



STATUTORY INSTRUMENTS.

S.I. No. 756 of 2021



AFFORDABLE HOUSING ACT 2021 (COST RENTAL RENT SETTING)
REGULATIONS 2021

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I, DARRAGH O'BRIEN, Minister for Housing, Local Government and Heritage, in exercise of the powers conferred on me by sections 3, 31 and 33 of the Affordable Housing Act 2021 (No. 25 of 2021), hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the Affordable Housing Act 2021 (Cost Rental Rent Setting) Regulations 2021.

(2) These Regulations shall come into operation on 1 January 2022.

Definition

2. In these Regulations, "Act of 2021" means the Affordable Housing Act 2021 (No. 25 of 2021).

Initial setting of rent under cost rental tenancy

3. In the case of the initial setting of the rent under a cost rental tenancy in accordance with section 33(4)(a) of the Act of 2021, a landlord shall set a rent that is not greater than the initial maximum rent set out in the cost rental designation of the dwelling concerned, plus an amount determined in accordance with the following formula:

$$((A / B) - 1) \times C$$

where—

A is the value of the Harmonised Index of Consumer Prices as published by the Central Statistics Office for the end of the month immediately preceding the month on which the initial rent for the tenancy is set in compliance with this Regulation,

B is the value of the Harmonised Index of Consumer Prices as published by the Central Statistics Office for the end of the month immediately preceding the month on which the cost rental designation of the dwelling concerned was sealed by the Minister for Housing, Local Government and Heritage, and

C is the initial maximum rent in euros set out in the cost rental designation of the dwelling concerned.

Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" of 4th January, 2022.

First setting of rent under cost rental tenancy by way of review

4. In the case of the first setting of the rent under a cost rental tenancy by way of a review in accordance with section 33(4)(b) of the Act of 2021, a landlord shall set a rent that is not greater than the rent set by the initial setting of the rent under Regulation 3, as set out in the tenancy agreement for the dwelling concerned, plus an amount determined in accordance with the following formula:

$$((A / B) - 1) \times C$$

where—

A is the value of the Harmonised Index of Consumer Prices as published by the Central Statistics Office for the end of the month immediately preceding the earlier of the following:

- (a) the date on which the relevant rent review notice referred to in section 33(9) of the Act of 2021 and prescribed by Regulation 9 is signed by the landlord or his or her authorised agent;
- (b) the date from which the rent set by way of a review in compliance with this Regulation is to have effect, as set out in tenancy agreement for the dwelling concerned or in accordance with section 33(8) of the Act of 2021, as appropriate,

B is the value of the Harmonised Index of Consumer Prices as published by the Central Statistics Office for the end of the month immediately preceding the month of the initial setting of the rent under the tenancy in compliance with Regulation 3, and

C is the rent in euros set by the initial setting of the rent under the tenancy, as set out in the tenancy agreement for the dwelling concerned.

Second or subsequent setting of rent under cost rental tenancy

5. In the case of a second or subsequent setting of the rent under a cost rental tenancy by way of a review in accordance with section 33(4)(c) of the Act of 2021, a landlord shall set a rent that is not greater than the rent set by the previous setting of the rent by way of a review, plus an amount determined in accordance with the following formula:

$$((A / B) - 1) \times C$$

where—

A is the value of the Harmonised Index of Consumer Prices as published by the Central Statistics Office for the end of the month immediately preceding the earlier of the following:

- (a) the date on which the relevant rent review notice referred to in section 33(9) of the Act of 2021 and prescribed by Regulation 9 is signed by the landlord or his or her authorised agent;
- (b) the date from which the rent set by way of a review in compliance with this Regulation is to have effect, as set out in tenancy agreement for the dwelling concerned or in accordance with section 33(8) of the Act of 2021, as appropriate,

B is the value of the Harmonised Index of Consumer Prices as published by the Central Statistics Office for the end of the month immediately preceding the month on which the rent was previously set by way of a review in compliance with this Regulation or Regulation 4, as appropriate, as set out in the previous rent review notice, and

C is the rent in euros set by the previous setting of the rent by way of a review, as set out in the previous rent review notice.

Harmonised Index of Consumer Prices

6. Where the value of the Harmonised Index of Consumer Prices for the end of the month immediately preceding the month mentioned in Regulation 3, 4 or 5, as the case may be, has yet to be published by the Central Statistics Office, the landlord may use the latest available figure for that index preceding the relevant date.

Non-specified date in tenancy agreement for cost rental tenancy

7. In a case where a tenancy agreement for a cost rental tenancy does not specify the date on which the initial rent for the tenancy is set, it shall be taken for the purposes of Regulation 3 or 4, as the case may be, to be the date on which the contract was completed by the signatures of both landlord and tenant.

Details of previous rent set by review not established

8. In a case in which relevant details of the previous setting of the rent by way of a review cannot be conclusively established, whether due to the absence of documents or for whatever reason, a landlord may treat the setting of the rent by way of a review as the first such setting of rent by way of a review in compliance with Regulation 4.

Prescribed Form of Rent Review Notice

9. The notice set out in the Schedule is prescribed as the form of the rent review notice for the purposes of section 33(9) of the Act of 2021.

Service of Rent Review Notice

10. The notice prescribed by Regulation 9, required under section 33(9) of the Act of 2021 to be served by a landlord or his or her authorised agent on the tenant of a cost rental tenancy, shall be sent to or served on the tenant either—

- (a) by sending it within the State by prepaid registered post addressed to the tenant at the address of the dwelling concerned, or
- (b) by electronic mail to an email address where the tenant has given prior consent in writing to the notice being served on him or her in that manner.

Service of Rent Review Notice: multiple tenants

11. In a case of multiple tenants who are jointly and severally liable under the cost rental tenancy, the notice prescribed by Regulation 9 shall be sent or served either -

- (a) by post addressed jointly to all of the tenants or any one of them, in accordance with Regulation 10(a), or
- (b) by electronic mail to an email address to one or more of the tenants, in accordance with Regulation 10(b).

SCHEDULE

Regulation 9

Notice to be served under section 33(9) of the Affordable Housing Act 2021 stating the new rent set by way of a review.

(Rent Review Notice)

IMPORTANT

PART A (Rent review details), PART B (Maximum rent calculation details) and PART C (Declaration by landlord/authorised agent) must be completed for all rent reviews.

PART A

(Rent review details)

(Must be completed for all rent reviews under Cost Rental tenancies)

To: **[Insert Name of Tenant(s)]**

1. A review of the rent under the tenancy of the home at:

[insert dwelling address]

has been carried out and a new rent has been calculated on foot of that review.

2. This Notice is sent to you by registered post, as set out in your Tenancy Agreement / by email, as agreed with your landlord (*delete as appropriate*).

The new rent

3. The amount of the new rent is € **[insert amount of the new rent]** per month.

4. This new rent is less than / equal to (*delete as appropriate*) the maximum rent that can be set for your home under the Affordable Housing Act 2021. Part B of this Notice explains how this maximum rent is calculated, with reference to the change in the Harmonised Index of Consumer Prices in the period since the initial setting of the rent for your tenancy / since the previous rent review (*delete as appropriate*).

5. The new rent shall have effect from **[insert Date A]**, the date from which the new rent is to have effect, which is the anniversary of the commencement of your tenancy. You will ultimately be liable for the rent at the new rate from this date onwards, although you are entitled to a waiting period before you must make your first monthly rent payment at the new rate (see paragraph 7 of this Notice), and a further period before you must settle any difference that arises from this delay (see paragraphs 11 and 12 of this Notice).

6. This Notice may be received by you any time from two weeks before the date inserted in paragraph 5 of this Notice to four weeks after that date. If you receive this Notice outside of this period, the landlord may not have complied with the Affordable Housing Act 2021 and you may have grounds to dispute the rent review by referring it to the Residential Tenancies Board (see paragraph 9 of this Notice).

Payment at the new monthly rate

7. As set out in your Tenancy Agreement, you are entitled to not less than 28 days from the date of receipt of this Notice before you must make your first monthly rent payment at the new rate. This will give you time to make changes to any payment arrangements that you have in place. In the meantime, you can continue to pay at the previous monthly rate for any rent payment that falls due within this period.

8. If this Notice is received by you on or before the date inserted in paragraph 5 of this Notice, the date from which the new rent is to have effect, your first monthly rent payment at the new rate will fall due on **[insert Date B]**, the first rent day after expiration of 28 days from the date inserted in paragraph 5. If the Notice is received by you after the date inserted in paragraph 5 of this Notice, then you will not have to make your first monthly payment at the new rate until **[insert Date C]**, the second rent day after expiration of not less than 28 days from the date inserted in paragraph 5 of this Notice.

Your landlord will have a record of the delivery of this Notice by registered post / email (delete as appropriate), so they will be able to demonstrate the date of receipt in the case of a dispute. In the absence of evidence to the contrary, you may be deemed to receive this Notice on the third working day following posting by registered post.

Referral of a dispute to the RTB

9. Any dispute in relation to the new rent must be referred to the Residential Tenancies Board not later than 28 days after the date of receipt of this Notice.

10. If a dispute is referred to the Residential Tenancies Board and the new rent is upheld by the Board, you will continue to pay rent at the previous rate until the first rent day not less than 21 days after the Board's determination of the case.

Difference arising between old and new rent levels

11. The difference between the previous rent and the rent is € **[state difference between existing and new rents]** per month, so a difference may arise for the time between the new rent coming into effect on the date inserted in paragraph 5 of this Notice and you making your first rent payment at the new monthly rate. As set out in your Tenancy Agreement, you have until **[insert Date E]**, which is 12 weeks after the date inserted in paragraph 5 of this Notice, to settle this amount with your landlord.

12. If a dispute in relation to the new rent is referred to the Residential Tenancies Board and the new rent is upheld by the Board, the amount that arises from this difference will have to be settled with your landlord not later than 12 weeks from the date of the Board's determination. The amount that arises from the difference may increase during the time the dispute is being considered by the Board.

PART B

(Maximum rent calculation details)

1. The new rent of € **[insert amount of the new rent]** per month is less than / equal to *(delete as appropriate)* the maximum rent that can now be set for your dwelling under the Affordable Housing Act 2021.

2. The maximum permissible rent that can now be set is the previous rent of € **[insert amount of previous rent]** per month adjusted by the percentage change in the Central Statistics Office's Harmonised Index of Consumer Prices (HICP) between the following:

(a) the setting of the initial rent for your Cost Rental tenancy on **[insert Date F, the date of initial setting of rent]**, as recorded in your Tenancy Agreement / The setting of the rent under the previous rent review on **[insert Date G, the date of signing of previous Notice]**, as recorded in the previous Rent Review Notice, *(delete other clause as appropriate)*

or

(b) the calculation of the new rent on **[insert Date H, the date of signing of this Notice]** / the new rent having effect from the date inserted in paragraph 5 of the Rent Review Notice, the date from which the new rent is to have effect. *(whichever is earlier, delete other clause)*

3. The relevant previous value of the Harmonised Index of Consumer Prices was

[insert previous relevant HICP value, as recorded in Tenancy Agreement or previous Notice] on **[insert Date I, the date of previous relevant HICP value, as recorded in Tenancy Agreement or previous Notice]**

which was the latest CSO data point immediately preceding

the calculation of the initial rent for your Cost Rental tenancy on **[insert Date F, the date of initial setting of rent]**, as recorded in your Tenancy Agreement /

the setting of the rent under the previous rent review on **[insert Date G, date of signing of previous Notice]**, as recorded in the previous Rent Review Notice.

(delete other clause as appropriate)

4. The relevant new value of the Harmonised Index of Consumer Prices is

[insert current relevant HICP value] on **[insert Date J, the date of current relevant HICP value]**

which is the latest Central Statistics Office data point immediately preceding

the calculation of the new rent on **[insert Date K, the date that the Notice is signed]** / the new rent having effect from the date inserted in paragraph 5 of the Rent Review Notice, the date from which the new rent is to have effect. *(whichever is earlier, delete other clause)*

You may check these HICP figures for yourself by consulting the Residential Tenancies Board website at <https://www.rtb.ie/calculator/hicp-index>

5. The difference between these two HICP values is **[insert numerical difference]**, which is a change of **[insert HICP percentage change]** per cent (rounded to two decimal places).

6. Adjusting the previous rent of € **[insert amount of the previous rent]** per month by **[insert HICP percentage change]** per cent gives a maximum permissible rent of € **[insert result of calculation]** per month (rounded to the nearest euro), to take effect from the date inserted in paragraph 5 of the Rent Review Notice, the date from which new rent is to take effect.

PART C

(Declaration by landlord/authorised agent)

I declare that all the information that I have given on this Rent Review Notice is correct.

Signature: **[To be signed by landlord]**

OR

Signature: **[To be signed by authorised agent of the landlord]**

Date: **[Insert Date L, the date that the Rent Review Notice is signed]**



GIVEN under my Official Seal,
23 December, 2021.

DARRAGH O'BRIEN,
Minister for Housing, Local Government and Heritage.

EXPLANATORY NOTE

(This is not part of the Statutory Instrument and does not purport to be a legal interpretation.)

These Regulations prescribe additional detail and relevant formulae in order to set out how rent reviews under Cost Rental work in practice. Rents can be reviewed annually in line with the Harmonised Index of Consumer Prices (HICP), with formulae set out for how reviews should be undertaken in three specific circumstances: the first rent in any tenancy, the first review of this rent, and all subsequent reviews of this rent. All rents calculated are maximum rents, meaning landlords are free to charge the tenant less than this should they so wish.

The Schedule to these Regulations also prescribes the form of the Rent Review Notice to be served by a landlord on a tenant or tenants in a Cost Rental tenancy. This prescribed form of Notice is distinct from the form prescribed for use in residential tenancies other than Cost Rental tenancies, and includes an explanation for how this rent was arrived at, and a declaration by the landlord that the information in the review is correct.

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