



Business Tenancies Act (Northern Ireland) 1964

1964 CHAPTER 36

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

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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 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

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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;
 - (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—

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- (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.

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.

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- (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.
- (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

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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 (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.

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- (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—

- (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.

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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.

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).

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