyed by tenants*

*Section 27* provides that occupation before this Part is commenced is to be disregarded so that the 4-year tenancy cycle starts from the commencement date of this Part for all tenancies in existence when the Act comes into force.

*Section 28* provides that the 4-year statutory protection comes into existence when the tenancy has lasted 6 months from its commencement or from the Act coming into force and for its lasting four years in total (or until a notice period bringing it beyond the four years has expired), unless terminated in accordance with the Act.

*Section 29* provides that a tenancy that has qualified for the statutory protection contained in *section 28* shall be known as a “*Part 4* tenancy”.

*Section 30* applies to the *Part 4* tenancy the terms of the previous tenancy of which it is a continuation, unless varied by agreement between the parties or inconsistent with the Act.

*Section 31* construes a series of continuous separate fixed term tenancies as continuous occupation for the purposes of qualifying for a *Part 4* tenancy.

*Section 32* prohibits the sub-letting of part only of a dwelling and provides for protection to be afforded to a sub-tenant as contained in the Schedule to the Act.

#### *Chapter 3 — Termination of Part 4 tenancy*

*Section 33* prohibits a landlord from terminating a *Part 4* tenancy except in accordance with *section 34*.

*Section 34* contains the grounds for terminating a *Part 4* tenancy, most of which are listed in the Table to the section. They are; (1) a failure by the tenant to comply with the obligations of the tenancy, (2) the dwelling being no longer suited to the accommodation needs of the occupying household by reference to the number of bedspaces, (3) the landlord intending to enter into a contract to sell the dwelling in the next 3 months, (4) the landlord requiring the dwelling for own or family member occupation, (5) the landlord intending to refurbish substantially the dwelling such that vacant possession would be required, or (6) the landlord intending to change the business use of the dwelling. Any of these grounds must be cited in the termination notice. In addition a landlord may terminate on the basis that the 4

years are expired. Where termination is by reason of the tenant's failure to comply with the tenancy obligations, the tenant must first be notified of the failure and the intention to terminate if the failure is not remedied within a specified reasonable time. The exception to this is in the case of serious anti-social behaviour that falls within the definition in *paragraphs (a) and (b) of section 17(1)*. Grounds (4), (5) and (6) of the Table must be accompanied by a statement notifying the tenant that he/she may exercise an option to be offered reinstatement should the property become available for re-letting after the refurbishment work or within 6 months of the change of use or occupation by the landlord or a family member. This entitlement would apply only where the tenant keeps the landlord notified of his/her contact details.

*Section 35* clarifies certain terms in *section 34* including what is meant by remedying a failure to comply with a tenancy obligation and the contact details requirement, the scope of the term "family member" and the consequences of accepting an offer of reinstatement.

*Section 36* clarifies that the tenant may, at any time, terminate the *Part 4* tenancy, subject to giving the required amount of notice.

*Section 37* provides that, if a tenant who is in arrears of rent vacates the dwelling without giving the landlord the required amount of notice or if a tenant at least 28 days in arrears of rent vacates without any notice, the *Part 4* tenancy is deemed to be terminated so that the landlord can recover possession.

*Section 38* deals with the assignment of a *Part 4* tenancy, which requires the landlord's consent. Where it is assigned to a person who is not a sub-tenant of the dwelling concerned, the tenancy is converted into a periodic tenancy, the assignor's *Part 4* protection ceases and the assignee's tenancy will not become a *Part 4* tenancy until the assignee has been in occupation for 6 months. Where it is assigned to a sub-tenant of the dwelling, the assignor's *Part 4* protection ceases, the assignee's sub-tenancy merges with the *Part 4* tenancy and the assignee continues to have the benefit of the *Part 4* tenancy for the remainder of the 4 years, subject to the same terms and conditions unless varied by agreement.

*Section 39* deems a *Part 4* tenancy to be terminated on the death of the tenant. The tenancy is not terminated where a family member who resided with the dead tenant opts to become tenant.

#### *Chapter 4 — Additional statutory right — further Part 4 tenancy*

*Section 40* is a technical interpretation section.

*Section 41* provides that a new tenancy comes into being on the expiry of the 4-year period unless a termination notice has been validly served. This tenancy is termed a "further *Part 4* tenancy" and lasts for 4 years unless terminated by the tenant or by the landlord in the first 6 months (see *section 42*) or on one of the grounds listed in *section 34*.

*Section 42* allows a landlord to terminate, in the first 6 months of a further *Part 4* tenancy, without specifying a ground, by giving the tenant 112 days (16 weeks) notice — this is the maximum notice period under the Act.

#### *Chapter 5 — Successive further Part 4 tenancies may arise*

*Section 43* explains that the rights to further *Part 4* tenancies are of a rolling nature, as indicated in *section 45*, and successive such

tenancies will arise if not previously terminated in accordance with the provisions in this Act.

*Section 44* is a technical construction section.

*Section 45* provides that another further *Part 4* tenancy comes into being on the expiry of the previous further *Part 4* tenancy unless a termination notice has been validly served. This further *Part 4* tenancy also lasts for 4 years unless terminated by the tenant or by the landlord in the first 6 months or on one of the grounds listed in *section 34*.

*Section 46* applies to the further *Part 4* tenancy the terms of the previous tenancy (either the initial *Part 4* tenancy or a previous further *Part 4* tenancy) as appropriate and unless varied, consistent with the Act, by agreement between the parties.

*Section 47* is another technical section catering for the application to a further *Part 4* tenancy of earlier provisions in the Act as appropriately modified in the accompanying Table.

#### *Chapter 6 — Rules governing operation of Part in cases of multiple occupants*

*Section 48* is an interpretation section defining “multiple tenants” as 2 or more persons who are tenants of a single dwelling.

*Section 49* provides that the 4-year security of tenure measure applies to a dwelling occupied by multiple tenants, together with any of their lawful licensees, from the earliest date at which a multiple tenant has been in occupation for 6 months.

*Section 50* provides that, once a *Part 4* tenancy has come into being, each multiple tenant in occupation before then and any person accepted by the landlord as tenant after that, benefits from the protection of that *Part 4* tenancy once their occupation (whether as tenant or licensee) has lasted a continuous period of 6 months. It further provides that any lawful licensee of a tenant or multiple tenants may, during the existence of a *Part 4* tenancy, request to be allowed to become a tenant and the landlord may not unreasonably refuse such a request — acceptance is to be acknowledged in writing. The rights, restrictions and obligations of a tenant will then apply to the former licensee, except that the *Part 4* protection will not apply until the former licensee has completed 6 months of continuous occupation.

*Section 51* provides that the actions of one multiple tenant in breach of the obligations applying to the tenancy will be grounds for the termination of the *Part 4* tenancy only if done with the consent of the other multiple tenants. A landlord may conclude that the breach was done with the consent of any tenant who does not assist the landlord in identifying the tenant responsible for the breach and any tenant who consented to it. If the landlord concludes that not all of the tenants were complicit in the breach, he/she may terminate the benefit of the protection of the *Part 4* tenancy for the relevant person/s only. A dispute in relation to this matter may be determined under the dispute resolution procedures in *Part 6*.

*Section 52* provides that the death or vacating of the dwelling by the person whose occupation gave rise to the *Part 4* tenancy does not deprive the other tenants of the benefit of that protection.

*Section 53* clarifies that the later qualification for the benefit of the protection of a *Part 4* tenancy as provided for in *section 50* does not

have the effect of bringing separate *Part 4* tenancies into existence in respect of the one dwelling.

#### *Chapter 7 — Miscellaneous*

*Section 54* prohibits the parties to a tenancy from entering into a contract that varies, modifies or restricts the provisions contained in this Part, unless to give the tenant greater security of tenure in accordance with *section 26*.

*Section 55* clarifies that nothing in the Act can be used to prevent a tenant from exercising his or her entitlement to a long occupation equity lease under section 13 of the 1980 Act (subject to *section 192*).

*Section 56* allows a tenant to bring a complaint to the Board that he/she was unjustly deprived of possession where his/her tenancy was terminated on the basis of one of the grounds listed in *section 34* (relating to a landlord's intentions) and the ground turned out to be false, or an offer of re-instatement required to be made was not so made. The Board may, if appropriate, award damages in such cases. (This is subject to an upper limit of €20,000 in *section 183*.)

## PART 5

### TENANCY TERMINATIONS — NOTICE PERIODS AND OTHER PROCEDURAL REQUIREMENTS

(*Sections 57 to 74*)

This Part is complementary to *Part 4* and specifies the procedures to be followed so as to terminate validly a tenancy. Termination is to be by way of a termination notice regardless of the reason for the termination. The Part introduces graduated notice periods linked to the duration of the tenancy and these are listed in the Tables to *section 66* — *Table 1* applies to landlords and *Table 2* applies to tenants. It also details procedures applicable where a sub-tenancy has been created out of the tenancy that is being terminated.

#### *Chapter 1 — Scope of Part and interpretation provisions*

*Section 57* clarifies that the Part applies to all tenancies to which the Act applies (including those excluded in *section 25*).

*Section 58* makes it absolutely clear that the termination of tenancies is to be done in accordance with the provisions contained in this Part only. (Therefore landlords will no longer be able to utilise means such as forfeiture and re-entry so as to recover possession of a dwelling.)

*Section 59* excludes from application any existing rules of law or provisions of enactments relating to termination of tenancies and to notice periods in particular, but this is subject to *section 60*.

*Section 60* provides that where a greater notice period than that specified in this Part is required by any lease or tenancy agreement that greater notice period shall apply, subject to a maximum notice period of 70 days in the case of a tenancy that has lasted less than 6 months.

*Section 61* is a technical construction section providing that notice periods commence on the day following service of the notice and that references in the Part to the duration of a tenancy are to the period between its commencement date (for the purpose of the Act) and the date of service of the termination notice.

### *Chapter 2 — What a valid notice of termination must contain*

*Section 62* lists the requirements for a termination notice to be valid. It must be in writing, be signed by the person serving it, specify the date of service, the date the tenancy will terminate and the *section 34* termination ground (where issued by the landlord and the tenancy duration exceeds 6 months). It must also advise the recipient that any dispute as to the validity of the notice may only be referred to the Board within 28 days of its receipt. Additional requirements relating to the termination of sub-tenancies are in *Chapter 4*.

*Section 63* provides that the date to be specified in the notice as the termination date is the last day of the period of notice required to be given under *section 66* or such longer period as the party chooses to give.

*Section 64* clarifies that a date of service specified in the notice is not valid if any of the steps involved in serving the notice remains untaken on that specified date.

### *Chapter 3 — Period of notice to be given*

*Section 65* outlines the purpose of the chapter and clarifies that, unlike the termination date, the amount of notice being given in the notice of termination is not required to be stated therein and that either party may choose to give a greater period of notice than that required by *section 66*, (subject to a maximum of 70 days where the tenancy has lasted less than 6 months).

*Section 66* specifies the standard notice periods for termination of a tenancy. These range from 4 weeks where the tenancy has lasted less than 6 months to 12 weeks where a landlord issues notice in the 4th year. The maximum notice required to be given by a tenant is 8 weeks and this will apply where the tenancy has lasted 2 or more years. Termination by the landlord during the first 6 months of a further *Part 4* tenancy requires 112 days (16 weeks) notice. *Sections 67* and *68* specify shorter notice periods in the case of terminations by reason of failure (by tenant or landlord, respectively) to comply with the tenancy obligations.

*Section 67* specifies the shorter notice periods applicable where the termination of the tenancy by the landlord is due to the tenant's failure to comply with the tenancy obligations. In the case of serious anti-social behaviour falling within the definition in *paragraphs (a)* and *(b)* of *section 17(1)* or behaviour that is threatening to the dwelling or property containing the dwelling, the notice period is 7 days. For other un-remedied breaches of the tenant's obligations, the notice period is 28 days and where termination is for the non-payment of rent, the notice can be served once 14 days have elapsed from the service of notice to the tenant seeking the rent due.

*Section 68* specifies the shorter notice periods applicable where the termination of the tenancy by the tenant is due to the landlord's failure to comply with the tenancy obligations. Where the landlord has been notified of the breach and has failed to remedy it within a reasonable time, the notice to be given by the tenant is 28 days. Where a breach by the landlord of a tenant's right to peaceful occupation involves behaviour that poses an imminent danger of death or serious injury or danger to the fabric of the dwelling, the notice period is 7 days.

*Section 69* allows the parties to agree to any lesser notice period that they choose but this can only be done when one party has been advised of the other party's decision to terminate and such an agreement cannot be made when a tenancy is being entered into.

*Chapter 4 — Additional requirements and procedures where tenancy sub-let*

*Section 70* requires the landlord of a tenancy that has been sub-let to indicate in a notice of termination served in respect of the head-tenancy whether or not he/she requires the sub-tenancy to be terminated. If the sub-tenancy is required to be terminated, the landlord must also serve a copy of the notice of termination on the sub-tenant.

*Section 71* requires a head-tenant, who is not disputing the validity of a termination notice served on him/her, to serve a notice of termination on the sub-tenant within 28 days.

*Section 72* requires a head-tenant, who has received a notice of termination indicating that termination of the sub-tenancy is not required, to notify the sub-tenant within 28 days of the contents of the termination notice and, where the head-tenant is referring a dispute as to the validity of that notice to the Board, of that referral. Where a dispute referral results in a determination order of the Board, the head-tenant must notify the sub-tenant of the particulars of the order within 14 days of receipt.

*Chapter 5 — Miscellaneous*

*Section 73* provides that where a tenancy is being terminated by all of the multiple tenants, one of the tenants may sign on behalf of the others named in the notice

*Section 74* makes it an offence to purport to serve an invalid notice of termination and then act in reliance on it in a way that adversely affects the interests of the person on whom it was served.

## PART 6

### DISPUTE RESOLUTION

*(Sections 75 to 126)*

The principal function being assigned to the Private Residential Tenancies Board being established under *Part 8* is the resolution of all disputes arising between landlords and tenants of dwellings to which this Act applies. The Board's dispute resolution function will replace the current role of the courts in relation to such matters for these tenancies. The Board will, for example, deal with disputes about the refund of deposits that are currently dealt with by the Small Claims Court, disputes about breaches of tenancy obligations whether arising from the provisions of this Act or under a tenancy agreement and disputes surrounding the termination of tenancies in accordance with the provisions of this Act. In relation to rents, the Board will deal with cases relating to rent arrears and disputes about whether a rent sought exceeds market rent. *Part 6* details the dispute resolution procedures that will be followed by the Board. The process consists of two stages; stage one is either mediation or adjudication and is confidential, and stage two is a public hearing by a Tenancy Tribunal. The Tribunal is composed of 3 persons drawn from the Board's Dispute Resolution Committee and is described in *section 103*. A mediated agreement or the determination of an adjudicator or of a Tribunal will result in a determination order of the Board. The Tribunal's determination of a matter may be appealed to the High Court within 21 days on a point of law only. The enforcement of determination orders of the Board that are not complied with will be through the Circuit Court in accordance with the provisions in *section 124*.

### *Chapter 1 — Referral of matters to Board for resolution*

*Section 75* is an interpretation section and provides that referrals to the Board of disputes may be for the purposes of mediation, determination by an adjudicator or determination by the Tribunal. It construes disputes as including disagreements and complaints under *sections 56, 76, 77 and 195* and the *Schedule*. It construes parties as including, where appropriate, legal personal representatives, licensees and complainants under *section 77*.

*Section 76* allows disputes to be referred to the Board relating to terminated tenancies (except about an amount of rent agreed and paid by the former tenant) and to situations where the landlord is disputing the existence of a tenancy with a person claiming entitlement to the rights of a tenant through a person who is/was the tenant. It also provides for the referral of disputes by a licensee on the basis of an unreasonable refusal of consent to his/her becoming a tenant in accordance with *section 50*.

*Section 77* provides for the referral to the Board of a complaint by a third party (referred to in *section 15*) affected by a landlord's failure to enforce the obligations of the tenancy. For the purpose of making contact before referring a complaint the Board may furnish the third party with the landlord's name and address.

*Section 78* contains a non-exhaustive list of the types of disputes and complaints that may be referred to the Board

*Section 79* allows the referral of more than one dispute at a time.

*Section 80* provides that disputes arising from the service of a termination notice may only be referred within 28 days of receipt of the notice.

*Section 81* deals with the situation where a landlord, in terminating the head-tenancy of a tenancy that has been sub-let, has indicated, in accordance with *section 70*, a requirement for the sub-tenancy to be terminated and the head-tenant intends to refer to the Board a dispute about the termination of the head-tenancy. In such circumstances the head-tenant, when serving the termination notice on the sub-tenant, must require the sub-tenant to inform him/her within 10 days of receipt of the notice whether the sub-tenant also intends to refer a dispute about the termination and the head-tenant may not refer the dispute until 15 days have elapsed from service of the required notice. Non-compliance with their respective obligations under the provisions in this section will disqualify the head-tenant and sub-tenant from eligibility to refer a dispute about the termination.

*Section 82* allows for the withdrawal of a matter referred to the Board by the referring party. Costs and expenses may be awarded against the party withdrawing the matter if the other party objects to the withdrawal.

*Section 83* prohibits the Board from dealing with any dispute until the appropriate referral fee has been paid and, if referred by the landlord, the tenancy has been registered in accordance with *Part 7*.

*Section 84* provides that where the Board is of the opinion that a dispute concerns a dwelling to which the Act does not apply or does not come within the Board's jurisdiction, or the matter is vexatious or frivolous or would be statute-barred in the context of court proceedings, it must serve a notice on the referring party of that opinion and provide an opportunity for that party to make a submission as

to why the Board should deal with the matter. If the Board then finds that its decision not to deal with the matter was not well founded, it must then proceed to deal with it. There is provision for an appeal to the Circuit Court.

*Section 85* provides similarly for an adjudicator or Tenancy Tribunal to come to a conclusion that a dispute is not appropriate to be dealt with (but not where the process in *section 84* was gone through and the dispute was accepted or directed to be dealt with by the Circuit Court).

*Section 86* prohibits a rent increase until a dispute concerning the appropriate rent amount has been determined unless the parties agree otherwise. It prohibits a termination from becoming effective in certain circumstances, pending determination of a pre-existing dispute. It explicitly provides that rent continues to be payable in respect of a tenancy and any sub-tenancy while a dispute is not yet determined by the Board, unless the parties agree otherwise.

*Section 87* requires the Board to disregard any remedial action taken by a party, subsequent to the termination of a tenancy for a failure to comply with the tenancy obligations, in dealing with a dispute relating to that termination.

*Section 88* empowers the Board to extend time limits imposed by the Act for referring disputes to the Board where the applicant shows good grounds for such an extension. There is provision for an appeal to the Circuit Court.

#### *Chapter 2 — Relationship between Part and certain other dispute resolution mechanisms*

*Section 89* provides that any dispute that is the subject of court proceedings that are ongoing at the time the Board is established, may, by agreement between the parties, be referred to the Board on foot of the discontinuance of the proceedings.

*Section 90* provides that an arbitration agreement may not operate to prevent a dispute being referred to the Board for resolution, unless the tenant consents to arbitration when the dispute has arisen.

*Section 91* provides that, where an alternative legal remedy is available in respect of a matter that is in dispute and is availed of by a person, he/she may not refer that dispute to the Board. In such cases, if the other party to the dispute refers it to the Board, the Board will take into account that alternative remedy in deciding the relief that may be granted.

#### *Chapter 3 — Preliminary steps by Board (include power to refer matter to Tribunal)*

*Section 92* allows the Board to communicate with the parties to a dispute to ensure that they are fully informed as to the issues in dispute and, where the dispute appears to derive from a basic misunderstanding as to the rights and obligations of landlords and tenants, to enable the issues be resolved by agreement between the parties at the earliest possible stage. The section applies conditions to such communication.

*Section 93* requires the Board to offer mediation to the parties unless it is a dispute that the Board considers should go direct to a Tenancy Tribunal, as provided for in *section 94(b)*, or *section 189* applies. If the offer of mediation is accepted by both parties, the dispute will be referred to a mediator from a panel established by



the Board under *section 164*. Otherwise, the dispute will be referred to an adjudicator from a panel also established under *section 164*.

*Section 94* exempts the Board from the requirement to offer mediation in circumstances where the offer would be inappropriate.

#### *Chapter 4 — Mediation and adjudication*

*Section 95* sets out the process and objective involved in mediation and the matters that must be contained in the subsequent mediation report, including a summary of the agreement (if any) reached between the parties, that is to be subsequently provided to the Director of the Board. (The report goes to the Director with only an extract relating to the agreement being given to the Board due to the absolute confidentiality of the mediation process.)

*Section 96* requires the Board to furnish the parties with a copy of any agreement referred to in the mediator's report with a notice asking them to confirm that agreement within 21 days. Unless notified during that period that the agreement no longer exists, the Board shall proceed to make a determination order reflecting it within the following 7 days. If an agreement no longer exists or never existed, the Board shall refer the dispute to the Tribunal for determination at the request of either or both of the parties.

*Section 97* sets out the process and objective involved in adjudication and provides that the adjudicator shall determine the dispute by reaching his/her own decision or by reflecting any agreement reached between the parties in the course of the adjudication, whether independently or on foot of a provisional conclusion indicated to both parties by the adjudicator.

*Section 98* gives the parties a 21-day "cooling off" period within which to indicate that an agreement, which the adjudicator proposes to reflect in his/her decision, no longer exists (as otherwise such an adjudication decision is binding). If either party indicates, within the time allowed, that the agreement no longer exists, the adjudicator shall proceed to reach his/her own decision in the matter.

*Section 99* stipulates the matters that the adjudicator's report, on foot of a determination of a dispute, shall contain. A copy of the report is to be served by the Board on the parties together with a statement advising them that the adjudicator's decision will be the subject of a determination order of the Board unless a non-binding adjudication decision is appealed within 21 days in accordance with *section 100*.

*Section 101* imposes certain requirements on mediators and adjudicators in relation to the disclosure of potential conflicts of interest, the manner in which they conduct themselves and the maintenance of the absolute confidentiality of the proceedings.

#### *Chapter 5 — Tenancy Tribunal*

*Sections 102* and *103* deal with the setting up of Tenancy Tribunals by the Board to hold one or more hearings into disputes that have been referred directly to the Tribunal or for which mediation has failed to result in a resolution or where a party appeals the decision of an adjudicator. The Tribunal will consist of 3 members drawn from the Board's Dispute Resolution Committee (see *sections 157* and *159*) and will be chaired by a Board member where one is a member of the Tribunal.

## *Chapter 6 — Dispute resolution by Tribunal*

*Section 104* stipulates the period and content of hearing notices and provides that each of the parties shall be entitled to be heard, to be represented and to present evidence and witnesses at the hearing.

*Section 105* enables the Tribunal to hear evidence under oath, to summon witnesses and to require the furnishing of documentation. Witnesses may be cross-examined and will be entitled to the same immunities and privileges as if before the High Court. Any party failing to comply with a legal request of the Tribunal will be guilty of an offence. Reasonable expenses incurred by any person summoned to appear before the Tribunal may be reimbursed.

*Section 106* provides that the Tribunal's hearings shall be held in public but enables the Tribunal, where it considers it appropriate, to direct that the identity of one or more of the parties not be disclosed.

*Section 107* allows the Tribunal to adjourn a hearing.

*Section 108* requires the Tribunal to make a determination and notify it to the Board on completion of its hearing.

## *Chapter 7 — Supplementary procedural matters*

*Section 109* requires the Board, with the consent of the Minister, to make procedural rules relating to dispute resolution. Such rules may include the specification of fees, notification requirements and time limits applicable to various stages of the process.

*Section 110* provides that a tenant may not bring the landlord's title to the property into question in any dispute. (This is similar to section 101 of the Landlord and Tenant Law Amendment Act Ireland 1860 (Deasy's Act)).

*Section 111* empowers a mediator, adjudicator, member of the Tribunal or Board, dealing with a dispute, on giving at least 24 hours notice where the occupant is not participating in the dispute resolution process, to enter and inspect any dwelling to which the dispute relates. The power may also be exercised by a person with relevant expertise authorised in writing to act on behalf of the Board. The obstruction of the exercise of these powers is an offence.

*Section 112* prohibits a mediator or adjudicator from disclosing any statement or information of a confidential nature supplied during the performance of his or her functions, except in certain limited circumstances including consent by the party to its disclosure or disclosure for the purpose of legal proceedings under *section 113*. Contravention of this provision is an offence.

*Section 113* makes it an offence knowingly to provide false or misleading information to an adjudicator, the Tribunal or the Board in the performance of any of their functions.

*Section 114* provides that the Board, a Tribunal, a mediator or an adjudicator enjoys absolute privilege for the purposes of the defamation laws in relation to documents and communications in connection with proceedings under Part 6 and enjoys qualified privilege in relation to documents and communications in connection with the performance of functions under the Act that are not actual *Part 6* proceedings.

## *Chapter 8 — Redress that may be granted under this Part*

*Section 115* empowers an adjudicator or a Tribunal in making a determination to include directions for the purpose of providing

relief to one or more of the parties as appropriate relating to matters such as the award of costs, damages (up to €20,000) and expenses, recovery of Board costs, directions to pay a specified rent amount, directions to vacate a dwelling or set aside a lease term, a declaration of a right to continue in occupation, etc.

*Section 116* provides that a determination directing the tenant to quit a dwelling may also require any sub-tenant to quit the dwelling in the circumstances where the landlord has indicated a requirement for the termination of the sub-tenancy by the head-tenant.

*Section 117* allows an adjudicator or Tribunal to make a determination order for the purposes of providing relief of an interim nature, pending the making of a final determination that may provide for different relief.

*Section 118* gives the Board discretion not to allow a party wrongly deprived of possession of a dwelling to resume possession in circumstances where another party, who is not party to the dispute and was not complicit in the deprivation, is now in possession of the dwelling. Instead, in such circumstances, the Board may direct that damages be paid by the landlord.

*Section 119* provides that an amount of rent arrears stipulated to be payable in a determination shall be the gross amount of the arrears as reduced by any amounts due to the tenant for repairs, as set-off in respect of debts due by the landlord to the tenant under section 48 of Deasy's Act, as compensation under Part IV of the 1980 Act or as warranted in the opinion of the adjudicator or Tribunal and as increased by any amount considered appropriate by the adjudicator or Tribunal in respect of costs incurred in pursuing the arrears, damages or the cost of repairs caused by the tenant's failure to comply with the obligations of the tenancy. The breakdown of the calculation is to be included in the determination.

*Section 120* precludes the circumstances, financial or otherwise, of the landlord or tenant being taken into consideration by a mediator, adjudicator or Tribunal in dealing with a dispute about a rent.

#### *Chapter 9 — Determination orders and enforcement generally*

*Section 121* specifies that each mediation agreement, adjudication determination and Tribunal determination, interim direction and direction as to costs on foot of a dispute withdrawal shall be the subject of a written record called a determination order containing the terms of the agreement or determination concerned. However, the Board may express the terms in a different manner so as to remove ambiguity or help to clarify the agreement or determination. In considering whether it is appropriate to do so, the Board must have regard to the relevant reports of the mediator or adjudicator and may consult directly with them, the Tribunal and the parties.

*Section 122* empowers the Board to ensure consistency in Tribunal determinations. If the Board considers that a particular determination is inconsistent with previous determinations of a similar nature in all material respects, it may notify the Tribunal of that opinion, request the views of the Tribunal and then notify the parties in dispute of that opinion and ask for an indication of consent to the making of a fresh determination or invite any representations. If the parties give consent or the Board considers it appropriate, it may direct the Tribunal to make a fresh determination of the dispute following a re-hearing of the matter,

*Section 123* provides that a determination order resulting from an agreement reached at mediation or adjudication is binding when issued. A determination order resulting from a Tribunal determination may be appealed to the High Court within 21 days on a point of law only. The determination of the High Court on any such appeal, which can be to cancel or vary the order, is final. The section also construes a determination order for the purposes of *section 124* as an order either not appealed, or if appealed and not cancelled, in its original or varied terms. The section empowers the Board to publish its determination orders.

*Section 124* enables the Board or a party to the dispute to apply to the Circuit Court (for the circuit in which the dwelling the subject of the tenancy is located) for an order to enforce a determination order of the Board with which there has not been compliance. The Circuit Court shall make an order directing the respondent party to comply with that determination order unless it considers, or the respondent shows to the satisfaction of the court, that the process was not procedurally fair, a material consideration was not taken into account, an erroneous decision in relation to a legal issue was made in the processing of the dispute or the determination was manifestly erroneous. Where a respondent opposes the making of an order, the court may require security for costs from the respondent and also the lodgement in court or the payment of any rent due to the applicant in the case of a dispute about the termination of a tenancy for failure to pay rent. Where the application to the Circuit Court is not made by the Board and the respondent party proposes to oppose the application on any of the grounds mentioned, he/she must notify the Board to that effect so that the Board can be heard at the hearing of the application. Having completed its hearing, the court may make such ancillary or other orders as it considers just. The Board may supply the court registrar with any information in its possession that may assist in the execution of a court order.

*Section 125* deals with the situation of a person establishing to the satisfaction of the Board or the Circuit Court, in the case of an application under *section 124*, that there were good reasons for his/her failure to appear at the relevant adjudication or Tribunal hearing that resulted in a determination order of the Board. The Board or court may cancel the order and direct a re-hearing of the case but may impose conditions on the person similar to those the High Court may impose when setting aside a judgment made in the absence of a relevant party. The Board must first afford the other affected parties the opportunity to be heard.

*Section 126* makes it an offence not to comply with the terms of a determination order of the Board but provides that a person convicted of such an offence may not be sentenced to a term of imprisonment where he/she shows that the non-compliance was due to limited financial means.

## PART 7

### REGISTRATION OF TENANCIES

(Sections 127 to 148)

This Part contains the registration requirements that replace the 1996 Registration Regulations repealed in *section 10*. Landlords will be required to register details of all tenancies with the Private Residential Tenancies Board established under *Part 8*. The Board will use the data from registrations for the purpose of its information

provision function and also in the resolution of certain types of disputes. The extract from the register published by the Board may not include the identity of the landlord or tenant/s or the rent. The registration fee will be €70 per tenancy and a composite fee of €300 will be available where a landlord is registering the tenancies of a number of units in the one building at the same time. The fee will be revised in line with movements in prices generally and a double fee will apply where a tenancy is not registered within the specified time limit. In a case where a tenancy lasts for 4 years, a new registration application and fee will be required where a further *Part 4* tenancy commences. Funding available from registration fees paid to the Board will be applied to the enforcement of statutory requirements applying to the rented sector — local authorities will continue to be responsible for enforcement of the Rent Books and Standards Regulations. There are provisions dealing with offences under this Part.

#### *Chapter 1 — Private residential tenancies register*

*Section 127* requires the Board to establish, as soon as possible after it is established, a register of tenancies of dwellings that are the subject of registration applications under *Part 7* of the Act. The format, content and other matters relevant to the register will be determined by the Board. No information contained in it may be disclosed except as provided for in this Act.

*Section 128* requires the Board to establish the published register consisting of an extract of data from the register, but excluding information that could lead to the disclosure of the rent or the identity of the landlord or tenant/s of a dwelling.

*Section 129* provides that the published register is to be available for inspection and that the Board may charge a fee in respect of this service.

*Section 130* enables the register and published register to be kept in an electronic form, provided the entries are capable of reproduction.

*Section 131* allows the Board to publish aggregated details from the register.

*Section 132* provides that landlords and tenants may be provided with a copy of any register entry relating to their tenancy and that others may be provided with a copy of any of the published register entries on payment of a fee.

*Section 133* empowers either party to a tenancy to require the Board to confirm the registration particulars contained in the application to register their tenancy.

#### *Chapter 2 — Procedures for registration*

*Section 134* imposes the obligation on landlords to register the tenancies of their dwellings. An application must be made per tenancy in the prescribed form and be accompanied by the fee specified in *section 137*, unless a fee exemption as per *subsections (4) and (5)* applies. In the case of tenancies coming into existence more than 3 months after the Board is established, the application must be made within a month; in all other cases the application must be made within 3 months of the Board's establishment. If the tenancy lasts the 4 years associated with the security of tenure measure contained in *Part 4* of the Act, then no further registration applications will arise for that period.

*Section 135* clarifies that a new application under *section 134* must be made in respect of each new tenancy that is created in respect of a dwelling and that the coming into being of a further *Part 4* tenancy (after 4 years) gives rise to a requirement to register that new tenancy. It provides that the application form must be signed by the landlord and tenant/s and is to be assigned a unique reference number by the Board. The Board is to acknowledge receipt of registration fees and to afford an opportunity to the landlord to rectify an incorrect or incomplete application.

*Section 136* specifies the particulars that are to be contained in an application for registration. They are; name, address and Personal Public Service Number (PPSN) or company registration number of the landlord or agent, the name/s and PPSN of the tenant/s, details relating to the dwelling such as address, housing authority area in which located, description (floor area, no. of bedrooms and bed-spaces, type of dwelling), rent and number of occupants, and management company details (name, registered no. and registered office of the company) in the case of tenancies of dwellings located in apartment complexes. The application must also contain the tenancy commencement date and the tenancy term (if for a fixed term) and indicate if it is a sub-tenancy. Any reference no. assigned by the Board to a previous tenancy of the dwelling where the tenant's identity is unchanged must also be supplied along with any other details prescribed by the Board.

*Section 137* specifies the fee required to accompany a registration application. This will be initially €70 per tenancy (or a composite fee of €300 is available where a number of applications are being made in respect of the one building at the same time). The fee is double in the case of late applications.

*Section 138* provides for the varying of the fee in line with movement in prices generally after a year has elapsed from the commencement of *section 134*.

### *Chapter 3 — Updating of register and enforcement of requirement to register*

*Section 139* requires a landlord within one month of a change in the rent applicable to a tenancy, to notify the Board of the revised rent together with any other change in particulars that may have occurred by that time. No fee may be imposed in respect of such notification.

*Section 140* allows the Board to amend the register at any time so as to correct the data.

*Section 141* deals with the deletion of register entries where the Board is notified by the landlord that the dwelling has ceased to be one to which the registration requirement applies and it is satisfied that the deletion is appropriate. No refund of fee is payable in such circumstances and the Board may keep a record of deleted entries for the purpose of its information functions.

*Section 142* provides that, in the case of any dispute referred to the Board, the tenancy commencement date stated in the register shall be presumed correct unless the contrary is proved.

*Section 143* provides that it is an offence to furnish false or misleading information recklessly or knowingly to the Board in purported compliance with *section 134* or *section 139*.

*Section 144* deals with enforcement by the Board of the requirement to register tenancies. It specifies a notification procedure to be followed where the Board has reason to believe that a tenancy exists that should be registered, culminating in a notice requiring a landlord to register the tenancy within 14 days. Failure to comply with such a notice is an offence.

*Section 145* empowers the Board to carry out inspections of dwellings to ascertain the correctness of particulars specified in registration applications where it has reason to believe any of the details is false or misleading. It empowers the Board by notice to require a tenant of a tenancy that the Board believes should be registered to supply the landlord's name and address or other identifying particulars in the tenant's possession. Failure by a tenant to comply is an offence.

#### *Chapter 4 — Data Exchange — private residential tenancies*

*Section 146* provides for reciprocal data exchange between the Private Residential Tenancies Board and local authorities and the Minister for Social and Family Affairs.

*Section 147* provides for reciprocal data exchange between local authorities and the Minister for Social and Family Affairs.

*Section 148* provides for the supply of tenancy registration details or confirmation of the fact of registration to the Revenue Commissioners. It requires such data to be supplied at the request of the landlord or at the request of the Revenue Commissioners on furnishing the PPSN or other unique identifier.

## PART 8

### PRIVATE RESIDENTIAL TENANCIES BOARD

*(Sections 149 to 181)*

This Part provides for the establishment of the Private Residential Tenancies Board to perform the functions listed in *section 151* relating to the resolution of disputes under *Part 6*, the registration of tenancies under *Part 7*, and the carrying out of research and the provision of information, policy advice and guidelines in relation to the private rented sector. Many of the provisions are standard ones applying to most statutory bodies. There are also provisions specific to the Board arising from its dispute resolution role.

#### *Chapter 1 — Establishment and principal functions of Board*

*Section 149* requires the Minister to appoint an establishment day for the Board and for the purposes of this Part.

*Section 150* provides that, on the day appointed under *section 149*, the Private Residential Tenancies Board will be established as a statutory body to perform the functions conferred on it by the Act. It imposes an explicit requirement on the Board to be independent in the performance of its functions. The need for this arises particularly from its dispute resolution role.

*Section 151* lists the functions of the Board, which include the resolution of disputes in accordance with *Part 6*, the registration of tenancies in accordance with *Part 7*, the provision of policy advice and recommendations for revision of the legislation, the development of good practice guidelines and the collection and provision of information and the carrying out of research in relation to the private

rented sector. Additional functions may be conferred on the Board by Ministerial order.

*Section 152* provides that the function of developing good practice guidelines may include the production of a model lease.

#### *Chapter 2 — Composition of Board*

*Section 153* deals with the Board's membership, which is to consist of no fewer than 9 and no more than 15, inclusive of the member appointed as chairperson. The members, as appointed by the Minister, shall be persons who have experience in a field of expertise relevant to the Board's functions and will be appointed for a term of up to 5 years. Board members are to be paid such remuneration as the Minister determines with the consent of the Minister for Finance.

*Section 154* contains supplemental provisions applying to the membership, relating to eligibility for reappointment on expiry of a term, resignations, the filling of casual vacancies, disqualification from membership and removal from membership for incapacity, stated misbehaviour, etc.

*Section 155* deals with the appointment by the Minister of a chairperson from among the members and the procedure to be followed if the chairperson resigns. A member who has chaired the Board is eligible for re-appointment as chairperson on re-appointment as a Board member for a subsequent term.

#### *Chapter 3 — Meetings and committees*

*Section 156* contains standard provisions relating to meetings; the Board quorum is 5 and, subject to the provisions of the Act, the Board may regulate its own procedures.

*Section 157* allows the Board to establish committees to assist it in the performance of its functions and requires the Board to establish a Dispute Resolution Committee for the purposes of functions under *Part 6*. While the Board will fix the terms of membership of committees, the term is to be no less than 3 years in the case of the Dispute Resolution Committee.

*Section 158* contains supplemental provisions applying to committees relating to matters such as terms of reference, the appointment of chairpersons, dissolution, removal of members, their acts being subject to confirmation by the Board and the provision of information on their activities to the Board.

*Section 159* contains provisions relating specifically to the Dispute Resolution Committee — this and only this committee is to perform such functions of the Board under *Part 6* as the Board determines. It shall consist of up to 40 members appointed by the Board after consultation with the Minister. The membership must include at least 4 Board members, one of whom shall chair the Committee and appointments are to be for at least 3 years. The Committee shall adopt rules and procedures for its meetings and the performance of its functions.

#### *Chapter 4 — Management of Board*

*Sections 160* and *161* contain provisions relating to the appointment of a chief officer of the Board to be known as the "Director" and relating to the functions, terms and conditions of that post.

#### *Chapter 5 — Staff of Board and superannuation matters*

*Section 162* deals with the appointment of staff in addition to the Director and contains the usual provision that would enable the



Minister, if considered appropriate, after consulting with any relevant trade unions or associations, to designate staff of the Minister as transferred to the Board.

*Section 163* is a standard provision dealing with superannuation arrangements for Board staff.

#### *Chapter 6 — Appointment or engagement of certain persons*

*Section 164* deals with the appointment by the Board of persons as mediators and adjudicators and the creation of two panels of such names. The appointments are to be for at least 3 years and the Board shall decide their terms and conditions, including those that are likely to secure the independence and impartiality of the adjudicators.

*Section 165* specifies a procedure involving an application to the District Court for an order to remove an adjudicator from the panel where, in the opinion of the Board, the adjudicator has been guilty of misconduct. The necessity for this provision derives from the fact that adjudicators will be making determinations in respect of disputes referred to the Board.

*Section 166* is a standard provision enabling the Board to avail of the services of consultants and advisers and *section 167* deals with the supply by the Minister of services and staff, including a person to act as Director, to enable the Board to perform its functions as and from its establishment day.

#### *Chapter 7 — Supplemental provisions with regard to Board's administration and management*

*Sections 168 to 173* contain standard provisions relating to the indemnification of persons performing functions of the Board, membership of the Houses of the Oireachtas, European Parliament and local authorities, disclosure of interests, disclosure of information (which is an offence) and the Board's seal.

#### *Chapter 8 — Financial and accountability provisions*

*Sections 174 to 181* contain standard provisions relating to grants to the Board, borrowings by the Board, accounts and audit, accountability to the Public Accounts and other Oireachtas Committees and reports to and from the Board. *Section 176* provides that the Board may charge such fees as it determines — apart from those prescribed elsewhere in the Act — for the provision by it of services (other than the provision of advice or information to the Minister).

## PART 9

### MISCELLANEOUS

*(Sections 182 to 202)*

This Part contains some miscellaneous and consequential amending provisions to the Housing Acts and the Landlord and Tenant Acts, including one abolishing, 5 years after the commencement of *Part 4*, the entitlement to apply, for the first time, for a long occupation equity lease under the 1980 Landlord and Tenant Act. It also contains provisions for injunctive type applications in the case of very serious emergency disputes coming before the Board, for example, involving imminent danger to life, illegal evictions, etc.

*Section 182* prohibits the instituting of proceedings in a court in respect of a dispute that may be referred to the Board for resolution unless the amount claimed in respect of damages exceeds €20,000 or in respect of arrears of rent and/or other charges exceeds €20,000 or twice the annual rent, whichever is greater, but subject to an overall maximum of €60,000.

*Section 183* provides that the Minister may issue guidance to the Board in relation to the performance of its functions (other than functions under *Part 6*).

*Section 184* renders void a provision of a lease or tenancy agreement where it could be reasonably inferred that the purpose of the provision is to facilitate a party being at all times in a position to terminate the tenancy on the grounds of non-compliance by the other party with the provision in question. It also renders void a head-tenancy and sub-tenancy where created so as to facilitate the termination of the sub-tenancy by collusion.

*Section 185* imposes an obligation on a tenant of a dwelling who is sub-letting the tenancy to inform the prospective sub-tenant that a sub-tenancy is what is on offer.

*Section 186* enables a tenant of a fixed term tenancy to terminate the tenancy in accordance with the termination provisions in the Act where the landlord has refused consent to an assignment or subletting (as entitled to under *section 16*) so that a tenant in such circumstances has a means of getting out of the tenancy.

*Section 187* relates to the treatment of complaints by tenants of apartments in apartment complexes run by management companies. The section applies where a tenant has made a complaint (as referred to in *section 12(1)(h)*) that has been forwarded to the management company concerned. The management company is required to have regard to the tenant's complaint and must provide the landlord (for forwarding on to the tenant) a written statement of the steps taken to deal with the complaint.

*Section 188* deals with the provision of information on management company service charges to tenants in apartment complexes. It enables a tenant in a complex to request the management company to supply details of the service charges applicable to a specific period and how the charges have been calculated. It requires the management company to comply with such a request where such information would be available to the owners of apartments in the complex.

*Sections 189 and 190* provide for the Board applying to the Circuit Court for interim or interlocutory relief where the Board considers it appropriate to do so (e.g. in cases of serious anti-social behaviour, illegal evictions, etc.).

*Section 191* amends *section 17(1)(a)* and *section 85* of the 1980 Act to enable a tenant to renounce his/her right to a long occupation equity lease under *section 13(1)(b)* of that Act. Thus, a tenant facing the termination of his/her tenancy so as to prevent such a right accruing, will be able to renounce the right in return for being allowed to continue the tenancy.

*Section 192* abolishes, with effect from the 5th anniversary of the commencement of *Part 4* of the Act, the right to apply, for the first time, for a long occupation equity lease under the 1980 Act, except where the tenant has served notice on the landlord of his/her intention to claim that lease under *section 20* of that Act. Accordingly,

use of the renunciation provision provided for in *section 191* will only arise for a period of five years.

*Section 193* disapplies from the tenancies covered by the Act some sections of Deasy's Act, the Conveyancing Acts, the 1980 Act and the notice to quit provision in the Housing (Miscellaneous Provisions) Act 1992 that are inconsistent with the provisions of the Act.

*Section 194* applies *section 37* (dealing with deemed termination of tenancies where rent is in arrears, the property is vacated and no notice or inadequate notice has been given by the tenant) to tenancies to which *Part 4* does not apply and also to those that have lasted less than 6 months.

*Section 195* requires a tenant of a fixed term tenancy for a term of 6 months or more who intends to avail of the protection afforded by *Part 4* and to remain in occupation when the fixed term expires, to notify the landlord of that intention between 1 and 3 months before the expiry of the term.

*Section 196* clarifies that nothing in the Act can be used to authorise conduct prohibited by, or to prejudice powers under, the Equal Status Act 2000.

*Section 197* amends sections 1, 3, 3A, 4, 9 and 14 of, and inserts a new section 4A into, the Housing (Miscellaneous Provisions) Act 1997 dealing with anti-social behaviour.

*Section 198* amends section 79 of, and article 4(b) of the Third Schedule to, the Housing Act 1966 to entitle all tenants to notice from the relevant local authority in connection with a compulsory purchase order affecting their dwelling.

*Section 199* amends sections 58 and 60 of the 1980 Act to apply compensation for disturbance/termination to residential as well as business lettings and to update outdated references to "obsolete areas" in the provision dealing with compensation for the termination of a tenancy.

*Section 200* amends section 3(8)(b) of the Housing (Miscellaneous Provisions) Act 1992 to bring the treatment of shared ownership leases in line with that of reversionary leases. There is also an amendment to section 20(8) to reflect the fact that registration fees transmitted to a local authority from the Board will not be received under that section.

*Section 201* amends section 34 of the Housing (Miscellaneous Provisions) Act 1992 to bring the penalties for conviction for failure to comply with the Standards and Rent Books Regulations into line with those applying to convictions for offences under this Act. This will mean an increase from €1,270 to €3,000 in the maximum fine on conviction and/or a term of imprisonment of up to 6 months and an increase from €127 to €250 in the maximum daily fine applying to convictions for continuing offences.

*Section 202* enables the Minister, for a period of 3 years, to make regulations to remove technical difficulties encountered in operating provisions of the Act.

## SCHEDULE

### PROTECTION FOR SUB-TENANCIES CREATED OUT OF PART 4 TENANCIES

The Schedule is associated with *section 32* and details aspects of the application of the security of tenure measure in *Part 4* to sub-tenancies. The protection afforded to a *Part 4* tenancy applies to a sub-tenancy as long as the head-tenancy continues to exist. If a head-tenancy is terminated by the landlord in circumstances where no requirement to terminate the sub-tenancy is notified or if the head-tenancy is terminated by the head-tenant, the sub-tenant becomes the tenant of the landlord but the tenancy is deemed to have commenced on the commencement date of the head-tenancy. The Schedule adapts *sections 34* to *39* (dealing with terminations) for application to sub-tenancies and makes provision for former sub-tenants to refer complaints to the Board that a termination ground cited by a head-tenant turned out to be false or an offer of reinstatement required to be made was not so made and for the award of damages in such cases.

*An Roinn Comhshaoil, Oidhreachta agus Rialtais Áitiúil,  
Iúil, 2004.*