



2 April 2020

## Temporary Changes to Residential Tenancies Legislation as a result of COVID-19

The Emergency Measures in the Public Interest (COVID-19) Act 2020 (the **Act**) was signed into law by the President on 27 March 2020 and includes measures to prevent the termination of residential tenancies and rent increases for the duration of the crisis period.

The temporary changes that apply to landlords will also apply to receivers appointed over the interests of owner/landlords of residential properties, as being the persons entitled to receive rent from the residential properties.

Part 2 of the Act makes substantial temporary changes to all residential tenancies governed by the Residential Tenancies Act 2004 – 2019 (the **RTA**) for the duration of the “emergency period”. The emergency period is three months from the date of enactment of the Act, but may be extended by ministerial order where necessary on public policy grounds at the request of the Minister for Housing, Planning and Local Government after consultation with the Minister for Health and with the consent of the Minister for Public Expenditure and Reform. Any extension of the emergency period will have regard to the threat to public health, the highly contagious nature of the disease and the need to restrict movement of persons in order to prevent the spread of the disease.

### Termination:

The Act provides that a notice of termination may not be served during the emergency period and any notice served during the emergency period is invalid. A notice of termination that has been served prior to the coming into force of the Act will have its termination date extended by the aggregate of the remaining time on the termination notice and the duration of the emergency period.

For further information on any of the issues discussed in this article please contact:



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The only exception being where a prior notice of termination has been served by a landlord based on one of the grounds set out in paragraph 1 of the Table to section 34 of the Residential Tenancies Act 2004 and a dispute is referred to the Residential Tenancies Board (the **RTB**). If termination on one of these grounds by a landlord is referred to the RTB, the effective termination date will be either upon the expiration of ten days from the making of a determination by an adjudicator, or, where an appeal is brought, upon the determination of that appeal.

The protection to tenants with regard to security of tenure under the RTA apply to tenants after 6 months of a tenancy. This is known as a “Part 4 tenancy”. The extension of the termination period applies to both tenants with the benefit of a Part 4 tenancy and those which would otherwise not have as yet been entitled to such security of tenure. One proviso being that no tenant can be granted a Part 4 tenancy as a result of the extension of their occupancy under the Act.

Tenants who have remained in occupation, with or without landlord’s consent, following the legitimate termination of their tenancy prior to the enactment of the Act, may also remain in occupation for the duration of the emergency period. Such occupation will be on the same terms as they were on prior to the termination, unless the tenant is required to vacate the dwelling in accordance with a determination of the RTB or any appeal from such determination in favour of a landlord.

The requirement for landlords to notify a tenant in advance that rent has not been paid and allow 14 days to pass before taking further action has been extended to 28 days, although a notice of termination cannot be served until the expiration of the emergency period in any event.

#### **Rent Increases:**

Rent increases during the emergency period are prohibited and this includes any increases that were notified before the coming into force of the Act. No rent increase will be allowed to be applied retrospectively.

#### **Dillon Eustace**

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