

Part 4 Explained

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Part 4 of the Residential Tenancies Act covers security of tenure. From December 16th 2021, revisions to the Act now give tenants' rights of occupation indefinitely.

Included in this is an initial 6 month period which essentially acts as probationary period. During this time an owner can give tenants 28 days' notice for no prescribed reason. Once this period elapses the tenants have rights of occupation indefinitely. At any stage a tenant can give notice and a prescribed reason does not need to be given. Below is a table detailing the notice periods required from a tenant:

Length of tenancy	Required period of notice by tenant
Less than 6 months	28 days
Between 6 months and 1 year	35 days
Between 1 year and 2 years	42 days
Between 2 years and 4 years	56 days
Between 4 years and 8 years	84 days
8 years or longer	112 days

Given the strength of the current market, we generally advise owners to accept 28 days' notice regardless of the length of time the tenants have been in occupation.

Although the tenants have rights of occupation indefinitely, the owner can give notice in the below circumstances. These grounds are covers under Section 34, Part 4 of the Residential Tenancies Act.

- The tenants are in breach of their obligations. In this situation, they must be given the opportunity to remedy the breach. The most common example is for non-payment of rent. In this incidence provided the arrears don't exceed two months' rent, 28 days is deemed an appropriate period to remedy the breach or in this case pay the rent. A 28 day rent demand notice must be issued and if this isn't complied with a 28 day termination notice may be issued.
- The owner intends on selling the property within a three month period. Appropriate notice must be given and this notice must be accompanied by a statutory declaration witnessed by a solicitor.
- The property is no longer suitable for the needs of the tenants. The most common reason is that the number of occupiers exceeds the number of bed spaces. Anything over two bed spaces per bedroom is deemed excessive and the owner may give notice.
- The owner requires the property for use by themselves or an immediate family member. An immediate family member is defined as a son, daughter or parent. It does not include aunts, uncles or cousins. In this case notice must be served in a prescribed format, stating the name of the family member and their relationship to the owner. This notice must be accompanied by a statutory declaration witnessed by a solicitor.
- The owner intends to substantially renovate the property. The prescribed notice must be accompanied by the below documents:
 - A health and safety certificate prepared in accordance with the 2007 Building Control Act, stating that the property would be unsafe to live in during the works.
 - If planning is required, a copy of the planning permission.
 - Statement detailing the nature and duration of the works.
 - The tenant must be offered the property back once the works are completed assuming the property doesn't fall within any of the other reasons listed above.

- The owners intends on changing the use of the property. Not dissimilar to the previous reason, the prescribed notice must include the following:
 - The intended change of use
 - A copy of the planning permission for the intended change of use
 - Assuming there is work involved in the change of use, details of the nature and duration of the works.

In all of the above cases the below table details the notice periods required from the landlord:

Length of tenancy	Required period of notice by landlord
Less than 6 months	28 days
Between 6 months and 1 year	90 days
Between 1 year and 3 years	120 days
Between 3 years and 7 years	180 days
Between 7 years and 8 years	196 days
8 years or longer	224 days

It is important that the notice is sent in the correct format with the specific accompanying documentation. Notice needs to be sent by express post and a copy should be kept together with proof of postage. On day of postage the RTB must be formally notified through their online system of any notice served for it to be valid. The notice period comes into effect the day after the date stated on the letter.





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