

Amendments to the Short-Term Letting provisions in section 3A of the Planning and Development Act 2000, as proposed in section 3 of the Planning and Development, Maritime and Valuation (Amendment) Bill 2022.

Regulatory Impact Analysis (RIA)

Department of Housing, Local Government and Heritage

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1. Summary

Summary of Regulatory Impact Analysis (RIA)	
Department/ Office: Department of Housing, Local Government and Heritage	Title of Legislation: Planning and Development, Maritime and Valuation (Amendment) Bill 2022.
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Related Publications: Housing for All - a New Housing Plan for Ireland	
Available to view or download at: https://www.gov.ie/en/publication/ef5ec-housing-for-all-a-new-housing-plan-for-ireland/	
Contact for enquiries: Eoghan O'Brien Email: Eoghan.obrien@housing.gov.ie The following policy options have been considered in relation to the amendments to section 3A of the Planning and Development Act 2000 as proposed by section 3 of the Planning and Development, Maritime and Valuation (Amendment) Bill 2022. 1. No Change Option: 2. Development of new legislative provisions in relation to short-term letting, aimed at strengthening the pre-existing regulatory controls in the short term letting area were introduced by the Planning and Development, Maritime and Valuation (Amendment) Bill 2022. When commenced the proposed new arrangements will provide that, for a period of six months, non-principal private residences in Rent Pressure Zones shall not be advertised or accept bookings on online platforms or other media for short term letting purposes without the necessary planning permission being in place in respect of the property concerned or the property concerned being otherwise exempted. The six month period may be extended for further 6 month periods subject to positive resolutions by both Houses of the Oireachtas.	

The amendments will further give the Minister regulation making powers to require the owners of short-term letting properties or their nominated agents to produce evidence of planning compliance as certified by a planning authority, or of an exemption from same, for the purpose of confirming entitlement to advertise a non-principal private residence located in a Rent Pressure Zone on an online platform or other media.

Preferred option:

Option 2 – The proposed new arrangements are being introduced in the context of the ongoing acute accommodation shortage situation in the private rental sector, particularly in the areas of highest housing demand - specifically Rent Pressure Zones – with associated knock-on implications for rental prices in these areas. These pressures have been further exacerbated by the recent, and likely future, arrival of large numbers of people fleeing Ukraine into the State who are in need of medium to long-term accommodation.

2. Policy Context and Objectives

2.1 Policy Context

Significant numbers of properties have been withdrawn from the long-term rental market in recent years and diverted for use as short-term lettings, negatively impacting on the supply and availability of private residential rental accommodation with associated knock-on implications for rental prices. This trend, which has largely been facilitated by online platforms, has been particularly acute in urban areas of high housing demand.

Legislative reforms to regulate the short-term letting sector through the planning code, in areas designated as “rent pressure zones” (RPZs), were introduced under the Planning and Development Act 2000 (Exempted Development) (No. 2) Regulations 2019 which came into effect on 1 July 2019.

Planning authorities, utilising enforcement powers available to them since mid-2019 under Part 8 of the Planning and Development Act 2000, and with associated penalty provisions for non-compliance, are the designated enforcement authorities for the 2019 legislative provisions. Their main objective is to ensure that only those properties with pre-existing specific planning permissions or with appropriate change of use planning permissions can operate for STL purposes in RPZs. Presently, the vast majority of properties operating in the short-term rental sector are doing so without the necessary planning permission in place, contrary to statutory requirements.

Subsequent to their introduction, the enforcement of the STL provisions began to have some, albeit limited, effect on reducing the numbers of STL properties advertising on online platforms.

However, there have been significant practical issues with regulating short-term letting through the planning system i.e. planning authorities have reported difficulties in establishing and proving ownership of properties engaging in the practice, making it difficult to serve a warning notice on the property owners, while proving to a sufficient legal standard that properties are engaged in short-term letting has also proven problematic. As a result, only a small number of court prosecutions have been secured to date.

It is also worth noting in this context that across the 4 Dublin local authorities for example, where a significant proportion of the STL properties nationally are located, only 22 applications for change of use planning permission in respect of STLs were received in the period 2019 to date of which 6 applications were granted, signifying the virtual complete ignoring of the pre-existing statutory requirements by STL property owners since the 2019 legislation was introduced and the need for strengthened more enforceable provisions for the sector so that the desired objective can be achieved.

2.2 Objectives

The Government's Action Plan for Housing - Housing for All contains a specific action - (Action 20.4) to "develop new regulatory controls requiring short-term and holiday lets to register with Fáilte Ireland with a view to ensuring that houses are used to best effect in areas of housing need" – to reverse the trend of properties moving out of the long-term private rental sector into the Short Term Letting (STL) sector, thereby increasing supply in the private rental sector and helping to ease increases in rent costs. The most recent available data (August 2022) indicates that there is now only circa 700 properties available for long-term private rental nationally with many households facing homelessness while rental prices are showing a 12.6% increase in 2022 over 2021, continuing recent trends of rental increases in previous years.

The proposed new arrangements will replace the current STL regulatory regime operated via the planning system, which has proven difficult to enforce and has not been as effective as originally hoped.

The Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media and Fáilte Ireland are leading on this action with input from the Department of Housing, Local Government and Heritage. The proposed new STL online registration system as envisaged by Housing for All is currently being developed and is expected to come online in 2023.

The measure introduced by the Planning and Development, Maritime and Valuation (Amendment) Bill 2022 is an interim measure, pending the introduction of the Fáilte Ireland registration system, to alleviate the acute and increasing shortage of long-term private rental

accommodation that is available for the indigenous population in the areas of highest housing demand (i.e. rent pressure zones) with corresponding inflationary implications for rent levels and the numbers of homeless people in those areas. As outlined, this situation has been further exacerbated by the recent influx of Ukrainian citizens over the last few months, which is expected to further increase in the coming months.

It is also worth noting that a significant number of the properties that were operating in the short-term letting market pre-Covid were temporarily diverted to the private long-term rental accommodation during the period of the Covid travel restrictions, thereby temporarily helping to ease the housing shortage situation in the long-term rental market. However, further to the easing of the Covid travel restrictions and the resumption of normal tourism activity, these properties have now returned to the short-term letting market thereby significantly diminishing the availability of private long-term rental accommodation once again, with associated inflationary rent impacts on properties remaining in the long-term rental market.

In effect, the proposed measure is intended to help address the present unprecedented pressures faced in the housing sector, particularly in relation to long-term private residential accommodation, and the relative non-availability of non-principal private residences (both houses and apartments) for letting to local populations in RPZs for long-term letting compared to the corresponding increasing availability of short-term lets in those areas.

3. Identification of Options

No Change Option

If no changes are made, the practical issues with regulating short-term letting through the planning system will continue and the flow of properties from the long term rental market to short term letting will continue, further exacerbating the current pressures in the housing sector, particularly in relation to long-term private residential accommodation.

Preferred Option: Implementation of the proposed legislative provisions

The aim of this policy proposal is to significantly strengthen the pre-existing legislative provisions in relation to the regulation of the short-term letting sector originally introduced under the Residential Tenancies Act 2019 and the supplementary Planning and Development Act 2000 (Exempted Development) (No. 2) Regulations 2019, which came into effect on 1 July 2019.

This is proposed with a view to increasing the number of properties available on the private residential rental market in areas of high housing demand during a time of substantial and sustained demand for such rental accommodation. The increased supply shortage has been further exacerbated by the recent, and likely future, arrival of large numbers of people fleeing Ukraine into the State who are in need of medium to long-term accommodation.

The Bill comprises two core elements:

- providing that - from a date yet to be specified- for a period of six months, non-principal private residences in RPZs shall not be advertised or accept bookings on online platforms or other media for short term letting purposes without the necessary planning permission being in place in respect of the property concerned or the property concerned being otherwise exempted.
This period may be extended for further 6 month periods subject to positive resolutions by both Houses of the Oireachtas;
- giving the Minister regulation making powers to require the owners of STL properties or their nominated agents to produce evidence of planning compliance as certified by a planning authority, or of an exemption from same, for the purpose of confirming entitlement to advertise a non-principal private residence located in a RPZ on an online platform or other media.

The detailed operational arrangements and other related ancillary provisions in relation to this certification requirement - which it is envisaged will involve engagement between DHLGH the relevant online platforms and other stakeholder groups - to ensure compliance with the requirements will be provided for in supplementary regulations.

In this regard, the pre-existing STL legislative provisions already have offence provisions in relation to non-compliance with the said provisions. These offence provisions will continue to apply under the new regulations where it is proposed that both online platforms and individual property owners will be open to penalties for non-compliance with the new provisions. Under the pre-existing provisions, only the property owners concerned are liable to offence penalties for non-compliance.

4. Identification of Costs, Benefits and Impacts

4.1 Costs

No Change Option

For the State, there would be ongoing budgetary costs associated with staffing resources for the enforcement of the current STL regulations and while significant work has been undertaken by planning authorities since the regulations came into effect, as mentioned, this has had limited effect as the current regulatory regime has proven difficult to enforce and has not been as effective as originally hoped.

Preferred Option: Implementation of the proposed legislative provisions

For the State, there would be similar budgetary costs associated with the introduction of this new measure as with the current regime. However, these costs would be expected to

provide a greater return and be more significantly effective in achieving their desired objective.

4.2 Benefits

No Change Option

If no changes are made, the practical issues with regulating short-term letting through the planning system will continue and the flow of properties from the long term rental market to short term letting will continue, further exacerbating the current pressures in the housing sector, particularly in relation to long-term private residential accommodation.

Preferred Option: Implementation of the proposed legislative provisions

It is expected that this measure will increase the number of properties available on the long-term private residential rental market in areas of high housing demand during a time of substantial and sustained demand for rental accommodation.

4.3 Impacts

No Change Option

The current unprecedented pressures faced in the housing sector, particularly in relation to long-term private residential accommodation, and the relative non-availability of non-principal private residences (both houses and apartments) for letting in rent pressure zones will continue.

Preferred Option: Implementation of the proposed legislative provisions

There will be a positive impact on the achievement of national housing supply objectives through the adoption of Option 2. These arrangements will represent a significant tightening-up of the current provisions in relation to the regulation of the sector in that online platforms will be required to have had sight of evidence of planning compliance in order to advertise properties. Non-compliance with these provisions will be an offence for both individual property owners concerned and the online platforms.

5. Consultation

The detailed operational arrangements and other related ancillary provisions in relation to this certification requirement will be provided for in supplementary regulations. The Department will engage with the relevant online platforms and other stakeholder groups in the framing of the new regulations.

All relevant Departments and the Attorney General's Office were consulted with in the development of the provisions contained in the Planning and Development, Maritime and Valuation (Amendment) Bill 2022.

6. Enforcement and Compliance

The pre-existing Short Term Letting legislative provisions already have offence provisions in relation to non-compliance with the said provisions. These offence provisions will continue to apply under the new regulations with both online platforms and individual property owners being open to penalties for non-compliance with the new provisions.

7. Review

In general, planning legislation is kept under on-going review. As the proposed new registration system for short-term letting to be operated by Fáilte Ireland is expected to be established during 2023, it is envisaged that the proposed new provisions under the planning code will only be applied as an interim measure and will not be subject to review.

8. Publication

This Regulatory Impact Analysis will be published on the Department's website www.gov.ie/housing.