



Irish Council for Social Housing

Guidance note: 3

Transitional Accommodation

This Guidance Note is intended to provide housing associations with information on how Transitional Accommodation is treated under the Residential Tenancies (Amendment) Act 2015.

1. What is Transitional Accommodation?

Transitional accommodation refers to a dwelling let by housing association for periods not longer than 18 months.

Transitional accommodation usually serves a specific purpose and can include such services as homeless services, domestic violence services, and specific services for people with disabilities, amongst others. Transitional accommodation projects provide medium-term accommodation along with support programmes for tenants to build their skills and capacity to establish themselves in a home and address any issues for which they require support.

2. Do I need to register Transitional Accommodation with the Residential Tenancies Board (RTB)?

Yes, you must register transitional accommodation with the RTB. In addition to registering, you must also designate the accommodation as transitional with your Local Authority and notify the Minister of the designation. The housing association must designate the transitional accommodation with the Local Authority within 12 months from the commencement of the Act (7th April) and the Minister must be notified within 3 months of this designation i.e. within 3 months from the date of letter issued to the local authority. The ICSH can provide letter templates for this designation requirement.

3. What is a Part four tenancy?

Under Part four of the Residential Tenancies Act, if a tenant has been renting for 6 months' continuous occupation and has not been given a written notice of termination by the landlord, they automatically acquire security of tenure. Any tenancy, therefore, that has lasted more than 6 months is a 'Part four tenancy'. As per the Residential Tenancies (Amendment) Act 2016, for tenancies that commenced **before 24th December 2016**, a part four tenancy lasts for **4 years**. For tenancies that commenced **after 24th December 2016** (including a further Part four tenancy that come into existence after 24th December 2016), the part four tenancy lasts for **6 years**. Part four security of tenure does **not** apply to Transitional housing.

4. What does the Act say about Part Four (Security of Tenure) rights and Transitional Accommodation?

Where a housing association provides transitional accommodation (up to 18 months' duration) then the tenancy falls under the remit of the Act, however the Part four section regarding security of tenure does **not** apply. What this means is that the housing association will register those tenancies with the RTB, however they will also designate those tenancies as transitional accommodation with their Local Authority and notify the Minister accordingly. By designating a tenancy as 'transitional', Part four of the Act will **not** apply, i.e. the tenant will not acquire the 4/6 year security of tenure protections after the initial 6-month period (unless the 18-month period elapses).

5. What happens at the end of a transitional tenancy?

A transitional accommodation tenancy should be for no longer than 18 months. It is important that the housing association serves a Notice of Termination (NOT) to the tenant within the appropriate time period as the new notice periods under the 2015 Act do apply to transitional tenancies. If a NOT is not served and the tenancy goes over 18 months, then the tenant can acquire Part four rights and security of tenure for 4/6 years.

The new notice periods under the 2015 Act which apply to transitional tenancies are as follows:

Duration of Tenancy	Landlord Notice
Less than 6 months	28 days
6 months or more, but less than 1 year	35 days
1 year or more but less than 2 years	42 days
2 years or more but less than 3 years	56 days
3 years or more but less than 4 years	84 days
4 years or more but less than 5 years	112 days
5 years or more but less than 6 years	140 days
6 years or more but less than 7 years	168 days
7 years or more but less than 8 years	196 days
8 or more years	224 days

For example, if a tenant moves into transitional accommodation on 1st June 2016, the 18-month period will elapse on 30th November 2017. In this scenario, a notice of termination must be served by 19th October (42 days' notice as required by the Act) at the latest in order to avoid the 18-month period elapsing and the tenant gaining Part four rights. See RTB guidance on serving a notice of termination for further information: <http://www.rtb.ie/dispute-resolution/dispute-resolution/sample-notices-of-termination>

6. Should there be a Tenancy Agreement?

Yes, there should be a tenancy agreement in place which should note that the accommodation is transitional and therefore will not exceed 18 months of the period as defined by your particular service. A tenancy agreement is particularly important in stipulating the housing association's grounds for terminating a transitional tenancy as the grounds for termination of other tenancies stated in the 2015 Act do not apply to transitional accommodation.

7. What are the terms/grounds of termination of a Transitional Tenancy Agreement?

The housing association who draws up a transitional tenancy agreement for tenants should stipulate their own grounds of termination specific to the purpose / service / programme that they provide. Therefore, whatever termination terms that were stipulated in the transitional tenancy agreement apply.

8. What happens if the property is no longer used for Transitional Accommodation?

The legislation is not specific around this however it is recommended that the housing association notify the Local Authority and the Minister of the de-designation in writing.

9. What is the cost of registering Transitional Accommodation?

The fee for registering a transitional tenancy is €90 per tenancy, however this fee is only required for a maximum of two registrations in a 12-month period where the tenancy changes in the same unit/dwelling i.e. $€90 \times 2 = €180$. So, if a transitional accommodation unit/dwelling takes in 6 tenants in a 12-month period, the fee is still only €180, although all six tenancies will have to be registered.

Disclaimer note: The content in this guidance note is provided for general information purposes only. If you are unsure about any of the information contained in the Act, please seek legal advice.