



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

1941 CHAPTER 41

Amendments of principal Act consequent upon War Damage Act, 1941

2 Conditional notice of retention

(1) Where—

- (a) a notice of retention served under the principal Act by the tenant of land which is unfit by reason of war damage contains a statement that the notice is conditional and will be treated as a notice of disclaimer if the War Damage Commission determine to make a value payment under Part I of the War Damage Act, 1941, in respect of the war damage ; and
- (b) a copy of the notice is, within one month from the service thereof on the landlord, served on the War Damage Commission ;

the notice shall have effect in accordance with the following provisions of this Act, and is hereafter in this Act referred to as a " conditional notice of retention ".

(2) As soon as the War Damage Commission have determined whether the payment under Part I of the War Damage Act, 1941, in respect of the war damage to any land to which a conditional notice of retention relates is to be a payment of cost of works or a value payment, they shall serve a notice on the tenant stating their determination, and if the Commission determine to make a value payment subsections (2) and (3) of section eight and subsections (1) to (3) of section nine of the principal Act (which relate to the effect of a notice of disclaimer) shall have effect, as from the date on which the determination becomes final, as if—

- (a) the conditional notice of retention were a notice of disclaimer served on that date;
- (b) the reference in subsection (2) of section eight to a notice of disclaimer in respect of a sub-lease included a reference to a conditional notice of retention ; and

- (c) the reference in subsection (3) of section nine to the period allowed under the Act for serving a notice to avoid disclaimer were a reference to a period of one month or such longer period as the court may allow.
- (3) Within fourteen days of the said date the tenant shall serve on the landlord and on any person claiming immediately under the tenant (whether as assignee, mortgagee or lessee) in respect of an interest in the land comprised in the lease a notice stating that the conditional notice of retention is to be treated as a notice of disclaimer and containing such particulars as are necessary to identify the lease concerned ; and every person, other than the landlord, upon whom a notice is served under this subsection shall, within fourteen days from the receipt of the notice, serve upon every person (other than the person from whom he has received the notice)—
- (a) who has immediately derived from him an interest in the land comprised in the lease ; or
 - (b) to whom he has immediately assigned such an interest;
- a notice stating the terms of the notice served on him ; and any person who fails to comply with the provisions of this subsection shall be liable to make good to any other person any damage suffered by that other person by reason of the failure.
- (4) Where a tenant has served a conditional notice of retention, his obligation under section ten of the principal Act to render fit the land comprised in the lease shall, pending the War Damage Commission's determination with respect to the kind of payment to be made in respect of the war damage to the land, be deemed to be limited to an obligation—
- (a) to execute all such works as are reasonably practicable for temporarily meeting the circumstances created by the damage ;
 - (b) to take such steps as may be necessary from time to time for the purpose of enabling the Commission to make the said determination ; and
 - (c) to take such steps as are reasonably practicable to secure that, if the Commission determine that the payment is to be a payment of cost of works, the necessary works will be executed without delay ;
- and any question arising under section ten of the principal Act as to whether there has been unreasonable delay on the part of the tenant in rendering the land fit shall be determined accordingly.
- (5) Section six of the principal Act (which relates to the determination of disputes as to the unfitness of premises) shall have effect subject to the modifications specified in the Schedule to this Act, and section fifteen of the principal Act (which contains provisions as to leases comprising two or more tenements) shall have effect as set out with modifications in the said Schedule.
- (6) Where land comprised in a lease to which a conditional notice of retention relates sustains war damage on a subsequent occasion before the land has been rendered fit, the notice shall, unless it is withdrawn under section twelve of the principal Act, extend to the damage on the subsequent occasion as well as to the original damage, and the reference in subsection (4) of this section to the determination of the War Damage Commission shall be construed as including a reference to their determination in respect of the war damage on the subsequent occasion.
- (7) Where a notice of retention has been served, or is deemed to have been served, by a tenant before the date of the passing of this Act, he may, within three months from that date, serve a notice on the landlord containing a statement to the like effect as that mentioned in paragraph (a) of subsection (1) of this section, and if, within one

month from the service of that notice, he serves a copy thereof upon the War Damage Commission, the notice of retention shall be deemed to be a conditional notice of retention.

- (8) Subject to subsection (4) of this section, the provisions of the principal Act which relate to the effect of a notice of retention shall, pending the determination of the War Damage Commission with respect to the kind of payment to be made in respect of the war damage to the land, apply to a conditional notice of retention in like manner as they apply to an unconditional notice of retention, and, in a case where the Commission do not determine to make a value payment, shall continue so to apply.