

between the parties. Landlords and tenants are prohibited from entering into a contract that changes the provisions contained in Part 4 of the Act unless to give the tenant greater security of tenure. A tenant is free to terminate the tenancy at any time, subject to any fixed term agreement and giving the correct amount of notice.

The security of tenure protection afforded by Part 4 of the Act does not apply in certain limited circumstances. Where a rented unit is part of a property that was sub-divided and the landlord lives in the remainder of the property, the landlord can opt out of the Act. A landlord is required to give written notice of this opt out to the tenant before the tenancy is entered into. Also, Part 4 does not apply to employment-related and 'section 50' student accommodation.

PROTECTION FOR SUB-TENANCIES CREATED OUT OF "PART 4 TENANCIES"

WHAT IS A SUB-TENANCY?

A sub-tenancy usually arises where the tenant does not wish to occupy the tenancy for the entire term and lets the property to another person. The tenant in these circumstances is referred to as the head-tenant and the party allowed into occupation is the sub-tenant. The head-tenant will generally remain legally liable for the payment of the rent to the landlord, whether or not the head-tenant receives this from the sub-tenant.

The tenant can only create a sub-tenancy with the landlord's written consent, which can be refused for no stated reason. Where a landlord refuses consent to sub-let a fixed term tenancy, the tenant may terminate the tenancy before the expiry of the fixed term.

WHAT RIGHTS AND PROTECTIONS DO SUB-TENANTS HAVE?

If the tenant sublets, then the sub-tenant's rights and obligations are the same as the original tenant. The sub-tenant inherits the balance of the head-tenant's Part 4 tenancy. In general, the head-tenant has entered a landlord-tenant relationship with the sub-tenant and the standard rights and obligations applying to landlords and tenants apply.

HOW IS A SUB-TENANCY TERMINATED?

The head-tenant may terminate a sub-tenancy in the same way as any other landlord and the sub-tenant may terminate a tenancy in the same way as any other tenant.

The landlord may also terminate the sub-tenancy. In this instance the landlord is required to serve a notice of termination on the head-tenant. That notice must include a specific requirement to terminate the sub-tenancy. The landlord must serve a copy of the notice on the sub-tenant.

A landlord may terminate a tenancy without terminating the sub-tenancy. On receipt of a termination notice indicating that the termination of the sub-tenancy is not required, the head-tenant is obliged to inform the sub-tenant within 28 days of the details of the termination notice. Where a head-tenancy but not the sub-tenancy is terminated, the sub-tenant then becomes the direct tenant of the landlord and the Part 4 tenancy continues.

Where the head-tenant refers a dispute as to the validity of a termination notice to the PRTB's dispute resolution service, the head-tenant must notify the sub-tenant of that referral and the sub-tenant may join in the dispute.

WHAT IS THE POSITION WHERE THE TENANCY IS ASSIGNED?

An assignment arises where the tenant does not wish to occupy the tenancy for the entire term and transfers the tenancy to another person who becomes the tenant of the landlord and the original tenant has no further involvement in the tenancy. Assignments require the landlord's consent and effectively involve the creation of a new tenancy. Therefore, the assignee tenant does not inherit the previous tenant's Part 4 tenancy and commences his/her own 6-month qualifying period.

CONTACT DETAILS

Private Residential Tenancies Board

Canal House

Canal Road

Dublin 6

Tel: +353 | 8882960

Fax: +353 | 8882819

e-mail: Tenancies_Board@environ.ie

web-site: www.environ.ie



TENANTS RIGHTS AND OBLIGATIONS



THE PRIVATE RESIDENTIAL TENANCIES BOARD

TENANTS' RIGHTS AND OBLIGATIONS

The purpose of this leaflet is to inform tenants of their rights under legislation and to make them aware of their obligations. This leaflet is a general guide only and not an interpretation of the law or a summary of all relevant provisions.

TENANTS' OBLIGATIONS

Certain minimum obligations are laid out in the Residential Tenancies Act 2004. There may be other obligations arising from other legislation and any letting agreement entered into between the landlord and tenant. Failure to comply with any of these obligations could result in the termination of the tenancy.

UNDER THE RESIDENTIAL TENANCIES ACT 2004 TENANTS MUST:

- Pay the rent and any other charges due on time
- Ensure no act or omission causes the landlord to be in breach of the law (including the provisions of the Housing (Standards for Rented Houses) Regulations 1993)
- Notify the landlord of any repairs required and allow access for repairs to be carried out and (by appointment) for routine inspections
- Not do anything to cause the dwelling to deteriorate beyond normal wear and tear; and if this happens, make good such damage
- Not engage in or allow anti-social behaviour or act in a way that would invalidate the landlord's insurance
- Not assign, sub-let, alter, improve or change the use of the dwelling without the landlord's written consent (see notes on assignment and sub-letting at end of leaflet)
- Keep the landlord informed of the identity of the occupants ordinarily resident in the dwelling
- Notify the landlord before the last month of a fixed term tenancy of the intention to avail of the protection afforded by Part 4 of the Act (i.e. to remain in the tenancy for a period of up to 4 years)
- Provide the landlord with the information required so as to register the tenancy with the Private Residential Tenancies Board (PRTB)

Regulations made under the Housing (Miscellaneous Provisions) Act 1992 also oblige the tenant to:

- Make the rent book or other similar document available to the landlord

Anti-social behaviour is defined as behaviour that constitutes the commission of an offence, causes 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 neighbouring dwellings by others in the building or its vicinity.

Landlords and tenants are prohibited from changing these basic landlord and tenant obligations. Additional obligations can be imposed on either landlords or tenants but only in so far as they are consistent with the Residential Tenancies Act 2004.

TENANTS' RIGHTS

Tenants also have certain rights in relation to their tenancy. These include the right to:

- Peaceful and exclusive occupation of the dwelling
- Particulars of the means to contact the landlord or agent at all reasonable times
- Reimbursement for reasonable expenditure on any repairs carried out by them for which the landlord was responsible
- Prompt return of deposit subject to deduction in respect of any arrears in rent or excessive wear and tear on the dwelling
- Refer a dispute to the PRTB relating to the tenancy and not be penalised by the landlord for doing so
- Request a copy of any register entry relating to their tenancy and to require the PRTB to confirm the registration particulars contained in the application to register their tenancy.
- Have complaints referred to and considered by any apartment complex management company and obtain details of any management company charges

IN ADDITION, THE RESIDENTIAL TENANCIES ACT 2004 PROVIDES FOR A NUMBER OF OTHER RIGHTS AND PROTECTIONS:

MARKET RENTS

The maximum rent payable by a tenant may not be greater than the open market rent, which is defined as the rent that a willing tenant would give and a willing landlord would take for vacant possession having regard to the tenancy terms and the letting values of dwellings of a similar size, type and character and located in a similar area.

RENT REVIEWS

After each 12 months of a tenancy, tenants, as well as landlords, can seek a rent review. Reviews can 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.

Tenants can seek a rent review even where no provision for this is made in any tenancy agreement. Tenants must be notified in writing of the new rent at least 28 days before it is to take effect. Tenants who consider that the new rent is above the going market rate can refer the matter to the PRTB before it is due to take effect or within 28 days from the receipt of the notice, whichever is the later.

SECURITY OF TENURE

Tenants can acquire 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, even where the dwelling continues to be let to the same tenant(s).

For the first 6 months of each 4-year tenancy cycle, the landlord will be free to terminate without giving a reason. For the following 3½ years, termination of the tenancy by the landlord will only be possible where one of the grounds specified in section 34 of the Residential Tenancies Act 2004 applies. These include matters such as breach of tenancy obligations, sale, change of use or major refurbishment of the dwelling. (For further information on the grounds and terminating generally, please see the PRTB leaflet 'Terminating a Tenancy'.)

The first cycle of a tenancy that has qualified for the statutory protection is called a "Part 4 tenancy." Each subsequent one is called a "further Part 4 tenancy" and comes into being on the expiry of the 4-year period unless a termination notice has been validly served. The terms of each successive Part 4 tenancy remain the same as the first unless varied by agreement