



# Business Tenancies Act (Northern Ireland) 1964<sup>F1</sup>

<sup>F2</sup>1964 CHAPTER 36

An Act to provide security of tenure for certain tenants occupying premises for business, professional or certain other purposes by enabling them to obtain new tenancies in certain cases or in certain circumstances to obtain compensation; to make provision for the payment of compensation in respect of certain improvements to such premises; and for purposes connected therewith. [17th December 1964]

**F1** Functions transf., 1982 NI 6  
**F2** Rep. with saving, 1996 NI 5

## PART I

### SECURITY OF TENURE FOR BUSINESS, PROFESSIONAL AND CERTAIN OTHER TENANTS

#### TENANCIES TO WHICH PART I APPLIES

#### **1 Tenancies to which this Part applies.**

- (1) Subject to the provisions of this Part, this Part applies to any tenancy where the property comprised in the tenancy is or includes premises which are occupied by the tenant and are so occupied for the purposes of a business carried on by the tenant, or for those and other purposes.
- (2) In this Part the expression “business” includes—
  - (a) a trade, profession or employment; and
  - (b) any activity carried on by a body of persons whether corporate or unincorporate;

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whether or not carried on for gain or reward; but premises shall not be deemed to be occupied for the purposes of a business by reason that the occupier thereof carries on the business of subletting the premises or parts of the premises, whether or not the provision of any services is undertaken in connection with such subletting.

- (3) In the following provisions of this Part the expression “the holding” , in relation to a tenancy to which this Part applies, means the property comprised in the tenancy, there being excluded any part thereof which is occupied neither by the tenant nor by a person employed by the tenant and so employed for the purposes of a business by reason of which the tenancy is one to which this Part applies.

## 2 Tenancies to which this Part does not apply.

- (1) This Part does not apply—

- <sup>F3</sup>(a) to a tenancy where the property comprised therein is let on a protected tenancy or subject to a statutory tenancy within the meaning of the Rent (Northern Ireland) Order 1978 but where, except for the preceding provision, this Part would apply to a tenancy and that tenancy ceases at any time to be a protected or, as the case may be, a statutory tenancy, then as from that time the provisions of this Part shall apply to that tenancy as if it were a tenancy continuing by virtue of section 3 after the expiry of a term certain exceeding one year;
- (b) ]
- (c) to a tenancy under any lease to which The Renewable Leasehold Conversion Act ...<sup>F4</sup> applies;
- (d) to a tenancy granted (whether before or after the commencement of this Act) for a term certain not exceeding three months unless the tenant has been in occupation for a period which, together with any period during which any predecessor in the carrying on of the business carried on by the tenant was in occupation, exceeds six months;
- (e) to a tenancy of agricultural land, including farm houses and farm buildings;
- (f) to a tenancy created (whether before or after the commencement of this Act) by a mining lease;
- (g) to a tenancy where there subsists in the premises comprised in the tenancy an estate acquired (whether before or after the commencement of this Act) by a public authority which requires possession of such premises for the purposes of carrying out its functions under any enactment or any rule of law, and that authority would but for this Part be entitled to obtain possession of those premises;
- (h) to a tenancy granted for or made dependent on (whether before or after the commencement of this Act) the continuance of the tenant in any office, employment or appointment;
- (i) to a tenancy granted before the commencement of this Act which was granted and expressed to be granted for the temporary convenience of the immediate landlord or of the tenant;
- (j) to a tenancy granted (whether before or after the commencement of this Act) by the personal representatives of a deceased owner of land in pursuance of the power conferred by section 40(1)( a) of the Administration of Estates Act (Northern Ireland) 1955 ;
- (k) to a tenancy where the tenant thereunder is convicted after the commencement of this Act of using the premises comprised in such tenancy, or permitting such premises to be used, for an illegal purpose;

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- (l) to a tenancy granted (whether before or after the commencement of this Act) by any person in breach of any prohibition against granting such a tenancy contained in his contract of tenancy or any other agreement;
- <sup>F5</sup>(m) to a tenancy where the tenant thereunder is—
- (i) a lessee to whom section 1 of the Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971 applies; or
  - (ii) a lessee to whom an extended lease has been granted under the said Act of 1971.]
- [<sup>F6</sup>(n) to a tenancy granted by a landlord who is the holder of a licence under Part II of the Electricity (Northern Ireland) Order 1992 on the date of the commencement of the tenancy, or who becomes the holder of such a licence after that date, to a tenant who is the holder of such a licence on that date, or who becomes the holder of such a licence after that date]
- (2) In subsection (1)(g) “public authority” includes any department of the Government of the United Kingdom or of Northern Ireland, any local authority, and any public body or authority constituted by or under any enactment<sup>F6</sup> and any holder of a licence under Part II of the Electricity (Northern Ireland) Order 1992].

<b>F3</b>	1978 NI 20
<b>F4</b>	1978 NI 4
<b>F5</b>	1971 c.7 (NI)
<b>F6</b>	1992 NI 1

#### CONTINUATION OF TENANCIES

### 3 Continuation of tenancies to which this Part applies until terminated in accordance with this Part.

- (1) A tenancy to which this Part applies shall not come to an end unless terminated in accordance with the provisions of this Part; and subject to the following provisions of this Part such a tenancy may be terminated by—
- (a) a notice to determine served by the landlord in accordance with the provisions of section 4; or
  - (b) a request for a new tenancy made by the tenant in accordance with the provisions of section 5.
- (2) Notwithstanding anything in subsection (1)—
- (a) where a tenancy has been continued by virtue of subsection (1) and at any time thereafter ceases to be a tenancy to which this Part applies, it shall not come to an end by reason only of the cesser, but (without prejudice to its termination in accordance with any terms of the tenancy) it may be terminated by not less than three nor more than six months' notice in the prescribed form served by the landlord on the tenant;
  - (b) where at a time when a tenancy is not one to which this Part applies by reason only that premises comprised in the tenancy are not occupied by the tenant for the purposes of a business, and the immediate landlord serves notice to quit, the operation of the notice shall not be affected by reason that after the service of the notice such premises are occupied by the tenant for the purposes

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of a business by reason of which the tenancy becomes one to which this Part applies;

- (c) if at any time within twelve months before the date of expiry of a tenancy dependent on the effluxion of time—
- (i) the immediate landlord serves a notice in the prescribed form on the tenant stating that such landlord requires possession of the premises comprised in such tenancy at the said date of expiry; and
  - (ii) at the date of the service of such notice the tenancy is not one to which this Part applies by reason that premises comprised in the tenancy are not occupied by the tenant for the purposes of a business;

this Part shall not apply to such tenancy, notwithstanding that after the date of service of such notice and before the date of expiry of the tenancy premises comprised in the tenancy are occupied by the tenant for the purposes of a business.

- (3) For the purposes of this Part “notice to determine” means a notice served by the landlord in accordance with section 4, and “notice to quit” means a notice to end a tenancy served by the immediate landlord in accordance with the provisions (whether express or implied) of that tenancy.

#### **4 Termination of tenancy by the landlord.**

- (1) Subject to section 9 the landlord may terminate a tenancy to which this Part applies by a notice to determine served on the tenant in the prescribed form specifying the date at which the tenancy is to come to an end (in this Part referred to as “the date of termination” ).
- (2) A notice to determine shall not have effect unless it complies with the provisions of this section and, subject to subsection (3), is served not more than twelve nor less than six months before the date of termination specified therein.
- (3) In the case of a tenancy which but for this Part could have been brought to an end by notice to quit—
  - (a) subsection (2) shall, where but for this Part more than six months' notice to quit would have been required to bring the tenancy to an end, have effect with the substitution for twelve months of a period six months longer than the length of notice to quit which would have been required as aforesaid; and
  - (b) the date of termination specified in a notice to determine shall not be earlier than the earliest date on which the immediate landlord could, but for this Part, have brought the tenancy to an end by notice to quit served on the same date as the notice to determine.
- (4) In the case of a tenancy dependent on the fall of a life or other uncertain event the landlord may, after the fall of that life or the happening of that uncertain event, terminate the tenancy by a notice to determine served not more than twelve nor less than six months before the date of termination specified therein.
- (5) In the case of any tenancy, other than a tenancy referred to in subsection (3) or subsection (4), a notice to determine under this section shall not specify a date of termination earlier than the date on which, but for this Part, the tenancy would have come to an end by effluxion of time.
- (6) A notice to determine shall—

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- (a) require the tenant, within two months of the service of the notice, to notify the landlord in writing whether or not, at the date of termination, the tenant will be willing to give up possession of the property comprised in the tenancy; and
- (b) state whether the landlord would oppose an application to the Lands Tribunal under section 8 and, if so, on which of the grounds mentioned in section 10 he would do so.

## **5 Request by tenant for a new tenancy.**

- (1) A tenant may, subject to and in accordance with this section, make a request for a new tenancy where the tenancy under which he holds for the time being (in this Part referred to as “the current tenancy”) is—
  - (a) a tenancy granted for a term certain exceeding one year, whether or not continued by section 3; or
  - (b) a tenancy granted for a term certain exceeding one year and thereafter from year to year; or
  - (c) a tenancy granted for a period dependent on the fall of a life or other uncertain event and continued by section 3.
- (2) A tenant's request for a new tenancy shall be for a tenancy beginning with such date, not more than twelve nor less than six months after the making of the request, as may be specified therein, and in the case of such a tenancy as is specified in paragraphs (a) and (b) of subsection (1) such date shall not be earlier than the date on which but for this Part the current tenancy would come to an end by effluxion of time or could be brought to an end by notice to terminate served by the tenant under and in accordance with the terms (whether express or implied) of that tenancy.
- (3) A tenant's request for a new tenancy shall not have effect unless it is made by notice in the prescribed form served on the landlord and sets out in general terms the tenant's proposals as to—
  - (a) the property to be comprised in the new tenancy (being either the whole or part of the property comprised in the current tenancy);
  - (b) the rent to be payable under the new tenancy;
  - (c) the duration of the new tenancy; and
  - (d) the other terms of the new tenancy.
- (4) A tenant's request for a new tenancy shall not be made if the landlord has already served a notice to determine under section 4, or if the tenant has already served a notice under section 6; and no such notice shall be served by the landlord or the tenant after the making by the tenant of a request for a new tenancy.
- (5) Where the tenant makes a request for a new tenancy in accordance with this section, the current tenancy shall, subject to section 9 and to section 17(2), terminate immediately before the date specified in the request for the beginning of the new tenancy.
- (6) Within two months of the making of a tenant's request for a new tenancy in accordance with this section, the landlord may serve notice on the tenant that he will oppose an application to the Lands Tribunal under section 8 for the grant of a new tenancy, and any such notice shall state on which of the grounds mentioned in section 10 the landlord will oppose the application.

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## **6 Further provisions for the termination of tenancies to which this Part applies.**

- (1) Section 3(1) shall not prevent the coming to an end of a tenancy by surrender or forfeiture, or by the forfeiture of a superior tenancy, or by a notice to terminate the tenancy served by the tenant under and in accordance with the terms (whether express or implied) of that tenancy [<sup>F7</sup> or by lawful ejectment for non-payment of rent].
- (2) Where but for this Part a tenancy would come to an end by the effluxion of time and the tenant, not later than three months before the date on which but for this Part the tenancy would so come to an end, serves on the immediate landlord a notice that the tenant does not desire the tenancy to be continued, section 3 shall not have effect in relation to that tenancy.
- (3) A tenancy which but for this Part would have come to an end by effluxion of time and which is continuing by virtue of section 3 may be brought to an end on any gale day by not less than three months' notice served by the tenant on the immediate landlord, whether the notice is served before or after the date on which but for this Part the tenancy would have come to an end by effluxion of time.
- (4) A tenancy which but for this Part would have come to an end on the fall of a life or the happening of any other uncertain event and which is continuing by virtue of section 3 may be brought to an end on any gale day by not less than three months' notice served by the tenant on the immediate landlord.

<b>F7</b> <a href="#">1968 c.4 (NI)</a>
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## **7 Agreements for future tenancies.**

Where the landlord and the tenant holding immediately under him agree for the grant to that tenant of a future tenancy of the holding, or of the holding with other land, on terms and from a date specified in the agreement, the tenancy under which the tenant holds for the time being shall continue until that date but no longer, and shall not be a tenancy to which this Part applies.

### APPLICATION TO THE LANDS TRIBUNAL FOR NEW TENANCIES

## **8 Application to Lands Tribunal for new tenancies.**

- (1) A tenant under a tenancy to which this Part applies may apply to the Lands Tribunal for the grant of a new tenancy—
  - (a) where the landlord has served a notice to determine the tenancy in accordance with section 4; or
  - (b) where the tenant has made a request for a new tenancy in accordance with section 5.
- (2) An application made in consequence of a notice to determine served by the landlord under section 4 shall not be entertained by the Lands Tribunal unless the tenant has notified the landlord that he will not be willing at the date of termination to give up possession of the property comprised in the tenancy.

- (3) An application under this section shall not be entertained by the Lands Tribunal unless it is made not less than two nor more than four months (or with the written consent of the landlord within such longer period as the landlord may specify) after the service of the landlord's notice to determine under section 4, or as the case may be, after the making of the tenant's request for a new tenancy under section 5.

## **9 Interim continuation of tenancies pending determination by the Lands Tribunal.**

- (1) In any case where—

- (a) a notice to determine a tenancy has been served under section 4 or a request for a new tenancy made under section 5; and
- (b) an application to the Lands Tribunal has been made under section 8; and
- (c) but for this section the effect of that notice or request would be to terminate the tenancy before the expiration of the period of three months beginning with the date on which the application is finally disposed of;

the effect of the notice or request shall be to terminate the tenancy either at such date as the Lands Tribunal may direct or at the expiration of the said period of three months and not at any other time.

- (2) The reference in subsection (1)(c) to the date on which an application is finally disposed of shall be construed as a reference to the earliest date by which the proceedings on the application (including any proceedings on or in consequence of an appeal) have been determined and any time for appealing or further appealing has expired, except that if the application is withdrawn or any appeal is abandoned the reference shall be construed as a reference to the date of the withdrawal or abandonment.

## **10 Opposition by landlord to application for new tenancy.**

- (1) The grounds on which a landlord may oppose an application made under section 8 to the Lands Tribunal for a new tenancy are such of the following grounds as may be stated in the landlord's notice to determine under section 4, or as the case may be, in the landlord's notice under section 5(6), that is to say:—

- (a) where under the current tenancy the tenant has any obligations as respects the repair and maintenance of the holding, that the tenant ought not to be granted a new tenancy in view of the state of repair of the holding, being a state resulting from the tenant's failure to comply with those obligations;
- (b) that the tenant ought not to be granted a new tenancy in view of his persistent delay in paying rent which has become due;
- (c) that the tenant ought not to be granted a new tenancy in view of other substantial breaches by him of his obligations under the current tenancy, or for any other reason connected with the tenant's use or management of the holding;
- (d) that the landlord has offered and is willing to provide or secure the provision of alternative accommodation for the tenant, and—

- (i) that the terms on which the alternative accommodation is available are reasonable having regard to the terms of the current tenancy and to all other relevant circumstances; and
- (ii) that the accommodation and the time at which it will be available are suitable for the tenant's requirements (including the requirement

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to preserve goodwill) having regard to the nature and class of his business and to the situation and extent of, and facilities afforded by, the holding;

- (e) where the current tenancy was created by the subletting of part only of the property comprised in a superior tenancy and the landlord is the owner of an estate in reversion expectant on the termination of that superior tenancy, that the aggregate of the rents reasonably obtainable on separate lettings of the holding and the remainder of that property would be substantially less than the rent reasonably obtainable on a letting of that property as a whole, that on the termination of the current tenancy the landlord requires possession of the holding for the purpose of letting or otherwise disposing of the said property as a whole, and that in view thereof the tenant ought not to be granted a new tenancy;
- (f) that on the termination of the current tenancy the landlord intends—
  - (i) to demolish or rebuild the premises comprised in the holding or a substantial part of those premises; or
  - (ii) to carry out substantial works of construction on the holding or part thereof;
 and that the landlord could not reasonably do so without obtaining possession of the holding;
- (g) subject to subsection (3), that on the termination of the current tenancy the landlord intends that the holding will be occupied for a reasonable period for the purposes, or partly for the purposes, of a business to be carried on by him or by a company in which he has a controlling interest, or as his residence.

- (2) Where the landlord opposes an application on the ground specified in subsection (1) (f) the Lands Tribunal may require the landlord to furnish evidence that planning permission required under any enactment has been granted to him in respect of the works which he intends to undertake.
- (3) The landlord shall not be entitled to oppose an application on the ground specified in subsection (1)(g) if the estate of the landlord, or an estate which has merged in that estate and but for the merger would be the estate of the landlord, was purchased or created after the beginning of the period of five years which ends with the termination of the current tenancy, and at all times since the purchase or creation thereof the holding has been comprised in a tenancy or successive tenancies of the description specified in section 1(1).
- (4) For the purposes of subsection (1)(g) the landlord shall be deemed to have a controlling interest in a company if he has the power to secure, by means of the holding of shares or the possession of voting power in or in relation to the company, or by virtue of any powers conferred by the articles of association or other document regulating that company, that the affairs of the company are conducted in accordance with his wishes.

## **11 Dismissal of application for new tenancy where landlord successfully opposes.**

- (1) The Lands Tribunal shall not make an order under this Part for the grant of a new tenancy where the landlord opposes an application under section 8 on grounds on which he is entitled to oppose it in accordance with section 10 and establishes any of those grounds to the satisfaction of the Lands Tribunal.

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- (2) Where in a case not falling within subsection (1) the landlord opposes an application for the grant of a new tenancy on one or more of the grounds specified in paragraphs (d), (e) and (f) of section 10(1) but fails to establish any of those grounds to the satisfaction of the Lands Tribunal, the Lands Tribunal, if it would have been satisfied as to any of those grounds had the date of termination specified in the landlord's notice to determine or, as the case may be, the date specified in the tenant's request for a new tenancy as the date from which the new tenancy is to begin, been such later date as the Lands Tribunal may determine, being a date not more than one year later than the date so specified,—
- (a) shall make a declaration to that effect, stating on which of the said grounds it would have been satisfied as aforesaid and specifying the later date determined by the Lands Tribunal as aforesaid, but shall not make an order for the grant of a new tenancy; and
  - (b) if, within fourteen days after the making of the declaration, the tenant so requires, shall make an order substituting that later date for the date specified in the said landlord's notice to determine or the tenant's request, and thereupon that notice or request shall have effect accordingly.

## **12 Powers of Lands Tribunal to grant a new tenancy on application.**

- (1) Where the tenant applies under section 8 to the Lands Tribunal for the grant of a new tenancy and—
- (a) the landlord fails to establish to the satisfaction of the Lands Tribunal any of the grounds of opposition to the grant of a new tenancy under section 10; or
  - (b) the Lands Tribunal does not make a declaration under section 11(2);
- the Lands Tribunal shall make an order for the grant of a new tenancy comprising such property, at such rent and on such other terms, as are provided in the succeeding provisions of this Part.
- (2) Where a tenancy is continued or a new tenancy is granted under this Part in any premises, such continued or new tenancy shall for all purposes be deemed to be a graft upon the tenancy previously subsisting in those premises, and the interest of the tenant thereunder shall be subject to any rights or equities arising from its being such graft.
- (3) Subsection (2) shall not operate so as to extend any liability under any guarantee or other security for the payment of rent.

## **13 Property to be comprised in new tenancy.**

- (1) Subject to subsection (2) an order under section 12 for the grant of a new tenancy shall be an order for the grant of a new tenancy of the holding; and in the absence of agreement between the landlord and the tenant as to the property which constitutes the holding the Lands Tribunal shall in the order designate that property by reference to the circumstances existing at the date of the order.
- (2) Where the property comprised in the current tenancy includes other property besides the holding and the landlord requires any new tenancy ordered to be granted under section 12 to be a tenancy of the whole of the property comprised in the current tenancy the Lands Tribunal shall make an order for the grant of a new tenancy of the whole of the property comprised in the current tenancy; and in any such case references in the succeeding provisions of this Part to the holding shall be construed as references to the whole of that property.

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- (3) Where the current tenancy includes rights enjoyed by the tenant in connection with the holding, those rights shall, unless the parties otherwise agree or the Lands Tribunal otherwise directs, be included in a tenancy ordered to be granted under section 12.

#### **14 Duration of new tenancy.**

- (1) Where the Lands Tribunal makes an order under this Part for the grant of a new tenancy, the new tenancy shall be—
- (a) a tenancy for such period as may be agreed between the landlord and tenant; or
  - (b) in the absence of agreement, a tenancy for such period, not exceeding fourteen years, as may be determined by the Lands Tribunal to be reasonable in all the circumstances, and shall begin on the coming to an end of the current tenancy.
- (2) Where the period for which in accordance with this Part it is agreed or determined by the Lands Tribunal that a new tenancy should be granted thereunder will extend beyond the date on which the estate of the immediate landlord will come to an end, then subject to subsection (3), the power of the Lands Tribunal under this Part to order such a grant shall include power to order the grant of a new tenancy until the expiration of that estate and, subject to the following provisions of this section, to order the grant of such a reversionary tenancy or reversionary tenancies as may be required to secure that the combined effects of those grants will be equivalent to the grant of a tenancy for that period; and the provisions of this Part shall, subject to the necessary modifications, apply to the grant of a tenancy together with one or more reversionary tenancies as they apply in relation to the grant of one new tenancy.
- (3) The Lands Tribunal shall not under subsection (2) grant a reversionary tenancy unless the tenant has, within such time as may be prescribed by Lands Tribunal Rules, served notice of his application for a new tenancy on any person, other than the landlord, having a reversionary estate which would be affected by the grant of the reversionary tenancy.
- (4) Any person having a reversionary estate which is likely to be affected by the grant of a reversionary tenancy (including any terms or conditions attached to such grant) may in accordance with Lands Tribunal Rules apply to the Lands Tribunal to be made a party to the proceedings and, on such application being granted, may oppose the grant of the reversionary tenancy on any grounds which appear to the Lands Tribunal to be relevant and shall be bound by the proceedings.

#### **15 Rent under new tenancy.**

- (1) The rent payable under a new tenancy granted by order of the Lands Tribunal under this Part shall be such as may be agreed between the landlord and the tenant.
- (2) In the absence of agreement the rent shall be such as may be determined by the Lands Tribunal to be that at which, having regard to the terms of the tenancy (other than those relating to rent), the holding might reasonably be expected to be let in the open market by a willing lessor, there being disregarded—
- (a) any effect on rent of the fact that the tenant has or his predecessors in title have been in occupation of the holding;
  - (b) any goodwill attached to the holding by reason of the carrying on thereat of the business of the tenant (whether by him or by a predecessor of his in that business);

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- (c) any effect on rent of any improvement—
- (i) carried out by the tenant or a predecessor in title of his; or
  - (ii) where the tenant or a predecessor in title of his has remained in occupation of the holding during two or more tenancies, carried out by him or that predecessor in title during a tenancy other than the current tenancy;
- other than in pursuance of an obligation to the immediate landlord;
- (d) in the case of a holding comprising premises licensed under the Licensing Acts (Northern Ireland)<sup>F8</sup>, any addition to its value attributable to the licence, if it appears to the Lands Tribunal that having regard to the terms of the current tenancy and any other relevant circumstances the benefit of the licence belongs to the tenant.
- (3) None of the provisions of the [<sup>F9</sup> Rent (Northern Ireland) Order 1978 ] shall operate to limit or affect the amount of the rent which may be fixed by the Lands Tribunal under subsection (2).

*Subs. (4) rep. by 1978 NI 20*

**F8** 1971 c.13 (NI)

**F9** 1978 NI 20

## 16 Other terms of new tenancy.

The terms of a tenancy granted by order of the Lands Tribunal under this Part (other than terms as to the duration thereof and as to the rent payable thereunder) shall be such as may be agreed between the landlord and the tenant, or as, in the absence of agreement, may be determined by the Lands Tribunal; and in determining those terms the Lands Tribunal shall have regard to the terms of the current tenancy and to all relevant circumstances.

## 17 Carrying out of order for new tenancy.

- (1) Where the Lands Tribunal makes an order under this Part for the grant of a new tenancy, then, unless the order is revoked under subsection (2) or the landlord and tenant agree not to act upon the order, the landlord shall be bound to execute or make in favour of the tenant, and the tenant shall be bound to accept, an agreement for a tenancy of the holding embodying the terms agreed between the landlord and the tenant or determined by the Lands Tribunal in accordance with the foregoing provisions of this Part; and where the landlord executes or makes such an agreement the tenant shall be bound, if so required by the landlord, to execute a counterpart or duplicate thereof.
- (2) If the tenant, within fourteen days after the making of an order under this Part for the grant of a new tenancy, applies to the Lands Tribunal for the revocation of the order, the Lands Tribunal shall revoke the order; and where the order is so revoked, then, if it is so agreed between the landlord and the tenant or determined by the Lands Tribunal, the current tenancy shall continue beyond the date at which, but for this subsection, it would have come to an end, for such period as may be so agreed or determined to be necessary to afford to the landlord a reasonable opportunity for re-letting or otherwise disposing of the premises which would have been comprised in the new tenancy; and while the current tenancy continues by virtue of this subsection it shall not be a tenancy to which this Part (other than this subsection and subsection (3)) applies.

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- (3) Where an order is revoked under subsection (2) any provision thereof as to payment of costs shall not cease to have effect by reason only of the revocation; but the Lands Tribunal may, if it thinks fit, revoke or vary any such provision or, where no costs have been awarded in the proceedings for the revoked order, award such costs.
- (4) An agreement made under this section, where the estate of the landlord is subject to a mortgage, shall be deemed to be one authorised by section 18 of the Conveyancing Act 1881 (which confers certain powers of leasing on mortgagors in possession), and subsection (13) of that section (which allows those powers to be restricted or excluded by agreement) shall not have effect in relation to such an agreement.
- (5) In subsection (4) the references to section 18 of the Conveyancing Act 1881 shall be construed as a reference to that section as modified by subsection (10) of section 3 of the Conveyancing Act 1911 and, so far as it relates to the powers of leasing, by subsection (11) of the said section 3.
- (6) Where a landlord or tenant refuses, neglects or fails within a reasonable time to execute or accept any document which he is bound under the provisions of this section to execute or accept, the Lands Tribunal may, on the application in accordance with Lands Tribunal Rules of any interested party, nominate some proper person to execute or accept or join in executing or accepting the document on behalf of the person in default, and the person so nominated may recover summarily as a civil debt due to him by the person in default any fees, costs or other expenses incurred by him in executing or accepting that document.

**18 Powers of Lands Tribunal where landlord cannot be found or is under a disability.**

Where, on an application under this Part for the grant of a new tenancy, the landlord or any landlord cannot be found or is under a disability or is acting in a fiduciary capacity, the Lands Tribunal may make such order as it may think proper to enable the new tenancy to be granted notwithstanding that impossibility of being found, disability or fiduciary capacity, as the case may be.

**19<sup>F10</sup> Compensation where order for new tenancy is precluded on certain grounds.**

- (1) Where on the making of an application under section 8, the Lands Tribunal is precluded (whether by subsection (1) or subsection (2) of section 11) from making an order for the grant of a new tenancy by reason of any of the grounds specified in paragraphs (e), (f) and (g) of subsection (1) of section 10, and not of any grounds specified in any other paragraph of that subsection, then, subject to the provisions of this Part, the tenant shall be entitled on quitting the holding to recover from the landlord by way of compensation an amount determined in accordance with the following provisions of this section.
- (2) The said amount shall be as follows, that is to say:—
  - (a) where the conditions specified in subsection (3) are satisfied it shall be twice the net annual value of the holding;
  - (b) in any other case it shall be the net annual value of the holding.
- (3) The said conditions are—
  - (a) that during the whole of the fourteen years immediately preceding the termination of the current tenancy, premises being or comprised in the holding

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- have been occupied for the purposes of a business carried on by the occupier or for those and other purposes;
- (b) that, if during those fourteen years there was a change in the occupier of the premises, the person who was the occupier immediately after the change was the successor to the business carried on by the person who was the occupier immediately before the change.
- (4) Where the Lands Tribunal is precluded from making an order for the grant of a new tenancy under this Part in the circumstances mentioned in subsection (1), the Lands Tribunal shall, on the application of the tenant, certify that fact.
- (5) For the purposes of subsection (2) the question of net annual value of the holding shall be referred to the Commissioner of Valuation and shall be decided as follows:—
- (a) the net annual value shall be that value shown in the valuation list in force under the Valuation Acts at the date on which the landlord's notice under section 4 or, as the case may be, section 5(6), is served;
- (b) where no such value is so shown with respect to the holding but such a value or values is or are shown with respect to premises comprised in or comprising the holding or part of it, the net annual value of the holding shall be taken to be such value as is certified by the Commissioner of Valuation to be attributable to the value or values so shown;
- (c) where the net annual value of the holding cannot be ascertained in accordance with the foregoing provisions of this subsection, it shall be taken to be the value which the Commissioner of Valuation certifies would on a proper assessment be the value to be entered in the said valuation list as the net annual value of the holding.
- (6) The Ministry of Finance may by regulations made subject to negative resolution prescribe the procedure in connection with references under subsection (5).
- (7) In this section the reference to the termination of the current tenancy is a reference to the date of termination specified in the landlord's notice to determine under section 4, or, as the case may be, the date specified in the tenant's request for a new tenancy as the date from which the new tenancy is to begin.

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## 20 Restriction on agreements excluding provisions of Part I.

- (1) So much of any agreement relating to a tenancy to which this Part applies (whether contained in the instrument creating the tenancy or not) as purports directly or indirectly by any means whatsoever to preclude the tenant from making an application or request under this Part or provides for the termination or the surrender of the tenancy in the event of his making such an application or request or for the imposition of any penalty, restriction or disability on the tenant in that event, shall be void.
- (2) Where—
- (a) during the whole of the five years immediately preceding the date on which the tenant under a tenancy to which this Part applies is to quit the holding, premises being or comprised in the holding have been occupied for the purposes of a business carried on by the occupier or for those and other purposes; and

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- (b) if during those five years there was a change in the occupier of the premises, the person who was the occupier immediately after the change was the successor to the business carried on by the person who was the occupier immediately before the change;

any agreement (whether contained in the instrument creating the tenancy or not and whether made before or after the termination of that tenancy) which purports to exclude or reduce compensation under section 19 shall to that extent be void, so however that this subsection shall not affect any agreement as to the amount of any such compensation which is made after the right to compensation has accrued.

- (3) In a case not falling within subsection (2) the right to compensation conferred by section 19 may be excluded or modified by agreement.

## **21 Compensation for misrepresentation, etc., or landlord's failure to fulfil intentions.**

- (1) Where under this Part the Lands Tribunal refuses an order for the grant of a new tenancy, and it is subsequently made to appear to the Lands Tribunal that the Lands Tribunal was induced to refuse the grant by misrepresentation or by the concealment of material facts or that the intentions of the landlord as represented by him to the Lands Tribunal regarding any of the matters specified in section 10(1)(e)(f) or (g) have not without reasonable excuse been fulfilled, the Lands Tribunal may order the landlord to pay to the tenant such sum as appears sufficient as compensation for damage or loss sustained by the tenant as the result of the refusal and any such order shall be enforceable as if it were an order made by a county court which had jurisdiction to make such an order.
- (2) In subsection (1) the expression “the landlord” means the person opposing an application for the grant of a new tenancy, and the expression “the tenant” means the person to whom the grant of a new tenancy was refused.

## **22 Penalties for fraud or the wilful concealment of material facts.**

- (1) Any person who fraudulently or by the wilful concealment of material facts induces the Lands Tribunal to grant, or to refuse to grant, a new tenancy under this Part shall, without prejudice to the provisions of the [F11 Perjury (Northern Ireland) Order 1979 ], be guilty of an offence and shall be liable—
- (a) on summary conviction, to a fine not exceeding [F12 level 3 on the standard scale] or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment;
  - (b) on indictment, to [F12 an unlimited fine] or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.
- (2) For the purposes of any proceedings under this section, a certificate under the hand of a member of the Lands Tribunal that, in any proceedings of the Lands Tribunal heard before him (whether sitting alone or otherwise), a statement of material facts as set out in the certificate was made to the Tribunal or that any material facts as set out in the certificate were not disclosed to the Tribunal, shall, until the contrary is shown, be accepted as proof that such statement was made, or, as the case may be, that such facts were not disclosed to the Tribunal.

<b>F12</b> 1984 NI 3
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## GENERAL AND SUPPLEMENTARY PROVISIONS

### **23 Duty of tenants and landlords of business premises to give information to each other.**

- (1) Any person having an estate in any business premises, being an estate in reversion expectant (whether immediately or not) on a tenancy of those premises, may serve on the tenant under such tenancy a notice in the prescribed form, requiring such tenant to notify that person—
  - (a) whether he occupies the premises or any part thereof wholly or partly for the purposes of a business carried on by him; and
  - (b) whether his tenancy has effect subject to any sub-tenancy on which his tenancy is immediately expectant and, if so, what premises are comprised in the sub-tenancy, for what term it has effect (or, if it is terminable by notice, by what notice it can be terminated), what is the rent payable thereunder, who is the sub-tenant, and (to the best of his knowledge and belief) whether the sub-tenant is in occupation of the premises or of part of the premises comprised in the sub-tenancy and, if not, what is the sub-tenant's address.
- (2) A tenant of business premises, being a tenant under such a tenancy as is mentioned in section 5(1), may serve all or any of the following notices:—
  - (a) on his immediate landlord or the person to whom he pays the rent in respect of the premises comprised in the tenancy a notice in the prescribed form requiring such landlord or person to inform him of the nature and duration of that landlord's reversion in such premises or any part thereof and the name and address of the immediately superior landlord, if any, of that landlord;
  - (b) on any person whom the tenant reasonably believes to be a superior landlord or the agent of a superior landlord, a notice in the prescribed form requiring such person to inform him whether such person or any person for whom such person is agent has or has not any estate in the said premises or any part thereof, the nature, tenure and duration of such estate, if any, and the names and addresses of the persons having estates in the said premises or any part thereof immediately superior or immediately inferior to such estate.
- (3) The information which any such person as is mentioned in paragraphs ( a ) and ( b ) of subsection (2) is required to give under that subsection shall include information whether there is a mortgagee in possession of the estate of the immediate landlord, or as the case may be, the superior landlord, in the premises and, if so, what is the name and address of the mortgagee.
- (4) Where a mortgagee is in possession of an estate in the said premises or any part thereof, being an estate in reversion expectant (whether immediately or not) on the estate of the tenant the tenant may serve a notice in the prescribed form requiring the mortgagee to inform him—
  - (a) of the nature and duration of the estate of his mortgagor; and
  - (b) of the name and address of the immediate landlord, if any, of his mortgagor.

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- (5) It shall be the duty of any person on whom a notice is served under this section to furnish in writing within one month after the service of such notice to the person by whom such notice was so served, the information asked for by such notice so far as it is within the possession or procurement of such person.
- (6) Where a notice is served under this section and the person on whom such notice is so served fails or neglects to furnish in writing, within the time limited by this section, the information he is required by this section so to furnish, the person by whom the notice was served may apply to the Lands Tribunal and on the hearing of such application the Lands Tribunal may make such order as it thinks necessary with a view to compelling such person so to furnish such information and any such order may be enforced by mandamus.
- (7) In the case of a tenancy granted for a term certain the foregoing provisions of this section shall not apply to a notice served by or on the tenant more than two years before the date on which but for this Part his tenancy would come to an end by effluxion of time or could be brought to an end by notice to quit served by the immediate landlord.
- (8) In this section—  
     “business premises” means premises used wholly or partly for the purposes of a business;  
     “mortgagee in possession” includes a receiver, appointed by the mortgagee or by a court of competent jurisdiction, who is in receipt of the rents and profits, and the expression “his mortgagor” shall be construed accordingly;  
     “sub-tenant” includes a person retaining possession of any premises by virtue of the Rent Restrictions Acts after the coming to an end of a sub-tenancy, and “sub-tenancy” includes a right so to retain possession.

## 24 Trusts.

- (1) Where a tenancy is held on trust, occupation by all or any of the beneficiaries under the trust, and the carrying on of a business by all or any of the beneficiaries, shall be treated for the purposes of section 1 as equivalent to occupation or the carrying on of a business by the tenant; and in relation to a tenancy to which this Part applies by virtue of the foregoing provisions of this subsection—
- (a) references (however expressed) in this Part and in Schedule 2 to the business of, or to carrying on of business, use or occupation by, the tenant shall be construed as including references to the business of, or to carrying on of business, use or occupation by, the beneficiaries or beneficiary;
  - (b) the reference in section 15(2)(d) to the tenant shall be construed as including the beneficiaries or beneficiary; and
  - (c) a change in the persons of the trustees shall not be treated as a change in the person of the tenant.
- (2) Where the landlord's estate is held on trust the references in subsection (1)(g) of section 10 to the landlord shall be construed as including references to the beneficiaries under the trust or any of them; but, except in the case of a trust arising under a will or on the intestacy of any person, the reference in subsection (3) of that section to the creation of the estate therein mentioned shall be construed as including the creation of the trust.

## 25 Groups of companies.

- (1) For the purposes of this section two bodies corporate shall be taken to be members of a group if and only if one is a subsidiary of the other or both are subsidiaries of a third body corporate.
- (2) In subsection (1) “subsidiary” has<sup>F13</sup> the meaning given by [<sup>F14</sup>section 1159 of the Companies Act 2006].
- (3) Where a tenancy is held by a member of a group, occupation by another member of the group, and the carrying on of a business by another member of the group, shall be treated for the purposes of section 1 as equivalent to occupation or the carrying on of a business by the member of the group holding the tenancy; and in relation to a tenancy to which this Part applies by virtue of the foregoing provisions of this subsection—
  - (a) references (however expressed) in this Part and in Schedule 2 to the business of, or to use or occupation by, the tenant shall be construed as including references to the business of, or to use or occupation by, the said other member;
  - (b) the reference in section 15(2)( d) to the tenant shall be construed as including the said other member; and
  - (c) an assignment of the tenancy from one member of the group to another shall not be treated as a change in the person of the tenant.
- (4) Where the landlord's estate is held by a member of a group the reference in section 10(1)( g) to intended occupation for the purposes of a business to be carried on by the landlord shall be construed as including intended occupation for the purposes of a business to be carried on by any member of the group.

**F13** 1990 NI 10

**F14** Words in s. 25(2) substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 13** (with art. 10)

## 26 Provisions as to reversions.

- (1) Where by virtue of any provision of this Part a tenancy (in this subsection referred to as “the inferior tenancy” ) is continued for a period such as to extend to or beyond the end of a superior tenancy, the superior tenancy shall, for the purposes of this Part and of any other enactment and of any rule of law, be deemed so long as it subsists to be an estate in reversion expectant upon the termination of the inferior tenancy, and if there is no intermediate tenancy, to be the estate in reversion immediately expectant upon the termination thereof.
- (2) In the case of a tenancy continuing by virtue of any provision of this Part after the coming to an end of the estate of the immediate landlord, the person then having the reversion immediately expectant upon the coming to an end of that estate shall, from such coming to an end and so long as his term subsists, be deemed, to the extent and for the purpose of preserving the incidents to and obligations on the said estate as would have subsisted if that estate had not come to an end, to be the immediate landlord in relation to the tenancy so continued.
- (3) Where by virtue of any provision of this Part a tenancy (in this subsection referred to as “the continuing tenancy” ) is continued beyond the beginning of a reversionary

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tenancy which was granted (whether before or after the commencement of this Act) so as to begin on or after the date on which but for this Part the continuing tenancy would have come to an end, the reversionary tenancy shall have effect as if it had been granted subject to the continuing tenancy.

- (4) Where by virtue of any provision of this Part a tenancy (in this subsection referred to as “the new tenancy” ) is granted for a period beginning on the same date as a reversionary tenancy or for a period such as to extend beyond the beginning of the term of a reversionary tenancy, whether the reversionary tenancy in question was granted before or after the commencement of this Act, the reversionary tenancy shall have effect as if it had been granted subject to the new tenancy.

## **27 Provision as to overholding.**

A tenant shall not be deemed for the purposes of section 76 of the Landlord and Tenant Law Amendment Act, Ireland, 1860 wilfully to hold over any property comprised in a tenancy by reason only of his remaining in possession thereof under or by virtue of any provision of this Part.

## **28 Meaning of “the landlord” in Part I and provisions as to mesne landlords.**

- (1) In this Part the expression “the landlord” , in relation to a tenancy (in this section referred to as “the relevant tenancy” ) means the person (whether or not he is the immediate landlord) who is the owner of that estate in the property comprised in the relevant tenancy which for the time being fulfils the following conditions, that is to say:—
- (a) that it is an estate in reversion expectant (whether immediately or not) on the termination of the relevant tenancy; and
  - (b) that it is either the fee simple or a tenancy which will not come to an end within fourteen months or less by effluxion of time or by virtue of a notice already served being a notice served in relation to that tenancy by the immediate landlord or tenant thereof in accordance with the terms of that tenancy or a notice to determine as defined in section 3 or a notice under section 5 requesting a new tenancy;
- and is not itself in reversion expectant (whether immediately or not) on an estate which fulfils these conditions.
- (2) The provisions of Schedule 1 shall have effect for the purposes of the application of this Part to cases where there are several persons standing in the relation to each other of landlord and tenant.

## **29 Interpretation of Part I.**

In this Part—

- “agricultural land” has the meaning assigned to it by section 43(1) of the Agriculture Act (Northern Ireland) 1949 ;
- “business” has the meaning assigned to it by section 1(2);
- “current tenancy” has the meaning assigned to it by section 5(1);
- “date of termination” has the meaning assigned to it by section 4(1);
- “the holding” has, subject to section 13(2), the meaning assigned to it by section 1(3);

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“notice to quit” has the meaning assigned to it by section 3(3);

“notice to determine” has the meaning assigned to it by section 3(3);

“premises” includes land and buildings;

*Definitions rep. by 1978 NI 20*

“tenancy” includes a tenancy created or renewed in pursuance of any enactment (including this Act), but does not include a tenancy at will, howsoever arising, or a tenancy at sufferance, or any mortgage term or any estate arising in favour of a mortgagor solely by reason of his attorning tenant to his mortgagee;

“term certain” in relation to a tenancy means any definite period of certain duration whether or not the tenancy is renewable for further such periods.

## PART II

### COMPENSATION FOR IMPROVEMENTS

#### **30 Right of tenant to compensation for improvements.**

(1) Subject to the provisions of this Part, on the termination of a tenancy to which Part I applies the tenant thereunder shall be entitled, on quitting the premises comprised in the tenancy, to be paid by his landlord compensation in respect of any improvement (including the erection of any building) on the said premises made after the commencement of this Act—

(a) by him or a predecessor in title of his; or

(b) where the tenant or a predecessor in title of his has remained in occupation of the premises during two or more tenancies, by him or that predecessor in title during a tenancy other than the current tenancy;

not being a trade or other fixture which the tenant is by law entitled to remove, which at the termination of the tenancy adds to the letting value of the premises comprised therein.

(2) A tenant shall not be entitled to compensation under subsection (1) unless a claim in the prescribed form is served on his landlord within the time limited by section 31.

#### **31 Time for the service of claims for compensation for improvements.**

(1) The time for the service of a claim for compensation for improvements under section 30(2) shall be as follows, that is to say:—

(a) where a tenancy is terminated by notice served by the tenant or by the immediate landlord under and in accordance with the terms (whether express or implied) of that tenancy, or by a notice given by any person under Part I, the said time shall be a time falling within the period of three months beginning on the date on which the notice is served; but where a tenancy is terminated by a tenant's request for a new tenancy under section 5 the said time shall be a time falling within the period of three months beginning on the date on which the landlord serves notice, or (if he has not served such a notice) the latest date on which he could have served notice, under section 5(6);

(b) where a tenancy is terminated by forfeiture or re-entry, the said time shall be a time falling within the period of three months beginning with the effective date of the order of a court of competent jurisdiction for the recovery of possession of the premises comprised in the tenancy or, if the tenancy is terminated by

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re-entry without such an order, the period of three months beginning with the date of the re-entry.

- (2) In subsection (1)( *b*) the reference to the effective date of an order is a reference to the date on which the order is to take effect according to the terms thereof or the date on which it ceases to be subject to appeal, whichever is the later.

### **32 Right of mesne landlords to compensation for improvements.**

Where in the case of premises comprised in a tenancy there are several persons standing in the relation to each other of landlord and tenant, any mesne landlord who has paid or is liable to pay, or any of whose predecessors in title has paid or is liable to pay, compensation under this Part shall, at the end of his term, be entitled to compensation from his immediate landlord in like manner and on the same conditions (save those conditions relating to the service of a claim for compensation) as if he had himself made the improvement in question.

### **33 Measure of compensation for improvements.**

- (1) The sum to be paid under this Part as compensation for any improvement on premises comprised in a tenancy shall not exceed the lesser of—
- (a) the net addition to the value of those premises as a whole at the termination of the tenancy which may be determined to be the direct result of the improvement; or
  - (b) the reasonable cost of carrying out the improvement at the termination of the tenancy, subject to a deduction of an amount equal to the cost, if any, of putting the works constituting the improvement into a reasonable state of repair, except so far as such cost is covered by the liability of the tenant under any covenant or agreement as to the repair of the premises.
- (2) In determining the amount of such net addition as is mentioned in subsection (1)( *a*), regard shall be had to the purposes for which it is intended that the premises shall be used after the termination of the tenancy, and if it is shown that it is intended to demolish or to make structural alterations in the premises or any part thereof or to use the premises for a different purpose, regard shall be had to the effect of such demolition, alteration or change of user on the additional value attributable to the improvement, and to the length of time likely to elapse between the termination of the tenancy and the demolition, alteration or change of user.
- (3) In the absence of agreement between the parties, all questions as to the right to compensation under this Part, or as to the amount thereof, shall be referred to and determined by the Lands Tribunal, and if the Lands Tribunal determines that, on account of the intention to demolish or alter or to change the user of the premises, no compensation or a reduced amount of compensation shall be paid, the Lands Tribunal may authorise a further application for compensation to be made by the tenant if effect is not given to the intention within such time as may be fixed by the Lands Tribunal.
- (4) The Lands Tribunal in determining the compensation for an improvement shall in reduction of the tenant's claim take into consideration—
- (a) any benefits which the tenant or his predecessors in title may have received from the landlord or his predecessors in title in consideration expressly or impliedly of the improvement;

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- (b) any grant paid or payable under any enactment to the tenant or any of his predecessors in title towards the cost of such improvement.

### **34 Notices in relation to the making of an improvement.**

- (1) Where a tenant under a tenancy to which Part I applies proposes to make an improvement (other than an improvement under such a contract as is mentioned in section 39(3)) on the premises comprised therein he shall serve on his landlord a notice (in this Part referred to as a “notice of improvement” ) in the prescribed form and consisting of the following documents, that is to say:—
  - (a) a statement in the prescribed form of the intention to make the improvement; and
  - (b) a plan and a specification showing the improvement and the part of the said premises affected thereby; and
  - (c) an estimate, verified by an architect, surveyor or building contractor, of the cost of making the improvement.
- (2) Where a notice of improvement is served on the landlord of premises comprised in a tenancy to which Part I applies, that landlord may within three months after such service serve on the tenant any one but not both of the following notices, that is to say:—
  - (a) a notice (in this Part referred to as a “notice of objection” ) in the prescribed form objecting to the improvement proposed in the said notice of improvement on grounds specified in that notice; or
  - (b) a notice (in this Part referred to as “a notice of undertaking” ) in the prescribed form undertaking to execute the said improvement in consideration of either (as shall be specified by the landlord) a specified increase of rent or an increase of rent to be fixed by the Lands Tribunal.
- (3) Where a notice of improvement has been served on the landlord of premises comprised in a tenancy to which Part I applies that landlord shall within one month after the service of that notice serve the notice or a copy thereof on his immediate superior landlord, if any, and that immediate superior landlord, if any, may within three months after the date of the service under subsection (1) of the notice of improvement by the tenant on the landlord serve a notice of objection on that tenant.
- (4) Every superior landlord on whom a notice of improvement or a copy thereof is served under this section (including this subsection) shall within one week after such service serve that notice of improvement (or the copy thereof) or a copy thereof on his next superior landlord, if any, and that next superior landlord, if any, shall have the like right of serving a notice of objection as the first-mentioned superior landlord has under this section (including this subsection).
- (5) Every notice of improvement or copy thereof which is served under this section shall have endorsed thereon a statement of the date on which—
  - (a) the notice of improvement was served under subsection (1) by the tenant on his landlord; and
  - (b) the notice of improvement or copy thereof was served under subsection (3) or (4) by a landlord on a superior landlord.

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### **35 Execution of improvement in absence of objection.**

Where a tenant has served a notice of improvement under section 34(1) on his landlord and that landlord has not within three months after such service, served on that tenant a notice of undertaking in respect of that notice of improvement and neither the landlord nor any superior landlord has, within such three months, or such longer period as may be permitted under section 44, served on the tenant a notice of objection in respect of the notice of improvement, such landlord and such superior landlord shall be deemed to have consented to the improvement specified in the notice of improvement and the tenant shall be entitled to execute the improvement in accordance in all respects with the plan and specification contained in that notice of improvement.

### **36 Rights of parties on service of notice of objection.**

- (1) Where a tenant has served a notice of improvement on his landlord and either that landlord or a superior landlord has, within three months after such service, served on that tenant a notice of objection in respect of the notice of improvement, the tenant may either:—
  - (a) by notice served on the landlord or on such landlord and such superior landlord (as the case may require) withdraw the notice of improvement; or
  - (b) apply to the Lands Tribunal under this section.
- (2) Where a tenant withdraws in accordance with this section a notice of improvement, that notice shall for all purposes be deemed never to have been served.
- (3) Where a tenant applies to the Lands Tribunal under this section and the Lands Tribunal is satisfied that the improvement which is the subject of the application:—
  - (a) is of such a nature as, at the termination of the tenancy under which the tenant holds, would be calculated to add to the letting value of the premises comprised therein; and
  - (b) is reasonable and suitable to the character of such premises; and
  - (c) will not diminish the value of any other property belonging to the said landlord, or to any superior landlord of that landlord;

the Lands Tribunal may, subject to the provisions of this section, make an order (in this Part referred to as an “improvement order” ) authorising the tenant to make the improvement in accordance with the said notice of improvement subject to such modifications or conditions, if any, as the Lands Tribunal shall think proper to specify in that order.
- (4) Where on an application to the Lands Tribunal under this section it appears that the notice of objection, which is the subject of the application, was served by a superior landlord and that the landlord duly served a notice of undertaking, and the Lands Tribunal is satisfied that but for this subsection an improvement order should be made, the Lands Tribunal may, in lieu of making an improvement order, authorise the landlord to execute the improvement in accordance with the notice of undertaking subject to such modifications or conditions, if any, as the Lands Tribunal may think proper.
- (5) The Lands Tribunal shall not make an improvement order under this section until it is satisfied that all interested parties have notice of the proceedings and have had an opportunity to be heard, and any interested party appearing before the Lands Tribunal shall be bound by the proceedings.

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- (6) The tenant shall, at the request of any superior landlord or at the request of the Lands Tribunal, supply such copies of his notice of improvement as may be required.
- (7) In considering whether an improvement is reasonable and suitable to the character of premises comprised in a tenancy the Lands Tribunal shall have regard to any evidence brought before it by or on behalf of the landlord or any superior landlord (but not any other person) that the improvement is calculated to injure the amenity or convenience of the neighbourhood.

### **37 Rights of parties on service of notice of undertaking.**

Where a tenant has served a notice of improvement under section 34(1) on his landlord and that landlord has, within three months after such service, served on the tenant a notice of undertaking in respect of the notice of improvement and no superior landlord has within such three months served on the tenant a notice of objection in respect of the notice of improvement, the following provisions shall have effect, that is to say:—

- (a) the tenant may, by notice served on his landlord within one month after the service of the notice of undertaking, either accept the notice of undertaking, or withdraw the notice of improvement served by him, or where the notice of undertaking specifies an increase of rent, object to the amount of that increase;
- (b) where the tenant does not within the said month serve any notice under paragraph (a) or the tenant duly accepts the notice of undertaking, the landlord shall within a reasonable time after the expiration of such month, execute and complete at his own expense and in accordance with that notice of undertaking the improvement mentioned therein;
- (c) if the tenant duly withdraws in accordance with this section the notice of improvement served by him, that notice shall for all purposes be deemed never to have been served;
- (d) where the tenant duly objects in accordance with this section to the amount of the increase of rent specified in the notice of undertaking, then—
  - (i) the landlord and the tenant may either fix by agreement the amount of the increase of rent or agree that the amount of the increase of rent shall be fixed by the Lands Tribunal and thereupon the notice of undertaking shall have effect in accordance with that agreement and be deemed to have been duly accepted in accordance with this section by the tenant; or
  - (ii) either the landlord or the tenant may apply to the Lands Tribunal and on the hearing of the application the Lands Tribunal may, as it shall think proper, either fix the amount of the increase of rent or deem the notice of undertaking to be a notice of objection and deal with it accordingly;
- (e) where the notice of undertaking is, by its terms or by subsequent agreement, made subject to an increase of rent of an amount to be fixed by the Lands Tribunal, the landlord or tenant may, when the improvement has been duly executed by the landlord, apply to the Lands Tribunal to fix the amount of the increase of rent and thereupon the Lands Tribunal shall fix that amount accordingly;
- (f) upon the completion of the improvement by the landlord in accordance with the notice of undertaking and this section, the rent payable by the tenant to such landlord shall, as from the date of the completion, be increased in accordance with that notice of undertaking or the order of the Lands Tribunal

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*Changes to legislation: There are currently no known outstanding effects for the Business Tenancies Act (Northern Ireland) 1964. (See end of Document for details)*

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(as the case may be), and any dispute as to the amount or commencement of or otherwise in relation to such increase shall be referred to and determined by the Lands Tribunal on the application of the landlord or tenant;

- (g) where the landlord is bound under this section or under section 36(4) to execute an improvement in accordance with a notice of undertaking but fails or neglects to execute and complete that improvement within a reasonable time the tenant may apply to the Lands Tribunal and the Lands Tribunal may treat the notice of undertaking as a notice of objection and deal with it accordingly.

### **38 Improvements made in pursuance of a statutory obligation.**

Where a tenant under a tenancy to which Part I applies makes an improvement on the premises comprised in that tenancy in pursuance of any obligation imposed on him under any enactment—

- (a) the tenant shall be entitled to claim compensation for that improvement in accordance with this Part; and
- (b) section 34 shall not have effect in relation to that improvement except so much thereof as—
  - (i) requires the tenant to serve on his landlord a notice of improvement; and
  - (ii) requires the service of such notice or a copy thereof on all superior landlords, if any, of that landlord.

### **39 Restrictions on right to compensation for improvements.**

- (1) A tenant shall not be entitled to compensation in respect of an improvement, other than an improvement to which section 38 applies, unless—
  - (a) a notice of improvement was duly served in accordance with this Part in relation to that improvement; and
  - (b) the tenant by whom such notice was so served became entitled to execute the improvement either under section 35 or by virtue of an improvement order; and
  - (c) the improvement was duly executed in accordance (as the case may be) with the notice of improvement or with that improvement order.
- (2) A landlord shall not be entitled under this Part to compensation from his superior landlord in respect of an improvement in relation to which the notice of improvement (or copy thereof) served by the tenant in respect of that improvement was not duly served on the superior landlord in accordance with this Part.
- (3) A tenant shall not be entitled under this Part to compensation in respect of any improvement which the tenant or his predecessors in title were under an obligation to make in pursuance of a contract entered into, whether before or after the commencement of this Act, for valuable consideration, including a building lease.
- (4) No compensation shall be payable under this Part in respect of any improvement which was made in contravention of the provisions of any enactment.

### **40 Improvement certificates.**

- (1) Where—

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- (a) a tenant has duly served a notice of improvement and neither a notice of undertaking nor a notice of objection is duly served in respect of that notice and the tenant executes and completes in accordance with that notice the improvement mentioned therein; or
  - (b) a tenant duly executes an improvement in accordance with an improvement order; or
  - (c) a tenant duly executes an improvement in pursuance of a statutory obligation; the landlord of that tenant shall, on the application of the tenant, give to the tenant a certificate (in this section referred to as an “improvement certificate”) that the said improvement has been duly executed, and if the landlord refuses or fails within one month after the service of the application to do so, the tenant may apply to the Lands Tribunal who, if satisfied that the said improvement has been duly executed, shall give a certificate to that effect.
- (2) Where a landlord gives his tenant an improvement certificate under this section, the tenant shall be liable to pay any reasonable expenses incurred for the purpose by that landlord, and if any question arises as to the reasonableness of such expenses it shall be referred to and determined by the Lands Tribunal.

#### **41 Right to make deductions.**

- (1) Out of any money payable under this Part to a tenant by way of compensation for improvements, the landlord shall be entitled to deduct any sum due to him from the tenant under or in respect of the tenancy.
- (2) Out of any money due to the landlord from the tenant under or in respect of the tenancy, the tenant shall be entitled to deduct any sum payable under this Part to him by the landlord by way of compensation for improvements.

#### **42 Restriction on agreements excluding provisions of Part II.**

So much of any agreement or part of an agreement (other than an agreement or part of an agreement either to make or not to make an improvement) made after the commencement of this Act as deprives or would deprive any person, directly or indirectly, of any right under this Part shall be void.

#### **43 Right of entry.**

The landlord of premises comprised in a tenancy to which Part I applies, or any person authorised by him, may at all reasonable times enter on the said premises or any part thereof, for the purpose of executing any improvement he has undertaken to execute and of making any inspection of the said premises which may reasonably be required for the purposes of this Part.

#### **44 Extension of times limited by this Part.**

Where by or under this Part a period is fixed for the doing of any act or thing, the Lands Tribunal may, either before or after the expiration of such period, extend such period upon such terms as the Lands Tribunal thinks proper.

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#### **45 Meaning of “landlord” for the purposes of Part II.**

In this Part “landlord” means the person for the time being entitled to receive (otherwise than as agent for another person), as between himself and the tenant, the rent paid in respect of premises comprised in a tenancy by the tenant thereof, and references to a landlord or a tenant, when used in relation to a tenancy which has terminated, shall be construed as referring to the person who was the landlord thereof or, as the case may be, the tenant thereunder, immediately before such termination.

#### **46 Interpretation of Part II.**

In this Part—

- “improvement order” has the meaning assigned to it by section 36(3);
- “notice of improvement” has the meaning assigned to it by section 34(1);
- “notice of objection” has the meaning assigned to it by section 34(2);
- “notice of undertaking” has the meaning assigned to it by section 34(2).

### **PART III**

#### **MISCELLANEOUS AND SUPPLEMENTARY**

#### **47 Mortgagees in possession.**

Anything authorised or required by the provisions of this Act, other than subsection (2), (3) or (4) of section 23, to be done at any time by, to or with a landlord, shall, if at that time the estate of the landlord in question is subject to a mortgage and the mortgagee is in possession or a receiver is in receipt of the rents and profits, be deemed to be authorised or required to be done by, to or with the mortgagee instead of that landlord.

#### **48 Determination of tenancies of derelict land.**

- (1) Where in relation to a tenancy continued by virtue of Part I or granted under that Part the immediate landlord on an application to the Lands Tribunal satisfies the Lands Tribunal—
  - (a) that he has taken all reasonable steps to communicate with the person last known to him to be the tenant and has failed to do so;
  - (b) that during the period of six months ending with the date of the application neither the tenant nor any person claiming under him has been in occupation of the property comprised in the tenancy or any part thereof; and
  - (c) that during the said period either no rent was payable by the tenant or the rent payable has not been paid;the Lands Tribunal may if it thinks fit by order determine the tenancy as from the date of the order.
- (2) Nothing in this section shall prejudice or affect the right of a landlord to bring an action for the recovery of any land under [<sup>F15</sup> Article 12(3) of the County Courts (Northern Ireland) Order 1980 ].

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#### **49 Application of capital money under the Settled Land Acts.**

- (1) Capital money arising under the Settled Land Acts 1882 and 1890 may be applied—
  - (a) in payment, as for an improvement authorised by the said Acts, of any money expended and costs incurred under and in pursuance of this Act in or about the execution of an improvement;
  - (b) in payment of any sum payable to a tenant in respect of compensation under this Act and any costs, charges, and expenses payable to such tenant in relation to his claim for such compensation;
  - (c) in payment of the costs, charges, and expenses incurred in or in relation to opposing an application to the Lands Tribunal under this Act.
- (2) The satisfaction of a claim for compensation under this Act shall be included amongst the purposes for which a tenant for life may raise money under section 18 of the Settled Land Act 1882 .
- (3) Where a landlord liable to pay compensation under this Act, or to pay such costs, charges and expenses as are mentioned in subsection (1)( c), is a tenant for life or in a fiduciary position, he may require the sum payable in respect of such compensation and all such costs, charges and expenses to be paid out of any capital money held on the same trusts as the settled land.
- (4) In subsection (3) the expression “capital money” includes any personal estate held on the same trusts as the land, and the expression “settled land” includes land held on trust for sale.

#### **50 Protection of landlords in fiduciary capacities.**

- (1) Where a landlord is a person entitled to receive the rents and profits from any premises comprised in a tenancy as trustee or in any character otherwise than for his own benefit and money is payable by such landlord to his tenant in respect of compensation under this Act or in respect of costs, charges or expenses in relation to any application by the tenant under this Act, the following provisions shall have effect, that is to say:—
  - (a) such money shall not be recovered personally against such landlord nor shall he be under any liability to pay such money, but such money shall be a charge on and recoverable only against the premises comprised in the said tenancy and all property real or personal, held by the landlord on the same trusts or in the same character as the premises comprised in the said tenancy;
  - (b) such landlord shall, either before or after having paid such money to such tenant, be entitled to obtain from a county court an order charging such premises and all property, real or personal, held by him on the same trusts or in the same character as such premises with the payment of the amount of such money and of all costs properly incurred by him in obtaining such order or raising the amount of the charge;
  - (c) if such landlord neglects or fails to pay such money within one month after such tenant has quitted such premises, such tenant shall be entitled to obtain from a county court an order directing that such premises and all property, real or personal, held by such landlord on the same trusts or in the same character as such premises shall be charged with the payment of the amount of such moneys or of so much thereof as is then unpaid and of all costs properly incurred by him in obtaining such order or in raising the amount of the charge.

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- (2) Any company having power to lend money on mortgage or to advance money for the improvement of land may take an assignment of any charge made by a county court under this section, and such company may assign any such charge so assigned to them to any person whomsoever.

## 51 Provisions as to notices.

- (1) Any form of notice or other document (other than any notice or document required by section 19(5)) required by this Act to be prescribed shall be prescribed by regulations made by the Ministry of Home Affairs<sup>F16</sup> subject to negative resolution.
- (2) Where the form of a notice is to be prescribed for any of the purposes of this Act, that form may include such explanation of the relevant provisions of this Act as appears to the Ministry of Home Affairs<sup>F16</sup> requisite for informing any persons of their rights and obligations under those provisions.

F16 SRO (NI) 1973/504

## 52 Service of notices.

Any notice, request or other instrument required or authorised by this Act to be served on or by any person shall be in writing and, without prejudice to section 24 of the Interpretation Act (Northern Ireland) 1954, the person on or by whom it is to be served shall include any agent of that person, duly authorised in writing in that behalf.

## 53 Application and adaptations of certain enactments.

- (1) The Town Tenants Act (Ireland) 1906<sup>M1</sup> shall cease to apply to tenancies to which Part I applies, so however that nothing in this Act shall affect any right that any person may have under that Act in respect of an improvement made before the commencement of this Act.
- (2) Nothing in the foregoing provisions of this Act shall affect the operation of section 5 of the Criminal Law Amendment Act 1912, ... *residue amends s.5 of 1912 c.20*  
*Subs. (3) rep. by 1971 c. 13 (NI)*
- (4) Nothing in this Act shall affect the operation of the Planning Acts (Northern Ireland), 1931 and 1944<sup>F17</sup>.

F17 1972 NI 17

### Marginal Citations

M1 1906 c. 54

*S. 54 rep. by SLR 1973*

## 55 Interpretation.

- (1) In this Act—

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*Changes to legislation: There are currently no known outstanding effects for the Business Tenancies Act (Northern Ireland) 1964. (See end of Document for details)*

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“compensation under this Act” means compensation under section 19 and compensation under Part II or either of them;

“enactment” means any provision of an Act of the Parliament of Northern Ireland or of the Parliament of the United Kingdom whether public general, local or private, and of any instrument made under any such Act;

“Lands Tribunal” means the Lands Tribunal for Northern Ireland;

“Lands Tribunal Rules” means rules made under section 9 of the Lands Tribunal and Compensation Act (Northern Ireland) 1964 ;

“mortgage” includes a charge or lien;

“predecessor in title” in relation to a landlord or a tenant means any person through whom the landlord or the tenant, as the case may be, has derived title.

- (2) References in this Act to an agreement between the landlord and the tenant (except in subsections (1) and (2) of section 20 and in section 42) shall be construed as references to an agreement in writing between them.

## **56 Short title and transitional provisions.**

- (1) This Act may be cited as the Business Tenancies Act (Northern Ireland) 1964.

*Subs. (2) rep. by SLR 1973*

- (3) The transitional provisions set out in Schedule 2 shall have effect as from the commencement of this Act.

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*Changes to legislation: There are currently no known outstanding effects for the Business Tenancies Act (Northern Ireland) 1964. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 1

Section 28.

#### PROVISIONS FOR PURPOSES OF PART I WHERE SEVERAL PERSONS STAND IN THE RELATION OF LANDLORD AND TENANT

##### DEFINITIONS

- 1 In this Schedule the following expressions have the meanings hereby assigned to them in relation to a tenancy (in this Schedule referred to as “the relevant tenancy”), that is to say:—
- “the competent landlord” means the person who in relation to the tenancy is for the time being the landlord (as defined by section 28) for the purposes of Part I;
- “mesne landlord” means a tenant whose interest is intermediate between the relevant tenancy and the interest of the competent landlord; and
- “superior landlord” means a person whose interest is superior to the interest of the competent landlord.

##### ACTS OF COMPETENT LANDLORDS BINDING ON OTHER LANDLORDS

- 2 (1) Any notice to determine served by the competent landlord under Part I to terminate the relevant tenancy, and any agreement made between that landlord and the tenant as to the granting, duration, or terms of a future tenancy, being an agreement made for the purpose of the said Part I, shall bind the interest of any mesne landlord notwithstanding that he has not consented to the service of the notice or was not a party to the agreement.
- (2) The competent landlord shall have power for the purposes of Part I to give effect to any agreement with the tenant for the grant of a new tenancy beginning with the coming to an end of the relevant tenancy, notwithstanding that the competent landlord will not be the immediate landlord at the commencement of the new tenancy, and any instrument made in the exercise of the power conferred by this sub-paragraph shall have effect as if the mesne landlord had been a party thereto.
- (3) Nothing in sub-paragraphs (1) and (2) shall prejudice the provisions of paragraphs 3 or 4.

##### PROVISIONS AS TO CONSENT OF MESNE LANDLORD TO ACTS OF COMPETENT LANDLORD

- 3 (1) If the competent landlord, not being the immediate landlord, serves any such notice or makes any such agreement as is mentioned in paragraph 2(1) without the consent of

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every mesne landlord, any mesne landlord whose consent has not been given thereto shall be entitled to compensation from the competent landlord for any loss arising in consequence of the service of the notice or the making of the agreement.

- (2) If the competent landlord applies to any mesne landlord for his consent to such a notice or agreement, that consent shall not be unreasonably withheld, but may be given subject to any conditions which may be reasonable (including conditions as to the modification of the proposed notice or agreement or as to the payment of compensation by the competent landlord).
- (3) Any dispute as to the amount of compensation payable under this paragraph and any question arising under this paragraph as to whether consent has been unreasonably withheld or as to whether any conditions imposed on the giving of consent are unreasonable shall be referred to and determined by the Lands Tribunal.

#### CONSENT OF SUPERIOR LANDLORD REQUIRED FOR AGREEMENTS AFFECTING HIS INTEREST

- 4 An agreement between the competent landlord and the tenant made for the purposes of Part I in a case where—
  - (a) the competent landlord is himself a tenant; and
  - (b) the agreement would apart from this paragraph operate as respects any period after the coming to an end of the estate of the competent landlord;shall not have effect unless every superior landlord who will be the immediate landlord of the tenant during any part of that period is a party to the agreement.

### SCHEDULE 2

Section 56.

#### TRANSITIONAL PROVISIONS

*Para. 1 rep. by SLR 1976*

- 2 Where before the commencement of this Act a tenancy was terminated by the fall of a life or the occurrence of any other uncertain event and at the commencement of this Act the tenant thereof was entitled to make but had not made an application under the Business Tenancies Acts to the county court for the renewal of the said tenancy, notwithstanding such termination that tenancy shall be deemed to continue by virtue of section 3 and the provisions of Part I shall apply accordingly.
- 3 Where a tenancy terminated before the commencement of this Act would otherwise be a tenancy to which Part I applies, and the tenant thereof, whether a decree in ejectment or order for possession had been made against him or not, is at the commencement of this Act in occupation of the premises or part of the premises comprised in the tenancy, then for the purposes of this Act, notwithstanding such termination, the tenancy shall be deemed to continue by virtue of section 3 and the provisions of Part I shall apply accordingly.
- 4 For the purposes of section 5 and section 23(2) a tenancy which is not such a tenancy as is mentioned in subsection (1) of the said section 5 but is a tenancy to which Part I applies and in respect of which the following conditions are satisfied, that is to say—

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*Changes to legislation: There are currently no known outstanding effects for the Business Tenancies Act (Northern Ireland) 1964. (See end of Document for details)*

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- (a) that it took effect before the commencement of this Act at the coming to an end by effluxion of time or notice to quit or the fall of a life or the happening of any other uncertain event of a tenancy which is such a tenancy as is mentioned in subsection (1) of section 5 or is by virtue of this paragraph deemed to be such a tenancy; and
- (b) that if this Act had then been in force the tenancy at the coming to an end of which it took effect would have been one to which Part I applies; and
- (c) that the tenant is either the tenant under the tenancy at the coming to an end of which it took effect or a successor to his business;

shall be deemed to be such a tenancy as is mentioned in the said subsection (1).

- 5 (1) A tenant under a tenancy which was current at the commencement of this Act shall not in any case be entitled to compensation under section 19 unless at the date on which he is to quit the holding, the holding or part thereof has continuously been occupied for the purposes of the carrying on of the tenant's business (whether by him or by any other person) for at least five years.
- (2) Where a tenant under a tenancy which was current at the commencement of this Act would but for this sub-paragraph be entitled both to—
- (a) compensation under section 19; and
  - (b) compensation payable, under the provisions creating the tenancy, on the termination of the tenancy;
- he shall be entitled, at his option, to the one or the other, but not to both.

**Changes to legislation:**

There are currently no known outstanding effects for the Business Tenancies Act (Northern Ireland) 1964.