



Landlord and Tenant (War Damage) Act (Northern Ireland) 1941

1941 CHAPTER 9

SPECIAL PROVISIONS AS TO LETTINGS OF PARTICULAR CLASSES

13 Provisions as to short tenancies.

- (1) In relation to a short tenancy, as hereinafter defined, section four of this Act shall not apply, and the references in this Part of this Act to a lease, under-lease, sub-lease, interest in the tenancy created by a lease, tenant, sub-tenant, or person having an interest in or derived out of the tenancy 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 sub-section, 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 the accommodation is so diminished shall be reduced to such extent as may

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be agreed between him and the landlord or, in default of agreement, as may be fixed by the court.

- (5) If the council^{F1} of the county borough or county district in whose borough or district the dwelling-house is situated issue a certificate that the dwelling-house has been repaired to the extent mentioned in the last foregoing sub-section, 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 council 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 sub-section, 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 the council^{F1} of a county borough or county district under this sub-section may be exercised on their behalf by such officers as may be authorised in writing by the council, and, for the purposes of this sub-section, an instrument purporting to be such a certificate as aforesaid and to be signed by an officer of the council 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 one month 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 sub-tenant 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—

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- (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 purposes 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.

F1 1972 c.9 (NI)

14 Provisions as to leases comprising two or more separate tenements.

- (1) In relation to a multiple lease, section six of this Act shall not apply and the other provisions of this Part of this Act shall have effect subject to the modifications specified in this section.
- (2) Where a notice of disclaimer,^{F2}... or a notice to elect is served with respect to the lease—
 - (a) the person serving the notice or the person on whom it is served; or
 - (b) any other person having an interest in or derived out of the tenancy created by the lease, or having an interest in the reversion;may apply to the court, within one month from the service of the notice, to determine the question whether the tenant should be allowed to exercise the right of disclaimer^{F2}..., either as respects the lease as a whole, or as respects one or more of the separate tenements comprised therein, or should not be allowed to exercise that right at all.
- (3) If on such an application the court is satisfied that, having regard to the extent of the war damage suffered by the land comprised in the lease as a whole and all the circumstances of the case (including any offers made by the landlord for an extension of the period of the tenancy created by the lease or for an alternation of the rent reserved thereby or for any other modification of the terms of the lease) it is equitable to allow the tenant to exercise the said right in respect of the lease as a whole, the court shall give a direction accordingly, and any notice of disclaimer^{F2}... already served shall have effect under this Part of this Act, and the court—
 - (a) in a case where a notice of disclaimer has been served (whether in compliance with a notice to elect or not) may extend to such date as it may fix the period allowed under this Act within which a notice to avoid disclaimer may be served by the landlord; or
 - (b) in a case where a notice to elect has been served and has not been complied with, may extend to such date as it may fix the period allowed under this Act within which the notice to elect must be complied with.
- (4) If on such an application the court, having regard to the matters referred to in the last foregoing sub-section, is not satisfied that it is equitable to allow the tenant to exercise the right of disclaimer^{F2}... as respects the lease as a whole, but is satisfied that it is equitable to allow him to exercise the said right as respects one or more of the separate tenements comprised therein (hereafter referred to as “the disclaimable tenements”), the court—

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- (a) shall order that the lease shall be treated as if it were two separate leases, one comprising the disclaimable tenement or tenements, and the other comprising the remainder of the tenements; and
 - (b) shall give such consequential directions as to the apportionment of the rent and otherwise as it thinks just, including directions as respects any sub-lease comprising a disclaimable tenement and a tenement which is not disclaimable; and
 - (c) shall order that the tenant shall be at liberty to serve a notice of disclaimer^{F2}... as respects the lease comprising the disclaimable tenement or tenements but not as respects the other lease; and
 - (d) where a notice of disclaimer^{F2}... has been served (whether in compliance with a notice to elect or not), shall order that the notice shall be of no effect; and
 - (e) where a notice to elect has been served, may extend to such date as it may fix the period allowed under this Act within which the notice to elect must be complied with; and
 - (f) may empower the landlord, if the tenant serves a notice of disclaimer as respects the lease comprising the disclaimable tenement or tenements, to enter upon the land comprised in the other lease for the purpose of doing work on the land comprised in the disclaimed lease.
- (5) If on such an application the court, having regard to the matters referred to in subsection (3) of this section, is not satisfied that it is equitable to allow the tenant to exercise the right of disclaimer^{F2}... as respects the lease as a whole or as respects one or more of the separate tenements comprised therein, the court shall direct that the land comprised in the lease shall not be deemed to be unfit for the purposes of this Part of this Act and that any notice of disclaimer^{F2}... or notice to elect relating thereto shall cease to have effect:

Provided that the court may, if having regard to the extent of the war damage suffered by the land it considers it equitable to do so, order that the rent reserved by the lease shall, until the war damage is made good, be reduced to such extent as may be specified.

- (6) Unless an application is made to the court under this section with respect to a notice of disclaimer^{F2}... or a notice to elect served with respect to a multiple lease, the land comprised in the lease shall be deemed for the purpose of any proceedings pursuant to the notice to have been unfit by reason of war damage at the time when the notice was served.

F2 [1995 c.44](#)

15 Power of landlord to recover possession of whole property comprised in ground lease or multiple lease.

- (1) Where under this Part of this Act—
- (a) a ground lease has been disclaimed or a multiple lease has been disclaimed as respects all or some of the separate tenements comprised therein; and
 - (b) the landlord is not entitled to possession of the whole of the land comprised in the lease free from any interest in or derived out of the tenancy created by the lease;

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the court may, on the application of the landlord made at any time, grant to him the right to such possession on such terms as to payment of compensation or otherwise as appears just.

(2) Where—

- (a) land comprised in a ground lease which has not been disclaimed under this Part of this Act is unfit by reason of war damage; and
- (b) the tenancy created by the lease will expire before the expiration of five years from the date of an application under this section;

the court may, if it is satisfied on the application of the landlord, having regard to all the circumstances of the case, that it is equitable so to do, grant to him the right to possession of the land comprised in the lease on such terms as to payment of compensation or otherwise as appear just.

16 Exclusion of agricultural and mining leases.

Nothing in this Part of this Act shall apply to an agricultural lease or a mining lease.

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