



# Landlord and Tenant Act 1985

## 1985 CHAPTER 70

### *Implied terms as to fitness for human habitation*

#### **[<sup>F1</sup>9A Fitness for human habitation of dwellings in England**

- (1) In a lease to which this section applies of a dwelling in England (see section 9B), there is implied a covenant by the lessor that the dwelling—
  - (a) is fit for human habitation at the time the lease is granted or otherwise created or, if later, at the beginning of the term of the lease, and
  - (b) will remain fit for human habitation during the term of the lease.
- (2) The implied covenant is not to be taken as requiring the lessor—
  - (a) to carry out works or repairs for which the lessee is liable by virtue of—
    - (i) the duty of the lessee to use the premises in a tenant-like manner, or
    - (ii) an express covenant of the lessee of substantially the same effect as that duty;
  - (b) to rebuild or reinstate the dwelling in the case of destruction or damage by fire, storm, flood or other inevitable accident;
  - (c) to keep in repair or maintain anything which the lessee is entitled to remove from the dwelling;
  - (d) to carry out works or repairs which, if carried out, would put the lessor in breach of any obligation imposed by any enactment (whenever passed or made);
  - (e) to carry out works or repairs requiring the consent of a superior landlord or other third party in circumstances where consent has not been obtained following reasonable endeavours to obtain it.
- (3) The implied covenant is also not to be taken as imposing on the lessor any liability in respect of the dwelling being unfit for human habitation if the unfitness is wholly or mainly attributable to—
  - (a) the lessee's own breach of covenant, or
  - (b) disrepair which the lessor is not obliged to make good because of an exclusion or modification under section 12 (power of county court to authorise

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*Changes to legislation: Landlord and Tenant Act 1985, Section 9A is up to date with all changes known to be in force on or before 10 April 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*

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exclusions or modifications in leases in respect of repairing obligations under section 11).

- (4) Any provision of a lease or of any agreement relating to a lease (whether made before or after the grant or creation of the lease) is void to the extent that it purports—
- (a) to exclude or limit the obligations of the lessor under the implied covenant, or
  - (b) to authorise any forfeiture or impose on the lessee any penalty, disability or obligation in the event of the lessee enforcing or relying upon those obligations.
- (5) Where in any proceedings before a court it is alleged that a lessor is in breach of an obligation under the implied covenant, the court may order specific performance of the obligation (regardless of any equitable rule restricting the scope of that remedy).
- (6) Where a lease to which this section applies of a dwelling in England forms part only of a building, the implied covenant has effect as if the reference to the dwelling in subsection (1) included a reference to any common parts of the building in which the lessor has an estate or interest.
- (7) In a lease to which this section applies of a dwelling in England, there is also implied a covenant by the lessee that the lessor, or a person authorised in writing by the lessor, may enter the dwelling for the purpose of viewing its condition and state of repair.
- (8) The covenant implied by subsection (7) requires entry to the dwelling to be permitted—
- (a) only at reasonable times of the day, and
  - (b) only if at least 24 hours' notice in writing has been given to the occupier of the dwelling.
- (9) In this section—
- “common parts” has the meaning given by section 60(1) of the Landlord and Tenant Act 1987;
  - “lease” does not include a mortgage term;
  - “lessee” means the person for the time being entitled to the term of a lease;
  - “lessor” means the person for the time being entitled to the reversion expectant on a lease.]

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#### Textual Amendments

**F1** Ss. 9A-9C inserted (20.3.2019) by [Homes \(Fitness for Human Habitation\) Act 2018 \(c. 34\), ss. 1\(3\), 2\(2\)](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(1AB) inserted by [2016 c. 22 Sch. 7 para. 18\(2\)](#)