Changes to legislation: *The Business Tenancies (Northern Ireland) Order 1996 is up to date with all changes known to be in force on or before 25 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1996 No. 725

The Business Tenancies (Northern Ireland) Order 1996

Introductory

Title and commencement N.I.

1.—(1) This Order may be cited as the Business Tenancies (Northern Ireland) Order 1996.

(2) This Order shall come into operation on such day as the Head of the Department of Finance and Personnel may by order appoint[F1].

F1 fully exercised by SR 1997/74

Interpretation N.I.

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

"business" includes—

(a) a trade, profession or employment; and

(b) any activity carried on by a body of persons whether corporate or unincorporate,

whether or not carried on for gain or reward;

"current tenancy" means the tenancy under which the tenant holds for the time being;

"date of termination" has the meaning assigned to it by Article 6(1);

"the holding", in relation to a tenancy to which this Order applies, means (subject to Article 16(2)) the property comprised in the tenancy, there being excluded any part thereof which is occupied neither by the tenant nor by a person employed by the tenant and so employed for the purposes of a business by reason of which the tenancy is one to which this Order applies;

"the landlord", in relation to a tenancy ("the relevant tenancy"), means the person (whether or not he is the immediate landlord) who is the owner of that estate in the property comprised in the relevant tenancy which for the time being fulfils the following conditions, that is to say—

(a) that it is an estate in reversion expectant (whether immediately or not) on the termination of the relevant tenancy; and

(b) that it is either the fee simple or a tenancy which will not come to an end within 14 months or less—

(i) by effluxion of time, or

(ii) by virtue of a notice already served being a notice served in relation to that tenancy by the immediate landlord or tenant thereof in accordance with the terms of that tenancy, or

(iii) by virtue of a notice to determine, or

(iv) by virtue of a notice under Article 7 requesting a new tenancy,

and is not itself in reversion expectant (whether immediately or not) on an estate which fulfils these conditions;

"Lands Tribunal rules" means rules made under section 9 of the Lands Tribunal and Compensation Act (Northern Ireland) 1964;

"mortgage" includes a charge or lien;

"notice to determine" means a notice served by a landlord in accordance with Article 6;

"notice to quit" means a notice to end a tenancy served by the immediate landlord in accordance with the provisions (whether express or implied) of that tenancy;

"predecessor in title" in relation to a landlord or a tenant means any person through whom the landlord or the tenant, as the case may be, has derived title;

"premises" includes land and buildings;

"public authority" includes any department of the Government of the United Kingdom or of Northern Ireland, any district council, any public body or authority constituted by or under any statutory provision and (without prejudice to Article 4(1)(k)) any holder of a licence under Part II of the Electricity (Northern Ireland) Order 1992;

"statutory provision" has the meaning assigned to it by section 1 (f) of the Interpretation Act (Northern Ireland) 1954;

"tenancy" (subject to any provision of this Order to the contrary) includes a tenancy created before or after the commencement of this Order and also includes a tenancy created or renewed in pursuance of any statutory provision (including this Order), but does not include a tenancy at will, howsoever arising, or a tenancy at sufferance, or any mortgage term or any estate arising in favour of a mortgagor solely by reason of his attorning tenant to his mortgagee;

"tenancy application" has the meaning assigned to it by Article 10(1);

"term certain" in relation to a tenancy means any definite period of certain duration whether or not the tenancy is renewable for further such periods.

(3) For the purposes of this Order a person shall be deemed to have a controlling interest in a company if he has the power to secure, by means of the holding of shares or the possession of voting power in or in relation to the company, or by virtue of any powers conferred by the articles of association or other document regulating the company, that the affairs of the company are conducted in accordance with his wishes.

(4) References in this Order to an agreement between the landlord and the tenant (except in Article 24) shall be construed as references to an agreement in writing between them.

[[F2](5) References in this Order to a tenancy dependent on the fall of a life or other uncertain event are to the tneancy into which such a tneancy is converted by Article 37(4) of , and Schedule 3 to, the Property (Northern Ireland) Order 1997.**]**

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Application of the Order

Tenancies to which this Order applies N.I.

3.—(1) Subject to the provisions of this Order, this Order applies to any tenancy where the property comprised in the tenancy is or includes premises which are occupied by the tenant and are so occupied for the purposes of a business carried on by the tenant, or for those and other purposes.

(2) Occupation or the carrying on of a business—

(a) by a company in which the tenant has a controlling interest; or

(b) where the tenant is a company, by a person with a controlling interest in the company,

shall be treated for the purposes of this Article as equivalent to occupation or, as the case may be, the carrying on of a business by the tenant; and in relation to a tenancy to which this Order applies by virtue of this paragraph references (however expressed) in this Order to the business of or to use, occupation or enjoyment by the tenant shall be construed as including references to the business of or to use, occupation or enjoyment by a company falling within sub-paragraph (a) or a person falling within sub-paragraph (b).

(3) For the purposes of this Order, premises shall not be deemed to be occupied for the purposes of a business by reason that the occupier thereof carries on the business of subletting the premises or parts of the premises, whether or not the provision of any services is undertaken in connection with such subletting.

Tenancies to which this Order does not apply N.I.

4.—(1) This Order does not apply to—

(a) a tenancy where the property comprised therein is let on a protected tenancy or subject to a statutory tenancy within the meaning of the Rent (Northern Ireland) Order 1978; but where, except for the preceding provision, this Order would apply to a tenancy and that tenancy ceases at any time to be a protected or, as the case may be, a statutory tenancy, then as from that time the provisions of this Order shall apply to that tenancy as if it were a tenancy continued by Article 5 after the expiry of a term certain exceeding 9 months;

Sub#para. (b) rep. by 1997 NI 8

(c) a tenancy granted for a term certain not exceeding 9 months, except where the tenant has been in occupation for a period which, together with any period during which any predecessor in the carrying on of the business carried on by the tenant was in occupation, exceeds 18 months;

(d) a tenancy of agricultural land, including farm houses and farm buildings;

(e) a tenancy created by a mining lease;

(f) a tenancy granted for or made dependent on the continuance of the tenant in any office, employment or appointment;

(g) a tenancy granted by the personal representatives of a deceased owner of land in pursuance of the power conferred by section 40(1)(a) of the Administration of Estates Act (Northern Ireland) 1955;

(h) a tenancy where the tenant thereunder has been convicted after 1st January 1965 of using the premises comprised in the tenancy, or permitting such premises to be used, for an illegal purpose;

(i) a tenancy granted by any person in breach of any prohibition against granting such a tenancy contained in his contract of tenancy or any other agreement;

(j) a tenancy where the tenant thereunder is—

(i) a lessee to whom section 1 of the Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971 applies; or

(ii) a lessee to whom an extended lease has been granted under the said Act of 1971;

(k) a tenancy granted by a landlord who is the holder of a licence under Part II of the Electricity (Northern Ireland) Order 1992 on the date of the commencement of the tenancy, or who becomes the holder of such a licence after that date, to a tenant who is the holder of such a licence on that date, or who becomes the holder of such a licence after that date.

[[F3](l) a tenancy the primary purpose of which is to grant code rights within the meaning of Schedule 3A to the Communications Act 2003 (the electronic communications code), where the tenancy is granted after that Schedule comes into force.**]**

(2) In this Article—

"agricultural land" has the meaning assigned to it by section 43(1) of the Agriculture Act (Northern Ireland) 1949;

"mining lease" includes any lease in connection with the opening or working of a mine or quarry or the treatment, preparation for sale, storage, removal or disposal of the produce or refuse of a mine or quarry.

F3 Art. 4(1)(l) inserted (28.12.2017) by Digital Economy Act 2017 (c. 30), s. 118(6), **Sch. 3 para. 40**; S.I. 2017/1286, reg. 2(d)

Continuation, and termination or renewal, of tenancies

Continuation of tenancies to which this Order applies until terminated in accordance with this Order N.I.

5.—(1) A tenancy to which this Order applies shall not come to an end unless terminated in accordance with the provisions of this Order; and subject to the following provisions of this Order such a tenancy may be terminated by—

(a) a notice to determine served by the landlord in accordance with the provisions of Article 6; or

(b) a request for a new tenancy made by the tenant in accordance with the provisions of Article 7.

(2) Notwithstanding anything in paragraph (1)—

(a) where a tenancy has been continued by paragraph (1) and at any time thereafter ceases to be a tenancy to which this Order applies, it shall not come to an end by reason only of the cesser, but (without prejudice to its termination in accordance with any terms of the tenancy) it may be terminated by not less than 3 nor more than 6 months' notice in the prescribed form served by the landlord on the tenant;

(b) where at a time when a tenancy is not one to which this Order applies by reason only that premises comprised in the tenancy are not occupied by the tenant for the purposes of a business, and the immediate landlord serves notice to quit, the operation of the notice shall not be affected by reason that after the service of the notice such premises are occupied by the tenant for the purposes of a business by reason of which the tenancy becomes one to which this Order applies;

(c) if at any time within 12 months before the date of expiry of a tenancy dependent on the effluxion of time—

(i) the immediate landlord serves a notice in the prescribed form on the tenant stating that such landlord requires possession of the premises comprised in such tenancy at the said date of expiry; and

(ii) at the date of the service of such notice the tenancy is not one to which this Order applies by reason that premises comprised in the tenancy are not occupied by the tenant for the purposes of a business,

this Order shall not apply to such tenancy, notwithstanding that after the date of service of such notice and before the date of expiry of the tenancy premises comprised in the tenancy are occupied by the tenant for the purposes of a business.

Termination of tenancy by the landlord N.I.

6.—(1) Subject to Article 11, the landlord may terminate a tenancy to which this Order applies by a notice to determine served on the tenant in the prescribed form specifying the date at which the tenancy is to come to an end (in this Order referred to as "the date of termination").

(2) A notice to determine shall not have effect unless it complies with the provisions of this Article and, subject to paragraph (3), is served not more than 12 nor less than 6 months before the date of termination specified therein.

(3) In the case of a tenancy which but for this Order could have P been brought to an end by notice to quit—

(a) paragraph (2) shall, where but for this Order more than 6 months' notice to quit would have been required to bring the tenancy to an end, have effect with the substitution for 12 months of a period 6 months longer than the length of notice to quit which would have been required as aforesaid; and

(b) the date of termination specified in a notice to determine shall not be earlier than the earliest date on which the immediate landlord could, but for this Order, have brought the tenancy to an end by notice to quit served on the same date as the notice to determine.

(4) In the case of a tenancy dependent on the fall of a life or other uncertain event the landlord may, after the fall of that life or the happening of that uncertain event, terminate the tenancy by a notice to determine served not more than 12 nor less than 6 months before the date of termination specified therein**[**[F4] and paragraph 2 of Schedule 3 to the Property (Northern Ireland) Order 1997 (termination by a least one month's notice after the fall of the life or the happening of the event) does not apply**]**.

(5) In the case of any tenancy, other than a tenancy referred to in paragraph (3) or (4), a notice to determine shall not specify a date of termination earlier than the date on which, but for this Order, the tenancy would have come to an end by effluxion of time.

(6) A notice to determine shall state whether or not the landlord is willing that the tenant should have a new tenancy and—

(a) if he is so willing, shall state the general terms of the landlord's proposals as to—

(i) the property to be comprised in the new tenancy (being either the whole or part of the property comprised in the current tenancy);

(ii) the rent to be payable under the new tenancy;

(iii) the duration of the new tenancy; and

(iv) the other terms of the new tenancy; or

(b) if he is not so willing, shall state whether the landlord would oppose a tenancy application by the tenant and, if so, on which of the grounds mentioned in Article 12 he would do so.

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Request by tenant for a new tenancy N.I.

7.—(1) A tenant may, subject to and in accordance with this Article, make a request for a new tenancy where the current tenancy is —

(a) a tenancy granted for a term certain exceeding 9 months, whether or not continued by Article 5; or

(b) a tenancy granted for a term certain not exceeding 9 months, where the circumstances are as mentioned in the exception in Article 4(1)(c); or

(c) a tenancy granted for a term certain exceeding one year and thereafter from year to year; or

(d) a tenancy granted for a period dependent on the fall of a life or other uncertain event continued by Article 5.

(2) A tenant's request for a new tenancy shall be for a tenancy beginning with such date, not more than 12 nor less than 6 months after the making of the request, as may be specified therein, and in the case of such a tenancy as is specified in sub-paragraph (a), (b) or (c) of paragraph (1) such date shall not be earlier than the date on which but for this Order the current tenancy would come to an end by effluxion of time or could be brought to an end by notice to terminate served by the tenant under and in accordance with the terms (whether express or implied) of that tenancy.

(3) A tenant's request for a new tenancy shall not have effect unless it is made by notice in the prescribed form served on the landlord and sets out in general terms the tenant's proposals as to—

(a) the property to be comprised in the new tenancy (being either the whole or part of the property comprised in the current tenancy);

(b) the rent to be payable under the new tenancy;

(c) the duration of the new tenancy; and

(d) the other terms of the new tenancy.

(4) A tenant's request for a new tenancy shall not be made—

(a) if the landlord has already served a notice to determine; or

(b) except with the consent of the landlord, if the tenant has already served a notice under Article 8,

and no such notice as is mentioned in sub-paragraph (a) or (b) shall be served by the landlord or the tenant after the making by the tenant of a request for a new tenancy.

(5) Where the tenant makes a request for a new tenancy in accordance with this Article, the current tenancy shall, subject to Article 11 and to Article 20(2), terminate immediately before the date specified in the request for the beginning of the new tenancy.

(6) Within 2 months of the making of a tenant's request for a new tenancy in accordance with this Article, the landlord shall serve notice on the tenant—

(a) that he is willing to grant a new tenancy on the tenant's terms (or on those terms as modified by an agreement reached between the landlord and the tenant); or

(b) that he will oppose a tenancy application by the tenant (and any such notice shall state on which of the grounds mentioned in Article 12 the landlord will oppose the application).

Further provisions for the termination of tenancies to which this Order applies N.I.

8.—(1) Article 5(1) shall not prevent the coming to an end of a tenancy by surrender or forfeiture, or by the forfeiture of a superior tenancy, or by a notice to terminate the tenancy served by the tenant under and in accordance with the terms (whether express or implied) of that tenancy or by lawful ejectment for non-payment of rent.

(2) Where but for this Order a tenancy would come to an end by the effluxion of time and the tenant, not later than 3 months before the date on which but for this Order the tenancy would so come to an end, serves on the immediate landlord a notice that the tenant does not desire the tenancy to be continued, Article 5 shall not have effect in relation to that tenancy.

(3) A tenancy which but for this Order would have come to an end by effluxion of time and which is continuing by virtue of Article 5 may be brought to an end on any date by not less than 3 months' notice served by the tenant on the immediate landlord, whether the notice is served before or after the date on which but for this Order the tenancy would have come to an end by effluxion of time.

(4) A tenancy which but for this Order would have come to an end on the fall of a life or the happening of any other uncertain event and which is continuing by virtue of Article 5 may be brought to an end on any date by not less than 3 months' notice served by the tenant on the immediate landlord**[**[F5] and paragraph 2 of Schedule 3 to the Property (Northern Ireland) Order 1997 does not apply**]**.

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Agreements for future tenancies N.I.

9. Where a landlord agrees with a tenant holding immediately under him to grant to that tenant a future tenancy of the holding, or of the holding with other land, on terms and from a date specified in the agreement, the tenancy under which the tenant holds for the time being shall continue until that date but no longer, and shall not be a tenancy to which this Order applies.

Application to the Lands Tribunal

Tenancy application by landlord or tenant N.I.

10.—(1) In this Order "tenancy application" means either—

(a) an application by the landlord for an order that the tenant is not entitled to a new tenancy; or

(b) an application by the tenant for an order for the grant of a new tenancy.

(2) Where a landlord has served a notice to determine, a tenancy application may be made to the Lands Tribunal at any time between the date of service of the notice and the date of termination.

(3) Where a tenant has served a notice containing a request for a new tenancy, a tenancy application may be made to the Lands Tribunal at any time between the date of service of a notice served by the landlord under Article 7(6)(b) and the date specified in the tenant's request for the beginning of the new tenancy.

(4) On a tenancy application by either party, the Lands Tribunal may exercise any power that would have been exercisable by it on a tenancy application by the other, and, accordingly—

(a) neither the landlord nor the tenant may make a tenancy application if the other has done so; and

(b) the landlord may not withdraw a tenancy application made by him unless the tenant consents to its withdrawal.

(5) The Lands Tribunal, on an application made by the landlord or the tenant in relation to a tenancy, may by order—

(a) vary (by extension or reduction) the time limit mentioned in paragraph (2) or paragraph (3) (and any extension may be made after the expiration of the time limit);

(b) set an alternative time limit for the purposes of paragraph (3) where the landlord has not served a notice under Article 7(6)(a) or (b).

Interim continuation of tenancies pending determination by the Lands Tribunal N.I.

11.—(1) In any case where—

(a) a notice to determine a tenancy has been served under Article 6 or a request for a new tenancy made under Article 7; and

(b) a tenancy application has been made; and

(c) but for this Article the effect of that notice or request would be to terminate the tenancy before the expiration of the period of 3 months beginning with the date on which the tenancy application is finally disposed of,

the effect of the notice or request shall be to terminate the tenancy either at such date as the Lands Tribunal may by order direct or at the expiration of the said period of 3 months and not at any other time.

(2) The reference in paragraph (1)(c) to the date on which an application is finally disposed of shall be construed as a reference to the earliest date by which the proceedings on the application (including any proceedings on or in consequence of an appeal) have been determined and any time for appealing or further appealing has expired, except that if the application is withdrawn or any appeal is abandoned the reference shall be construed as a reference to the date of the withdrawal or abandonment.

(3) Where the term of a tenancy is extended in consequence of the operation of paragraph (1), the Lands Tribunal may by order—

(a) vary the rent payable under the tenancy to such amount, effective from such date (including a date then past), and

(b) direct that interest shall be payable on rent in an-ear (including rent in arrear by virtue of a variation under sub-paragraph (a)), at such rate,

as the Lands Tribunal considers proper in all the circumstances.

(4) Where the Lands Tribunal, under paragraph (3), orders a variation of rent by way of increase from a date then past, it shall order the payment of—

(a) the sum of any arrears of rent created by virtue of that variation; or

(b) where it also directs that interest shall be payable on rent in arrear, the sum of any arrears so created and interest on such arrears.

(5) None of the provisions of the Rent (Northern Ireland) Order 1978 shall operate to limit or affect the amount of the rent which may be fixed by the Lands Tribunal under paragraph (3).

Opposition by landlord to new tenancy N.I.

12.—(1) The grounds on which a landlord may make a tenancy application, or may oppose a tenancy application by the tenant, are such of the following grounds as may be stated in the landlord's notice to determine under Article 6, or as the case may be, in the landlord's notice under Article 7(6)(b), that is to say—

(a) where under the current tenancy the tenant has any obligations as respects the repair and maintenance of the holding, that the tenant ought not to be granted a new tenancy in view of the state of repair of the holding, being a state resulting from the tenant's failure to comply with those obligations;

(b) that the tenant ought not to be granted a new tenancy in view of his persistent delay in paying rent which has become due;

(c) that the tenant ought not to be granted a new tenancy in view of other substantial breaches by him of his obligations under the current tenancy, or for any other reason connected with the tenant's use or management of the holding;

(d) that the landlord has offered and is willing to provide or secure the provision of alternative accommodation for the tenant, and—

(i) that the terms on which the alternative accommodation is available are reasonable having regard to the terms of the current tenancy and to all other relevant circumstances; and

(ii) that the accommodation and the time at which it will be available are suitable for the tenant's requirements (including the requirement to preserve goodwill) having regard to the nature and class of his business and to the situation and extent of, and facilities afforded by, the holding;

(e) where the current tenancy was created by the subletting of part only of the property comprised in a superior tenancy and the landlord is the owner of an estate in reversion expectant on the termination of that superior tenancy, that the aggregate of the rents reasonably obtainable on separate lettings of the holding and the remainder of that property would be substantially less than the rent reasonably obtainable on a letting of that property as a whole, that on the termination of the current tenancy the landlord requires possession of the holding for the purpose of letting or otherwise disposing of the said property as a whole, and that in view thereof the tenant ought not to be granted a new tenancy;

(f) that on the termination of the current tenancy the landlord intends—

(i) to demolish a building or structure which comprises, or forms a substantial part of, the holding and to undertake a substantial development of the holding; or

(ii) to carry out substantial works of construction on the holding or part of it;

and that the landlord could not reasonably do so without obtaining possession of the holding;

(g) subject to Article 13(4), that on the termination of the current tenancy the landlord intends that the holding will be occupied for a reasonable period—

(i) for the purposes, or partly for the purposes, of a business to be carried on in it by him or by a company in which he has a controlling interest; or

(ii) as his residence;

(h) subject to Article 13(4) and (5), that the landlord is a company and that on the termination of the current tenancy a person with a controlling interest in the company intends to occupy the holding for a reasonable period—

(i) for the purposes, or partly for the purposes, of a business to be carried on in it by him or by the company; or

(ii) as his residence;

(i) where there subsists in the premises comprised in the tenancy an estate acquired (whether before or after the commencement of this Order) by a public authority, that possession of the premises is reasonably necessary for the public authority to carry out its functions under any statutory provision or rule of law.

(2) In paragraph (1)(f) "development" has the same meaning as in **[**[F6]the Planning Act (Northern Ireland) 2011**]** .

F6 Words in art. 12(2) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 79** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Modifications etc. (not altering text)

C1 Art. 12(1)(b) modified (temp.) (25.3.2020) by Coronavirus Act 2020 (c. 7), **ss. 83(6)**, 87(1) (with ss. 88-90)

C2 Art. 12(1)(b) expiry of earlier affecting provision 2020 c. 7, s. 80 (25.3.2022) by Coronavirus Act 2020 (c. 7), **s. 89** (with s. 90)

Provisions supplemental to Article 12 N.I.

13.—(1) Where the landlord relies on the ground specified in Article 12(1)(f), the Lands Tribunal shall require the landlord to furnish evidence that any permission required under any statutory provision has been granted to him in respect of the demolition and development, or the works of construction, which he intends to undertake.

(2) Where the landlord relies on the ground specified in Article 12(1)(f), the Lands Tribunal shall not hold that he could not reasonably carry out the demolition and development, or the works of construction, intended without obtaining possession of the holding if—

(a) the tenant agrees to the inclusion in the terms of the new tenancy of terms giving the landlord access and other facilities for carrying out the work intended and, given that access and those facilities, the landlord could reasonably carry out the work without obtaining possession of the holding and without interfering to a substantial extent or for a substantial time with the use of the holding for the purposes of the business carried on by the tenant; or

(b) the tenant is willing to accept a tenancy of an economically separable part of the holding and either sub-paragraph (a) is satisfied with respect to that part or possession of the remainder of the holding would be reasonably sufficient to enable the landlord to carry out the intended work.

(3) For the purposes of paragraph (2)(b) a part of a holding shall be deemed to be an economically separable part if, and only if, the aggregate of the rents which, after the completion of the intended work, would be reasonably obtainable on separate lettings of that part and the remainder of the premises affected by or resulting from the work would not be substantially less than the rent which would then be reasonably obtainable on a letting of those premises as a whole.

(4) The landlord shall not be entitled to rely on the ground specified in Article 12(1)(g) or (h) if the estate of the landlord, or an estate which has merged in that estate and but for the merger would be the estate of the landlord, was purchased or created after the beginning of the period of 5 years which ends with the termination of the current tenancy, and at all times since the purchase or creation thereof the holding has been comprised in a tenancy or successive tenancies of the description specified in Article 3(1).

(5) The landlord shall not be entitled to rely on the ground specified in Article 12(1)(h) if the controlling interest was acquired after the beginning of the period of 5 years which ends with the termination of the current tenancy, and at all times since the acquisition of the controlling interest the holding has been comprised in a tenancy or successive tenancies of the description specified in Article 3(1).

Consequences where landlord successfully opposes N.I.

14.—(1) The Lands Tribunal shall make an order that the tenant is not entitled to a new tenancy where the landlord makes a tenancy application or opposes a tenancy application by the tenant on grounds on which he is entitled to make his application or oppose the tenant's application in accordance with Articles 12 and 13 and establishes any of those grounds to the satisfaction of the Lands Tribunal.

(2) Where the landlord makes or opposes a tenancy application on one or more of the grounds specified in paragraphs (d), (e) and (f) of Article 12(1) but fails to establish any of those grounds to the satisfaction of the Lands Tribunal, the Lands Tribunal, if it would have been satisfied as to any of those grounds had 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, been such later date as the Lands Tribunal may determine, being a date not more than one year later than the date so specified,—

(a) shall make an order containing a declaration to that effect, stating on which of the said grounds it would have been satisfied as aforesaid and specifying the later date determined by the Lands Tribunal as aforesaid, but shall not make an order for the grant of a new tenancy; and

(b) if, within 14 days after the making of the declaration, the tenant so requires, shall make an order substituting that later date for the date specified in the said landlord's notice to determine or the tenant's request, and thereupon that notice or request shall have effect accordingly.

Power of Lands Tribunal to order the grant of a new tenancy N.I.

15.—(1) Where, on a tenancy application—

(a) the landlord does not establish to the satisfaction of the Lands Tribunal any of the grounds mentioned in Article 12; and

(b) the Lands Tribunal does not make a declaration under Article 14(2),

the Lands Tribunal shall make an order for the grant of a new tenancy comprising such property, at such rent and on such other terms, as are provided in the succeeding provisions of this Order.

(2) Where a tenancy is continued or a new tenancy is granted under this Order in any premises, such continued or new tenancy shall for all purposes be deemed to be a graft upon the tenancy previously subsisting in those premises, and the interest of the tenant thereunder shall be subject to any rights or equities arising from its being such graft.

(3) Paragraph (2) shall not operate so as to extend any liability under any guarantee or other security for the payment of rent.

Property to be comprised in new tenancy N.I.

16.—(1) Subject to paragraph (2), an order under Article 15 for the grant of a new tenancy shall be an order for the grant of a new tenancy of the holding; and in the absence of agreement between the landlord and the tenant as to the property which constitutes the holding the Lands Tribunal shall in the order designate that property by reference to the circumstances existing at the date of the order.

(2) Where the property comprised in the current tenancy includes other property besides the holding and the landlord requires any new tenancy ordered to be granted under Article 15 to be a tenancy of the whole of the property comprised in the current tenancy, the Lands Tribunal shall make an order for the grant of a new tenancy of the whole of the property comprised in the current tenancy; and in any such case references in the succeeding provisions of this Order to the holding shall be construed as references to the whole of that property.

(3) Where the current tenancy includes rights enjoyed by the tenant in connection with the holding, those rights shall, unless the parties otherwise agree or the Lands Tribunal otherwise directs, be included in a tenancy ordered to be granted under Article 15.

Duration of new tenancy N.I.

17.—(1) Where the Lands Tribunal makes an order for the grant of a new tenancy, the new tenancy shall be—

(a) a tenancy for such period as may be agreed between the landlord and tenant; or

(b) in the absence of agreement, a tenancy for such period, not exceeding 15 years, as may be determined by the Lands Tribunal to be reasonable in all the circumstances,

and shall begin on the coming to an end of the current tenancy.

(2) Where the period for which in accordance with this Order it is agreed or determined by the Lands Tribunal that a new tenancy should be granted thereunder will extend beyond the date on which the estate of the immediate landlord will come to an end, then subject to paragraph (3), the power of the Lands Tribunal under this Order to order such a grant shall include power to order the grant of a new tenancy until the expiration of that estate and, subject to the following provisions of this Article, to order the grant of such a reversionary tenancy or reversionary tenancies as may be required to secure that the combined effects of those grants will be equivalent to the grant of a tenancy for that period; and the provisions of this Order shall, subject to the necessary modifications, apply to the grant of a tenancy together with one or more reversionary tenancies as they apply in relation to the grant of one new tenancy.

(3) The Lands Tribunal shall not under paragraph (2) grant a reversionary tenancy unless the tenant has, within such time as may be specified in Lands Tribunal Rules, served notice of his application for a new tenancy on any person, other than the landlord, having a reversionary estate which would be affected by the grant of the reversionary tenancy.

(4) Any person having a reversionary estate which is likely to be affected by the grant of a reversionary tenancy (including any terms or conditions attached to such grant) may in accordance with Lands Tribunal Rules apply to the Lands Tribunal to be made a party to the proceedings and, on such application being granted, may oppose the grant of the reversionary tenancy on any grounds which appear to the Lands Tribunal to be relevant and shall be bound by the proceedings.

Rent under new tenancy N.I.

18.—(1) The rent payable under a new tenancy granted in pursuance of an order of the Lands Tribunal shall be such as may be agreed between the landlord and the tenant.

(2) In the absence of agreement the rent shall be such as may be determined by the Lands Tribunal to be that at which, having regard to the terms of the tenancy (other than those relating to rent), the holding might reasonably be expected to be let in the open market by a willing lessor, there being disregarded—

(a) any effect on rent of the fact that the tenant has or his predecessors in title have been in occupation of the holding;

(b) any goodwill attached to the holding by reason of the carrying on thereat of the business of the tenant (whether by him or by a predecessor of his in that business);

(c) any effect on rent of any improvement—

(i) carried out by the tenant or a predecessor in title of his; or

(ii) where the tenant or a predecessor in title of his has remained in occupation of the holding during two or more tenancies, carried out by him or that predecessor in title during a tenancy other than the current tenancy;

other than in pursuance of an obligation to the immediate landlord;

(d) in the case of a holding comprising premises licensed under the Licensing (Northern Ireland) Order[F7 1996], any addition to its value attributable to the licence, if it appears to the Lands Tribunal that having regard to the terms of the current tenancy and any other relevant circumstances the benefit of the licence belongs to the tenant.

(3) None of the provisions of the Rent (Northern Ireland) Order 1978 shall operate to limit or affect the amount of the rent which may be fixed by the Lands Tribunal under paragraph (2).

(4) Where the Lands Tribunal fixes the amount of rent under this Article, it may by order direct—

(a) that the rent shall be payable in that amount from such date (including a date then past), and

(b) that interest shall be payable on rent in arrear (including rent in arrear by virtue of a direction under sub-paragraph (a)) at such rate,

as the Lands Tribunal considers proper in all the circumstances.

(5) Where rent is in at-rear by virtue of a direction under paragraph (4)(a), the Lands Tribunal shall order the payment of—

(a) the sum of any arrears of rent created by virtue of that direction; or

(b) where the Lands Tribunal also directs that interest shall be payable on rent in arrear, the sum of any arrears so created and interest on such arrears.

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Other terms of new tenancy N.I.

19.—(1) The terms of a tenancy granted in pursuance of an order of the Lands Tribunal (other than terms as to the duration thereof and as to the rent payable thereunder) shall be such as may be agreed between the landlord and the tenant, or as, in the absence of agreement, may be determined by the Lands Tribunal; and in determining those terms the Lands Tribunal shall have regard to the terms of the current tenancy and to all relevant circumstances.

(2) Without prejudice to the generality of paragraph (1), the Lands Tribunal may by order direct the inclusion in the tenancy of such terms as the Lands Tribunal considers appropriate for securing that the obligations of the landlord or of the tenant (or of both of them) under the tenancy are satisfactorily performed, and may, in particular, require the provision of sufficient security (including the finding of sureties acceptable to the party to be protected).

Carrying out of order for new tenancy N.I.

20.—(1) Where the Lands Tribunal makes an order for the grant of a new tenancy, then, unless the order is revoked under paragraph (2) or the landlord and tenant agree not to act upon the order, the landlord shall be bound to execute in favour of the tenant, and the tenant shall be bound to accept, a contract of tenancy of the holding embodying the terms agreed between the landlord and the tenant or determined by the Lands Tribunal in accordance with the foregoing provisions of this Order, and where the landlord executes such a contract the tenant shall be bound, if so required by the landlord, to execute a counterpart or duplicate thereof.

(2) If the tenant, within 14 days after the making of an order for the grant of a new tenancy, applies to the Lands Tribunal for the revocation of the order, the Lands Tribunal shall revoke the order; and where the order is so revoked, then, if it is so agreed between the landlord and the tenant or determined by the Lands Tribunal, the current tenancy shall continue beyond the date at which, but for this paragraph, it would have come to an end, for such period as may be so agreed or determined to be necessary to afford to the landlord a reasonable opportunity for reletting or otherwise disposing of the premises which would have been comprised in the new tenancy; and while the current tenancy continues by virtue of this paragraph it shall not be a tenancy to which this Order (other than this paragraph, paragraph (3) and Article 21) applies.

(3) Where an order is revoked under paragraph (2), any provision thereof as to payment of costs shall not cease to have effect by reason only of the revocation; but the Lands Tribunal may, if it thinks fit, revoke or vary any such provision or, where no costs have been awarded in the proceedings for the revoked order, award such costs.

(4) A contract of tenancy made under this Article, where the estate of the landlord is subject to a mortgage, shall be deemed to be one authorised by section 18 of the Conveyancing Act 1881 (which confers certain powers of leasing on mortgagors in possession), and subsection (13) of that section (which allows those powers to be restricted or excluded by agreement) shall not have effect in relation to such a contract.

(5) In paragraph (4) the reference to section 18 of the Conveyancing Act 1881 shall be construed as a reference to that section as modified by subsection (10) of section 3 of the Conveyancing Act 1911 and, so far as it relates to the powers of leasing, by subsection (11) of the said section 3.

(6) Where a landlord or tenant refuses, neglects or fails within a reasonable time to execute or accept any document which he is bound under the provisions of this Article to execute or accept, the Lands Tribunal may, on the application in accordance with Lands Tribunal Rules of any interested party, nominate some proper person to execute or accept or join in executing or accepting the document on behalf of the person in default, and the person so nominated may recover summarily as a civil debt due to him by the person in default any costs incurred by him in executing or accepting that document.

Compensation for landlord where tenant withdraws, etc., application or rejects new tenancy N.I.

21.—(1) Where a tenant has made a tenancy application and—

(a) the tenant withdraws, or fails to pursue, the application before the Lands Tribunal comes to a decision on it; or

(b) the tenant, after the making of an order for the grant of a new tenancy, applies to the Lands Tribunal under Article 20(2) for the revocation of the order and the order is revoked,

the landlord may apply to the Lands Tribunal for an order that the tenant pay the landlord such sum as appears sufficient as compensation for damage or loss sustained by the landlord as the result of the tenant's action or inaction referred to in sub-paragraph (a) or (b).

(2) A sum ordered to be paid under paragraph (1) may include an increase of rent for any period for which the current tenancy is ordered to continue under Article 20(2), and paragraphs (3) and (4) of Article 11 shall apply to such an increase as they apply to a variation of rent by way of increase under that Article.

Powers of Lands Tribunal where landlord cannot be found or is under a disability N.I.

22. Where, on a tenancy application, the landlord or any landlord cannot be found or is under a disability or is acting in a fiduciary capacity, the Lands Tribunal may make such order as it may think proper to enable a new tenancy to be granted notwithstanding that impossibility of being found, disability or fiduciary capacity, as the case may be.

Compensation where order for new tenancy is opposed on certain grounds N.I.

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	[F8 0.31]
Exceeding 5 years but not exceeding 10 years	[F8 0.63]
Exceeding 10 years but not exceeding 15 years	[F8 0.94]
Exceeding 15 years	[F8 1.26]

(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.

F8 SR 2003/73

Miscellaneous provisions about tenancies

Restrictions on agreements excluding provisions of this Order N.I.

24. Without prejudice to Article 23(7) or 25, or paragraph 6 of Schedule 2, so much of any agreement relating to a tenancy to which this Order applies (whether contained in the instrument creating the tenancy or not) as—

(a) purports directly or indirectly by any means whatsoever to preclude any person from making an application or request under this Order; or

(b) provides for the termination or surrender of the tenancy in the event of the tenant's making such an application or request; or

(c) provides for the imposition of any penalty, restriction or disability on any person in the event of his making such an application or request; or

(d) purports to exclude or reduce compensation under Article 23,

shall be void.

Agreements to surrender tenancies N.I.

25. Notwithstanding Article 24, an agreement to surrender a tenancy to which this Order applies is valid if (and only if)—

(a) the agreement is entered into at a time when the tenant is in possession of the holding; and

(b) the agreement is approved by the Lands Tribunal.

Restrictions on alienation or improvements N.I.

26.—(1) This Article applies where—

(a) the tenant under a tenancy to which this Order applies wishes—

(i) to alienate, or

(ii) to make any improvement in,

the property comprised in the tenancy; and

(b) his contract of tenancy contains a prohibition on his doing so without the consent of the immediate landlord.

(2) That prohibition shall be subject to the qualification that consent is not to be unreasonably withheld; and where there is an obligation on the immediate landlord not to give that consent without the consent of a superior landlord, or an obligation on a superior landlord not to give consent to a consent by any other superior landlord, any such consent to a consent shall be subject to the same qualification.

(3) Where an application is made to a landlord for a consent to which this Article applies, he shall not delay unreasonably in giving or refusing that consent.

(4) A consent to which this Article applies may be given subject to any reasonable conditions.

(5) Any question arising as to whether—

(a) it is unreasonable to withhold a consent to which this Article applies; or

(b) any delay in giving or refusing such a consent is unreasonable; or

(c) any condition subject to which such a consent is given is unreasonable,

shall be referred to and determined by the Lands Tribunal.

(6) The Lands Tribunal shall not determine that a landlord has unreasonably withheld a consent to which this Article applies in the case of an improvement unless it is satisfied that the improvement—

(a) will not detract from the letting value of the property; and

(b) is reasonable and suitable to the character of the property; and

(c) will not diminish the value of other property of his.

(7) Where the Lands Tribunal determines that a landlord—

(a) has unreasonably withheld a consent to which this Article applies; or

(b) has unreasonably delayed in giving or refusing such a consent; or

(c) has imposed an unreasonable condition on such a consent,

the Lands Tribunal may order him to pay to the tenant such sum as appears sufficient as compensation for damage or loss sustained or likely to be sustained by the tenant as a result of his action or inaction in that respect.

(8) In this Article—

"alienate" includes assign, sub-let, mortgage and part with or share possession;

"consent to which this Article applies" means an immediate landlord's consent to alienation or the making of an improvement, or a superior landlord's consent (at any remove) to such a consent;

"improvement" means any addition to or alteration of a building or structure or the erection of any ancillary or subsidiary building or structure (but not any alteration or reconstruction of a building or structure such as to make it lose its original identity);

"a landlord" includes an immediate landlord and a superior landlord;

"superior landlord" means a person whose estate is superior to the estate of the immediate landlord; and

any reference to a consent required from a landlord includes a consent required from some other person (and references to the granting or withholding of consent by a landlord, or to conditions subject to which consent is given by a landlord, or to other property of, or the payment of compensation by, a landlord, shall be construed accordingly).

Supplemental

Compensation for misrepresentation etc., or landlord's failure to fulfil intentions N.I.

27.—(1) Where the Lands Tribunal—

(a) makes an order that the tenant is not entitled to a new tenancy; and

(b) is subsequently satisfied that it was induced to make the order by misrepresentation or by the concealment of material facts or that the intentions of the landlord as represented by him to the Lands Tribunal regarding any of the matters specified in Article 12(1)(e), (f), (g) or (h) have not without reasonable excuse been fulfilled,

the Lands Tribunal may order the landlord to pay to the tenant such sum as appears sufficient as compensation for damage or loss sustained by the tenant as the result of the refusal.

(2) Where—

(a) the tenant has quit the holding—

(i) after making but withdrawing a tenancy application; or

(ii) without making such an application; and

(b) the Lands Tribunal is satisfied that he did so by reason of misrepresentation or the concealment of material facts,

the Lands Tribunal may order the landlord to pay to the tenant such sum as appears sufficient as compensation for damage or loss sustained by the tenant as the result of quitting the holding.

Penalties for fraud or the wilful concealment of material facts N.I.

28.—(1) Any person who fraudulently or by the wilful concealment of material facts induces the Lands Tribunal to order the grant of a new tenancy or to make an order that the tenant is not entitled to a new tenancy shall, without prejudice to the provisions of the Perjury (Northern Ireland) Order 1979, be guilty of an offence and shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 6 months or to both such fine and such imprisonment;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both a fine and such imprisonment.

(2) For the purposes of any proceedings under this Article, a certificate under the hand of a member of the Lands Tribunal that, in any proceedings of the Lands Tribunal heard before him (whether sitting alone or otherwise), a statement of material facts as set out in the certificate was made to the Tribunal or that any material facts as set out in the certificate were not disclosed to the Tribunal, shall, until the contrary is shown, be accepted as proof that such statement was made, or, as the case may be, that such facts were not disclosed to the Tribunal.

Duty of tenants and landlords of business premises to give information to each other N.I.

29.—(1) Any person having an estate in any business premises, being an estate in reversion expectant (whether immediate or not) on a tenancy of those premises, may serve on the tenant under such tenancy a notice for particulars.

(2) A tenant of business premises, being a tenant under such a tenancy as is mentioned in Article 7(1), may serve a notice for particulars on all or any of the following persons—

(a) his immediate landlord or the person to whom he pays the rent in respect of the premises comprised in the tenancy;

(b) any person whom the tenant reasonably believes to be a superior landlord or the agent of a superior landlord;

(c) any person whom the tenant reasonably believes may be a mortgagee in possession of an estate in the premises superior to the tenant's estate.

(3) For the purposes of this Article a notice for particulars is a notice in the prescribed form requiring the person on whom the notice is served to furnish to the person by whom the notice is served such information as, in all the circumstances, it is reasonable for the second-mentioned person to demand and as is specified in the notice.

(4) Any notice for particulars served by a landlord or a tenant must be served before the service of, respectively, a notice to determine or a request for a new tenancy.

(5) It shall be the duty of any person on whom a notice for particulars is served under this Article to furnish in writing within one month after the service of such notice to the person by whom such notice was so served, the information asked for by such notice so far as it is within the possession or procurement of such person.

(6) Where a notice for particulars is served under this Article and the person on whom such notice is so served ("the defaulter") fails or neglects to furnish in writing, within the time limited by this Article, the information he is required by the notice to furnish, or furnishes information which is incomplete, inaccurate or misleading in any material respect, the person by whom the notice was served may apply to the Lands Tribunal, which may—

(a) make such order as it thinks necessary with a view to compelling the defaulter so to furnish such information as the Lands Tribunal considers proper;

(b) in the event of the defaulter not complying with an order under sub-paragraph (a), order the defaulter to pay to the person by whom the notice was served such sum as appears sufficient as compensation for damage or loss sustained by that person as the result of the defaulter's breach of the duty imposed on him by paragraph (5).

(7) In the case of a tenancy granted for a term certain the foregoing provisions of this Article shall not apply to a notice served by or on the tenant more than 2 years before the date on which but for this Order his tenancy would come to an end by effluxion of time or could be brought to an end by notice to quit served by the immediate landlord.

(8) In this Article—

"business premises" means premises used wholly or partly for the purposes of a business;

"mortgagee in possession" includes a receiver, appointed by the mortgagee or by a court of competent jurisdiction, who is in receipt of the rents and profits;

"superior landlord" means a person whose estate is superior to the estate of the immediate landlord.

Trusts **N.I.**

30.—(1) Where a tenancy is held on trust, occupation by all or any of the beneficiaries under the trust, and the carrying on of a business by all or any of the beneficiaries, shall be treated for the purposes of Article 3 as equivalent to occupation or the carrying on of a business by the tenant; and in relation to a tenancy to which this Order applies by virtue of the foregoing provisions of this paragraph—

(a) references (however expressed) in this Order to the business of, or to carrying on of business, use or occupation by, the tenant shall be construed as including references to the business of, or to carrying on of business, use or occupation by, the beneficiaries or beneficiary;

(b) the reference in Article 18(2)(d) to the tenant shall be construed as including the beneficiaries or beneficiary; and

(c) a change in the persons of the trustees shall not be treated as a change in the person of the tenant.

(2) Where the landlord's estate is held on trust, the references in sub-paragraph (g) of Article 12(1) to the landlord, and the references in sub-paragraph (h) to a person with a controlling interest in the company, shall be construed as including references to the beneficiaries under the trust or any of them; but, except in the case of a trust arising under a will or on the intestacy of any person, the reference in Article 13(4) to the creation of the estate therein mentioned shall be construed as including the creation of the trust.

Groups of companies N.I.

31.—(1) For the purposes of this Article two bodies corporate shall be taken to be members of a group if and only if one is a subsidiary of the other or both are subsidiaries of a third body corporate.

(2) In paragraph (1) "subsidiary" has the meaning given by**[**[F9] section 1159 of the Companies Act 2006**]**.

(3) Where a tenancy is held by a member of a group, occupation by another member of the group, and the carrying on of a business by another member of the group, shall be treated for the purposes of Article 3 as equivalent to occupation or the carrying on of a business by the member of the group holding the tenancy; and in relation to a tenancy to which this Order applies by virtue of the foregoing provisions of this paragraph—

(a) references (however expressed) in this Order to the business of, or to use or occupation by, the tenant shall be construed as including references to the business of, or to use or occupation by, the said other member;

(b) the reference in Article 18(2)(d) to the tenant shall be construed as including the said other member; and

(c) an assignment of the tenancy from one member of the group to another shall not be treated as a change in the person of the tenant.

(4) Where the landlord's estate is held by a member of a group—

(a) the reference in Article 12(1)(g) to intended occupation for the purposes of a business to be carried on by the landlord shall be construed as including intended occupation for the purposes of a business to be carried on by any member of the group; and

(b) the reference in Article 12(1)(h) to intended occupation for the purposes of a business to be carried on by a person with a controlling interest or by the company shall be similarly construed; and

(c) the reference in Article 13(4) to the purchase or creation of any estate shall be construed as a reference to a purchase from or creation by a person other than a member of the group.

F9 Art. 31(2): words in the definition of "subsidiary" substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 164** (with art. 10)

Partnerships N.I.

32.—(1) This Article applies where—

(a) a tenancy is held by two or more persons; and

(b) the property comprised in the tenancy is or includes premises occupied for the purposes of a business; and

(c) the business (or some other business) was at some time during the existence of the tenancy carried on in partnership by all the persons who were then the tenants or by those and other persons, and the tenants' estate in the premises was then partnership property; and

(d) the business is carried on (whether alone or in partnership with other persons) by one or some only of the tenants and no part of the property comprised in the tenancy is occupied, in right of the tenancy, for the purposes of a business carried on (whether alone or in partnership with other persons) by the other or others.

(2) In this Article those of the tenants who for the time being carry on the business are referred to as the "remaining tenants" and the others are referred to as the "departed tenants".

(3) Any notice given by the remaining tenants which, had it been given by all the tenants, would have been a tenant's request for a new tenancy made in accordance with Article 7 shall be treated as such if it states that it is given by virtue of this Article and sets out the facts by virtue of which the persons giving it are the remaining tenants, and references in that Article to the tenant shall be construed accordingly.

(4) A notice given by the landlord to the remaining tenants which, had it been given to all the tenants, would have been a notice under Article 6 shall be treated as such, and references in that Article to the tenant shall be construed accordingly.

(5) A tenancy application under Article 10(1)(b) may, instead of being made by all the tenants, be made by the remaining tenants alone; and where an application is so made—

(a) this Order shall have effect, in relation to it, as if the references therein to the tenant included references to the remaining tenants alone; and

(b) the remaining tenants shall be liable, to the exclusion of the departed tenants, for the payment of rent and the discharge of any other obligation under the current tenancy for any rental period beginning after the date specified in the landlord's notice under Article 6 or, as the case may be, beginning on or after the date specified in their request for a new tenancy.

(6) Where the Lands Tribunal makes an order under Article 15 for the grant of a new tenancy on an application made by the remaining tenants it may order the grant to be made to them or to them with the persons carrying on the business in partnership with them; and, in exercising its power under Article 19(2), the Lands Tribunal may have regard to the omission of the departed tenants from the persons who will be the tenant under the new tenancy.

(7) The remaining tenants shall be entitled to recover any sum payable by way of compensation under Article 23 or 27.

Provisions as to reversions N.I.

33.—(1) Where by virtue of any provision of this Order a tenancy ("the inferior tenancy") is continued for a period such as to extend to or beyond the end of a superior tenancy, the superior tenancy shall, for the purposes of this Order and of any other statutory provision and of any rule of law, be deemed so long as it subsists to be an estate in reversion expectant upon the termination of the inferior tenancy, and if there is no intermediate tenancy, to be the estate in reversion immediately expectant upon the termination thereof.

(2) In the case of a tenancy continuing by virtue of any provision of this Order after the coming to an end of the estate of the immediate landlord, the person then having the reversion immediately expectant upon the coming to an end of that estate shall, from such coming to an end and so long as his term subsists, be deemed, to the extent and for the purpose of preserving the incidents to and obligations on the said estate which would have subsisted if that estate had not come to an end, to

be the immediate landlord in relation to the tenancy so continued (and similarly where that person's estate comes to an end in similar circumstances).

(3) Where by virtue of any provision of this Order a tenancy ("the continuing tenancy") is continued beyond the beginning of a reversionary tenancy which was granted so as to begin on or after the date on which but for this Order the continuing tenancy would have come to an end, the reversionary tenancy shall have effect as if it had been granted subject to the continuing tenancy.

(4) Where by virtue of any provision of this Order a tenancy ("the new tenancy") is granted for a period beginning on the same date as a reversionary tenancy or for a period such as to extend beyond the beginning of the term of a reversionary tenancy, the reversionary tenancy shall have effect as if it had been granted subject to the new tenancy.

Provision as to overholding N.I.

34. A tenant shall not be deemed for the purposes of section 76 of the Landlord and Tenant Law Amendment Act, Ireland, 1860 wilfully to hold over any property comprised in a tenancy by reason only of his remaining in possession thereof under any provision of this Order.

Mesne landlords N.I.

35. The provisions of Schedule 1 shall have effect for the purposes of the application of this Order to cases where there are several persons standing in the relation to each other of landlord and tenant.

Mortgagees in possession N.I.

36. Without prejudice to Article 29(2)(c), anything authorised or required by the provisions of this Order, to be done at any time by, to or with a landlord, shall, if at that time the estate of the landlord in question is subject to a mortgage and the mortgagee is in possession or a receiver is in receipt of the rents and profits, be deemed to be authorised or required to be done by, to or with the mortgagee instead of that landlord.

Determination of tenancies of derelict land N.I.

37.—(1) Where in relation to a tenancy continued by virtue of this Order or granted under this Order the immediate landlord on an application to the Lands Tribunal satisfies the Lands Tribunal—

(a) that he has taken all reasonable steps to communicate with the person last known to him to be the tenant and has failed to do so;

(b) that during the period of 6 months ending with the date of the application neither the tenant nor any person claiming under him has been in occupation of the property comprised in the tenancy or any part thereof; and

(c) that during the said period either no rent was payable by the tenant or the rent payable has not been paid,

the Lands Tribunal may if it thinks fit by order determine the tenancy as from the date of the order.

(2) Nothing in this Article shall prejudice or affect the right of a landlord to bring an action for the recovery of any land under Article 12(3) of the County Courts (Northern Ireland) Order 1980.

Application of capital money under the Settled Land Acts N.I.

38.—(1) Capital money arising under the Settled Land Acts 1882 and 1890 may be applied—

(a) in payment, as for an improvement authorised by the said Acts, of any money expended and costs incurred under and in pursuance of this Order in or about the execution of an improvement;

(b) in payment of any sum payable to a tenant in respect of compensation under Article 23 and any costs payable to such tenant in relation to his claim for such compensation;

(c) in payment of the costs incurred in or in relation to making or opposing an application to the Lands Tribunal under this Order.

(2) The satisfaction of a claim for compensation under Article 23 shall be included amongst the purposes for which a tenant for life may raise money under section 18 of the Settled Land Act 1882.

(3) Where a landlord liable to pay compensation under Article 23, or to pay such costs as are mentioned in paragraph (1)(c), is a tenant for life or in a fiduciary position, he may require the sum payable in respect of such compensation and all such costs to be paid out of any capital money held on the same trusts as the settled land.

(4) In paragraph (3) the expression "capital money" includes any personal estate held on the same trusts as the land, and the expression "settled land" includes land held on trust for sale.

Protection of landlords in fiduciary capacities N.I.

39.—(1) Where a landlord is a person entitled to receive the rents and profits from any premises comprised in a tenancy as trustee or in any character otherwise than for his own benefit and money is payable by such landlord to his tenant in respect of compensation under Article 23 or in respect of costs in relation to any application under this Order, the following provisions shall have effect, that is to say —

(a) such money shall not be recovered personally against such landlord nor shall he be under any liability to pay such money, but such money shall be a charge on and recoverable only against the premises comprised in the said tenancy and all property real or personal, held by the landlord on the same trusts or in the same character as the premises comprised in the said tenancy;

(b) such landlord shall, either before or after having paid such money to such tenant, be entitled to obtain from a county court an order charging such premises and all property, real or personal, held by him on the same trusts or in the same character as such premises with the payment of the amount of such money and of all costs properly incurred by him in obtaining such order or raising the amount of the charge;

(c) if such landlord neglects or fails to pay such money within one month after such tenant has quit such premises, such tenant shall be entitled to obtain from a county court an order directing that such premises and all property, real or personal, held by such landlord on the same trusts or in the same character as such premises shall be charged with the payment of the amount of such moneys or of so much thereof as is then unpaid and of all costs properly incurred by him in obtaining such order or in raising the amount of the charge.

(2) Any company having power to lend money on mortgage or to advance money for the improvement of land may take an assignment of any charge made by a county court under this Article, and such company may assign any such charge so assigned to it to any person whomsoever.

Provisions as to notices N.I.

40.—(1) Any form of notice or other document required by this Order to be prescribed shall be prescribed by regulations made by the Department of Finance and Personnel subject to negative resolution.

(2) Where the form of a notice is to be prescribed for any of the purposes of this Order, that form may include such explanation of the relevant provisions of this Order as appears to the Department of Finance and Personnel requisite for informing any persons of their rights and obligations under those provisions.

(3) Where, in any particular case, objection is taken to the sufficiency of any form of notice under this Order, the Lands Tribunal may give such directions in the matter as it thinks fit.

Service of notices, etc. N.I.

41. Any notice, request, application, consent or other instrument required or authorised by this Order to be served by or on, made by, or given by or to any person shall be in writing and, without prejudice to section 24 of the Interpretation Act (Northern Ireland) 1954, the person by or on whom it is to be served, made or given shall include any agent of that person.

Enforcement of orders of Lands Tribunal N.I.

42.—(1) Where, under Article 11(4), 18(5), 21 (1), 26(7), 27(1) or (2) or 29(6)(b) or paragraph 3(4) of Schedule 1, the Lands Tribunal orders payment of any sum, the order shall be a money judgment for the purposes of Article 4 of the Judgments Enforcement (Northern Ireland) Order 1981.

(2) Where the Lands Tribunal makes an order under Article 29(6)(a) and the defaulter fails to comply with it, a member of the Lands Tribunal may certify the failure to the High Court which may deal with the defaulter as if the order of the Lands Tribunal had been an order of the High Court.

The Crown N.I.

43.—(1) Subject to Articles 12(1)(i) and 23(7), this Order binds the Crown and, consequently, the Order applies where there is an estate belonging to Her Majesty in right of the Crown or belonging to a department of the Government of the United Kingdom or of the Government of Northern Ireland or held on behalf of Her Majesty for the purposes of any such department, in like manner as if that estate were an estate not so belonging or held.

(2) Where a tenancy is held by or on behalf of a department of the Government of the United Kingdom or of the Government of Northern Ireland and the property comprised therein is or includes premises occupied for any purposes of any such department, the tenancy is one to which this Order applies; and for the purposes of any provision of this Order which is applicable only if either or both of the following conditions are satisfied, that is to say—

(a) that the premises have during any period been occupied for the purposes of the tenant's business;

(b) that on any change of occupier of any premises the new occupier succeeded to the business of the former occupier,

those conditions are to be deemed to be satisfied respectively, in relation to such a tenancy, if during that period or, as the case may be, immediately before and immediately after the change, the premises were occupied for the purposes of any such department.

Transitional provisions and savings, amendments and repeals N.I.

44.—(1) The transitional and saving provisions in Schedule 2 shall have effect.

Para. (2)—Amendments

Para. (3)—Repeals

Changes to legislation:
The Business Tenancies (Northern Ireland) Order 1996 is up to date with all changes known to be in force on or before 25 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:
Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 18(6) inserted by 2022 c. 46 s. 62(2)
- art. 18A inserted by 2022 c. 46 s. 62(3)
- art. 18B18C inserted by 2022 c. 46 s. 64(2)