

These notes refer to the Defective Premises (Landlord's Liability) (Northern Ireland) 2001 (c.10) which received Royal Assent on 2 July 2001

Defective Premises (Landlord's Liability) (Northern Ireland) 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 1: Landlord's duty of care by virtue of obligation to repair premises

Subsection (1) provides that a duty of care is owed where premises are let under a tenancy and that the landlord has a contractual obligation to maintain or repair the premises.

Subsection (2) outlines the nature of the landlord's duty making it clear that it is to all persons who might be affected by defects. This may include the tenant himself, visitors, passers-by or neighbours.

Subsection (3) provides that the landlord's duty is owed if he knows of the defect or ought to have known of it in all the circumstances.

Subsection (4) provides that the duty is in addition to any other duty which may be owed.

Section 2: Application of this Act where landlord has right of entry to carry out repairs

Subsection (1) provides that the legislation will apply where the landlord has a right of entry to carry out maintenance or repairs which is either express or implicit in the tenancy agreement.

Subsection (2) provides that subsection (1) applies as soon as the landlord is in a position to carry out the relevant maintenance or repair.

Subsection (3) provides that the landlord does not owe a duty of care where the defect arises or continues because of a failure of the tenant to carry out his or her express tenancy obligations.

Section 3: Tenancies to which this Act applies

Subsection (1) provides that the Act applies to all tenancies apart from regulated or restricted tenancies (within the meaning of the Rent (Northern Ireland) Order), tenancies under a lease granted for more than 50 years (in effect, a type of ground rent), and tenancies under a lease under which the rent payable is

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less than £1 per annum or a peppercorn or other rent having no money value (in effect, a nominal rent).

Subsection (2) provides that section 4 of the Occupier's Liability Act (Northern Ireland) 1957 no longer applies except in relation to the above mentioned tenancies at subsection(1).

Subsection (3) prohibits the exclusion or restriction of liability under this Act.

Section 4: Interpretation

This section provides definitions of key words and phrases used throughout the Act. These include the definitions of a tenancy, relevant defect and material time for the purposes of establishing liability under the Act, together with certain necessary technical provisions.

Section 5: Application to the Crown

This section describes the application of the Act to the Crown.

Section 6: Short title and commencement

The short title of the Act will be the Defective Premises (Landlord's Liability) Act (Northern Ireland) 2001. In order to give landlords a reasonable period of notice of the change to their liability and a reasonable time to effect any necessary work to their premises it will come into operation at the end of a period of 12 months from the day the Act receives the Royal Assent.