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STATUTORY INSTRUMENTS

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**1996 No. 725**

**The Business Tenancies (Northern Ireland) Order 1996**

*Application to the Lands Tribunal*

**Compensation where order for new tenancy is opposed on certain grounds**

23.—(1) Where a landlord—

(a) has served—

(i) a notice to determine a tenancy to which this Order applies, or

(ii) in response to the tenant's request for a new tenancy, a notice under Article 7(6)(b) stating that he will oppose a tenancy application by the tenant,

and the notice states that a tenancy application by the tenant would or will be opposed, on any of the grounds specified in sub-paragraphs (e), (f), (g), (h) and (i) of paragraph (1) of Article 12; and

(b) either—

(i) in consequence of the landlord's notice the tenant does not make a tenancy application or, if he has made such an application, withdraws it, or

(ii) on hearing a tenancy application by the landlord or a tenancy application by the tenant, the Lands Tribunal, on any of the grounds mentioned in sub-paragraph (a), grants the former application or dismisses the latter; and

(c) the circumstances are such that paragraph (7) does not apply,

then, subject to the provisions of this Order, the tenant shall be entitled on quitting the holding to recover from the landlord by way of compensation a sum determined in accordance with the following provisions of this Article.

(2) That sum depends upon the period immediately preceding the termination of the current tenancy during which the occupation conditions have been complied with ("the qualifying period") and shall be ascertained by multiplying the net annual value of the holding by, for each of the qualifying periods set out in column 1 of the following Table, the respective multiplier set out in column 2:

TABLE

Qualifying period	Multiplier
Not exceeding 5 years	2.5
Exceeding 5 years but not exceeding 10 years	5
Exceeding 10 years but not exceeding 15 years	7.5
Exceeding 15 years	10

(3) The occupation conditions are—

- (a) that during the whole of the qualifying period, premises being or comprised in the holding have been occupied for the purposes of a business carried on by the occupier or for those and other purposes; or
  - (b) that, if during the qualifying period there was a change in the occupier of the premises, the person who was the occupier immediately after the change was the successor to the business carried on by the person who was the occupier immediately before the change.
- (4) For the purposes of paragraph (2) the question of net annual value of the holding shall be referred to the Commissioner of Valuation and shall be decided as follows—
- (a) the net annual value shall be that value shown in the valuation list in force under the Valuation Acts at the date on which the landlord's notice under Article 6 or, as the case may be, Article 7(6), is served;
  - (b) where no such value is so shown with respect to the holding but such a value or values is or are shown with respect to premises comprised in or comprising the holding or part of it, the net annual value of the holding shall be taken to be such value as is certified by the Commissioner of Valuation to be attributable to the value or values so shown;
  - (c) where the net annual value of the holding cannot be ascertained in accordance with the foregoing provisions of this paragraph, it shall be taken to be the value which the Commissioner of Valuation certifies would on a proper assessment be the value to be entered in the said valuation list as the net annual value of the holding.
- (5) The Department of Finance and Personnel may by an order made subject to affirmative resolution vary (by substitution, addition or omission) the periods or multipliers (or both) set out in the Table in paragraph (2); and may by regulations made subject to negative resolution prescribe the procedure in connection with references under paragraph (4).
- (6) In this Article the reference to the termination of the current tenancy is a reference to the date of termination specified in the landlord's notice to determine, or, as the case may be, the date specified in the tenant's request for a new tenancy as the date from which the new tenancy is to begin.
- (7) This Article does not entitle a tenant to compensation where—
- (a) the landlord is a public authority; and
  - (b) the tenant was aware of that (or should have been aware of it) at the time when he entered into his contract of tenancy; and
  - (c) the contract of tenancy, or an agreement between the persons who were, or became, the landlord and the tenant preceding or contemporaneous with that contract, disentitled the tenant to compensation.
- (8) Subject to Article 39(1), a sum which a tenant is entitled to recover by way of compensation under this Article may be recovered by the tenant summarily as a civil debt due to him by the landlord.