



# Landlord and Tenant (War Damage) Act (Northern Ireland) 1941

## 1941 CHAPTER 9

### NOTICES OF DISCLAIMER

#### 7 Particulars to be included in notices of disclaimer, etc.

- (1) A tenant serving a notice of disclaimer shall include therein such of the following particulars with respect to the lease disclaimed as are known to him, or can reasonably be ascertained by him, namely—
  - (a) the duration of the tenancy created by, and the rent reserved by, any immediate under-lease of the land comprised in the lease or any part thereof;
  - (b) the name and address of the person to whom that under-lease was granted and of the person (if any) to whom it has been assigned;
  - (c) if the interest created by the lease is mortgaged, the fact of the mortgage and the name and address of the mortgagee and his successor in title (if any).
- (2) Within seven days from the service of a notice of disclaimer, the tenant serving the notice shall serve upon any person claiming immediately under him (whether as assignee, mortgagee or lessee) in respect of an interest in the land comprised in the lease a notice stating that he has served the notice of disclaimer and the name and address of the landlord on whom it was served and such other particulars as are necessary to identify the lease disclaimed.
- (3) Every person upon whom a notice is served in pursuance of the last preceding sub-section or this sub-section shall, within seven days from the receipt of the notice, serve upon every person (other than the person from whom he has received the notice)—
  - (a) who has immediately derived from him an interest in the land comprised in the lease; or
  - (b) to whom he has immediately assigned such an interest;a notice stating the date on which the first-mentioned notice was served on him and the terms thereof and the effect of this and the next following sub-section.

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*Status: Point in time view as at 01/01/2006.*

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- (4) If any person fails to comply with the provisions of this section, he shall be liable to make good to any other person any damage suffered by that other person by reason of the failure.

## **8 Effect of notice of disclaimer.**

- (1) Where a notice of disclaimer is served the following provisions of this section shall have effect, subject to any order of the court under the next following section, at the expiration of the period allowed under this Act within which notice to avoid disclaimer may be served, unless a notice to avoid disclaimer is served within that period or the notice of disclaimer is otherwise of no effect under this Part of this Act.
- (2) As from the date when the notice of disclaimer was served—
- (a) the lease disclaimed shall be deemed to have been surrendered; and
  - (b) all sub-leases derived out of the tenancy created by the lease disclaimed shall also be deemed to have been surrendered, except a sub-lease—
    - (i) by virtue whereof any person is entitled to the actual occupation of the land comprised in the disclaimed lease or of any part thereof; and
    - (ii) in respect of which no notice of disclaimer has been served; and
  - (c) all interests in the tenancy created by the lease disclaimed or any sub-lease which is deemed to have been surrendered as aforesaid shall be deemed to have been extinguished.
- (3) Any notice of disclaimer, notice of retention or notice to elect served in respect of any sub-lease which is deemed to have been surrendered by virtue of this section shall be of no effect.

## **9 Power of court to modify effect of notice of disclaimer.**

- (1) On an application duly made under this section, the court shall have power to modify the operation of a notice of disclaimer as stated in the last foregoing section as follows:—
- (a) by varying the date on which sub-section (2) of that section takes effect or the date as from which any lease or sub-lease is deemed to have been surrendered or any interest therein is deemed to have been extinguished;
  - (b) by excepting from the operation of that section, on such terms as the court thinks just, any sub-lease and any interest therein which would otherwise be deemed to have been surrendered or extinguished;
  - (c) by vesting on such terms as the court thinks just the lease disclaimed, or any sub-lease which would otherwise be deemed to have been surrendered, in any person having an interest in the lease or sub-lease other than the tenant thereunder;
  - (d) by imposing such terms and making such orders as to the removal of fixtures and otherwise as the court thinks just.
- (2) The terms imposed by the court under paragraph ( b ) or paragraph ( c ) of the last foregoing sub-section may include such alterations as the court thinks just of the terms of the lease or sub-lease in question.
- (3) An application under this section may be made by any person—

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- (a) having an interest in or derived out of the tenancy created by the lease disclaimed; or
  - (b) having an interest in the reversion;
- at any time within the period allowed under this Act for serving a notice to avoid disclaimer.
- (4) Unless the court otherwise directs, no application under this section and no order of the court thereon shall prejudice the right of a landlord to serve a notice to avoid disclaimer within the period allowed by this Act.

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