



Landlord and Tenant (War Damage) (Amendment) Act 1941

1941 CHAPTER 41

Short Tenancies

1 Provisions as to short tenancies

- (1) Section four of the principal Act (which empowers tenants to disclaim leases or to retain them on altered terms) shall not apply to any short tenancy as hereinafter defined, and the references in Part II of the said Act to a lease, underlease, sub-lease, interest in the term created by a lease, tenant, subtenant, or person having an interest in or derived out of the term created by a lease (except the references in section seven to an underlease or to a person having an interest in the land comprised in a lease) shall be construed as not including references to a short tenancy or, as the case may be, to a tenant holding under a short tenancy.
- (2) Where for any period any land let on a short tenancy is unfit by reason of war damage and is not occupied either in whole or in part by the tenant, no rent shall be payable under the tenancy in respect of that period.
- (3) Where any such land as aforesaid, or any part thereof, is occupied by the tenant while the land is unfit by reason of war damage, there shall be payable by the tenant in respect of the period of such occupation such rent as may be agreed between him and the landlord or, in default of agreement, as may be fixed by the court.
- (4) For the purposes of this section, a dwelling-house let on a short tenancy which has been rendered unfit by war damage shall be deemed at any time to be fit if it has been repaired to such extent as is reasonably practicable at that time having regard to the circumstances prevailing in the locality, and as is sufficient to render the dwelling-house reasonably capable of being used for housing purposes, and continues to be in that state of repair:

Provided that, if a dwelling-house is deemed to be fit by virtue of this subsection, but the extent of the accommodation therein has been substantially diminished as the result of the damage, the rent payable by the tenant in respect of the period during which

Status: This is the original version (as it was originally enacted).

the accommodation is so diminished shall be reduced to such extent as may be agreed between him and the landlord or, in default of agreement, as may be fixed by the court.

- (5) If the local authority in whose area any such dwelling-house is situated issue a certificate that the dwelling-house has been repaired to the extent mentioned in the last foregoing subsection, the production of the certificate shall, as respects any period during which the certificate is in force, be sufficient evidence that the house was fit for the purposes of this section during that period, unless the contrary is proved:

Provided that the local authority shall, on the application of the tenant made not less than three months after the issue of the certificate or after his last application, inspect the dwelling-house, and if they are satisfied that—

- (a) further repairs have become reasonably practicable since the issue of the certificate and have not been carried out; or
- (b) the works of repair carried out before the issue of the certificate have not been maintained in a reasonably efficient state ;

they shall revoke the certificate and serve a notice of the revocation on the tenant and on the landlord, and, as from the date of the service of the notice, the certificate shall cease to have effect except as respects any period before the said date ; and, as respects any period after the said date and before the date of the issue of a new certificate under this subsection, the production of the notice shall be sufficient evidence that the dwelling-house was unfit by reason of war damage during that period, unless the contrary is proved.

The functions of a local authority under this subsection may be exercised on their behalf by such officers as may be authorised in writing by the authority, and, for the purposes of this subsection, an instrument purporting to be such a certificate as aforesaid and to be signed by an officer of a local authority shall, without further proof, be deemed to be a certificate duly issued, unless the contrary is proved.

- (6) Where the court is satisfied, on the application of the landlord of any land let on a short tenancy which has been rendered unfit by war damage, that—
- (a) the land is fit :
 - (b) a period of not less than three months has elapsed since the land was rendered fit, and during the whole of that period the tenant has not been in occupation of the land either in whole or in part and has not paid any rent in respect of that period or any part thereof ; and
 - (c) the landlord has made all reasonable efforts to communicate with the tenant and has failed to do so ;

the court may, if it thinks fit, determine the tenancy and give immediate possession of the tenant's interest in the land and, where the tenant has sub-let the whole or any part of the land, the court may give directions preserving the rights of the subtenant or determining those rights, either immediately or after the landlord has complied with such requirements as may be specified.

- (7) The landlord or tenant of any land let on a short tenancy may at any time apply to the court to determine whether the land is or was at any time unfit by reason of war damage or any other question arising under this section in relation to the tenancy.
- (8) For the purposes of this section, a tenant shall not be deemed to be in occupation of any land which is unfit by reason of war damage by reason only—
- (a) that furniture or other goods belonging to or used by him remain on the land ;

- (b) that he visits the land from time to time for the purpose of removing, or taking steps to preserve, any such furniture or goods ; or
- (c) that he retains possession of the keys of any buildings or works situated on the land;

and where the tenant has sub-let the whole or any part of the land, the occupation of the sub-tenant shall, as between the tenant and his landlord, be deemed to be the occupation of the tenant.

- (9) Where, under the principal Act, a notice of disclaimer has been served, or a notice of retention has been or is deemed to have been served, before the passing of this Act, in relation to any short tenancy, this section shall not, unless the notice is of no effect, apply to that tenancy.
- (10) In this section the following expressions have the meanings hereby respectively assigned to them, that is to say:—

" dwelling-house " means a house or a part of a house let as a separate dwelling and does not exclude a house or part of a house so let by reason only that part of the premises is used as a shop or office or for business, trade or professional purposes ;

" local authority " means the Common Council of the City of London, the council of a metropolitan borough, the council of a county borough or the council of a county district;

" rent ", in relation to any short tenancy, includes any periodical sum payable by the tenant to the landlord in connection with his tenancy, whether for services, lighting, heating, board, use of furniture, or otherwise, and references to rent payable under the tenancy include references to any such sum contracted to be paid by any agreement ;

" short tenancy " means any tenancy or sub-tenancy which the tenant is entitled to determine at any time by a notice expiring not later than the end of the next complete quarter or the next complete period of three months of the tenancy, and, in a case where a person is holding over any land, which he previously held under a short tenancy, by virtue of the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939, the Courts (Emergency Powers) Acts, 1939 to 1941, or the Liabilities (War-Time Adjustment) Act, 1941, he shall be deemed to be holding the land under a short tenancy.