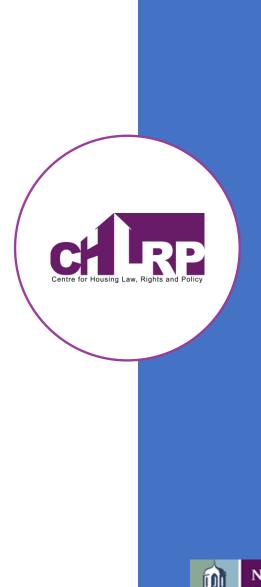# Model Housing Legislation: Protecting the Right to Housing during COVID-19.

Dr Padraic Kenna

Centre for Housing Law, Rights and Policy,

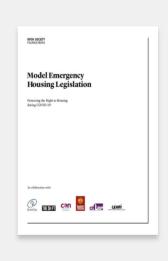National University of Ireland, Galway, Ireland.

Model Emergency Housing Legislation:
Protecting the Right to Housing during COVID-19

This comprehensive model emergency legislation, developed by the Open Society Justice Initiative, the Open Society Initiative for Europe, The Shift, and a coalition of human rights groups, consists of legal provisions that governments can use to protect the right to housing during the COVID-19 pandemic and the resulting economic crisis.

DECEMBER 08, 2020

In collaboration with:

NUI Galway
OÉ Gaillimh

Protecting the Right to Housing during COVID-19: Model Legislation

- ***An Act to protect the right to housing in the context of the COVID-19 crisis and its aftermath***

- Based on UN Special Rapporteur *Guidelines on COVID* (2020)

- Proposed Duration of measures:
  (a) effective immediately,
  (b) for the duration of the pandemic and
  (c) until COVID-19 related government supports are <u>no longer</u> being provided to <u>any</u> natural or legal persons, whichever occurs later.

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Section 1. Protection from Eviction:

- Evictions are prohibited for the duration of this Act - except in cases of DV.

- Any attempts to serve such eviction notices is void.

- No evictions hearings by any court or tribunal.

Protecting the Right to Housing during COVID-19: Model Legislation

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Section 2. Rent and Mortgage Payments:

- Rent freeze for the duration of the Act

- No rental agreements to be cancelled

- No fee to be charged for arrears of rent or mortgage.

- Arrears repayments - incl total housing costs not more than 30% net household disposable income.

- Debt relief programmes that prioritize security of tenure to be put in place.

- *Datio in solutum* to be allowed.

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Section 3. Essential Housing Services:

- sanitation, and cleaning products must be provided

- essential services (including water, electricity, heating, phone) must not be suspended or denied due to informality, non-payment, COVID related reasons.

Section 8. Migrants, Asylum-seekers and Refugees:

- Prohibitions on housing support or renting, conditional on immigration, asylum or refugees status to be suspended. (UK)

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Section 4. Public Housing Assets:

- Public housing assets, (including public land), will not be sold for the duration of the Act.

- Immediate steps to expand public housing stock.

- Governments to have pre-emptive right to purchase housing to further this Act – including commercial buildings for conversion to housing.

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Section 6. Homelessness:

- Immediate access to safe, secure and dignified emergency accommodation be guaranteed to anyone who is homeless without discrimination

- Those in temporary emergency housing must not be evicted without alternative adequate accommodation

- Steps to be taken to secure long term housing with adequate supports.

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Sections 4 & 9 Housing Providers, Real Estate Investors and Developers:

- Emergency financial assistance to be considered for landlords in difficulty – conditional on offering reduced rents.

- COVID related stimulus and economic packages not extended to REITS, or corporate landlords of more than 10 units (or 1,500 sq.m), companies with offshore accounts, or accounts in OECD designated tax havens.

- Any support to investors and developers must be conditional on provision of social housing proportionate to local needs.

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Protecting the Right to Housing during COVID-19 – Model Legislation

- Implementation – responsibility of National Housing Minister.
- Access to effective legal remedies for those affected -a defence to eviction
- Offences - costs and fines – reinstatement and criminal sanctions
- Monitoring – monthly public statements of progress presented to the legislature.

Legislating for the right to housing after COVID measures:

- Seemingly impossible in the past to have rent freeze, moratoria on evictions.

- Yet, many COVID emergency measures reflect what States have already accepted under UN right to housing.

- Glimpse of the future, or an aberration?

- Can we build more housing rights?