



# Business Tenancies Act (Northern Ireland) 1964

## 1964 CHAPTER 36

### PART I

#### SECURITY OF TENURE FOR BUSINESS, PROFESSIONAL AND CERTAIN OTHER TENANTS

##### TENANCIES TO WHICH PART I APPLIES

#### **1 Tenancies to which this Part applies.**

- (1) Subject to the provisions of this Part, this Part 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) In this Part the expression “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; but 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.
- (3) In the following provisions of this Part the expression “the holding” , in relation to a tenancy to which this Part applies, means 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 Part applies.

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## 2 Tenancies to which this Part does not apply.

(1) This Part does not apply—

- <sup>F1</sup>(a) to 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 Part 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 Part shall apply to that tenancy as if it were a tenancy continuing by virtue of section 3 after the expiry of a term certain exceeding one year;
- (b) ]
- (c) to a tenancy under any lease to which The Renewable Leasehold Conversion Act ...<sup>F2</sup> applies;
- (d) to a tenancy granted (whether before or after the commencement of this Act) for a term certain not exceeding three months unless 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 six months;
- (e) to a tenancy of agricultural land, including farm houses and farm buildings;
- (f) to a tenancy created (whether before or after the commencement of this Act) by a mining lease;
- (g) to a tenancy where there subsists in the premises comprised in the tenancy an estate acquired (whether before or after the commencement of this Act) by a public authority which requires possession of such premises for the purposes of carrying out its functions under any enactment or any rule of law, and that authority would but for this Part be entitled to obtain possession of those premises;
- (h) to a tenancy granted for or made dependent on (whether before or after the commencement of this Act) the continuance of the tenant in any office, employment or appointment;
- (i) to a tenancy granted before the commencement of this Act which was granted and expressed to be granted for the temporary convenience of the immediate landlord or of the tenant;
- (j) to a tenancy granted (whether before or after the commencement of this Act) 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 ;
- (k) to a tenancy where the tenant thereunder is convicted after the commencement of this Act of using the premises comprised in such tenancy, or permitting such premises to be used, for an illegal purpose;
- (l) to a tenancy granted (whether before or after the commencement of this Act) by any person in breach of any prohibition against granting such a tenancy contained in his contract of tenancy or any other agreement;
- <sup>F3</sup>(m) to 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.]
- <sup>F4</sup>(n) to 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

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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]

- (2) In subsection (1)(g) “public authority” includes any department of the Government of the United Kingdom or of Northern Ireland, any local authority, and any public body or authority constituted by or under any enactment<sup>F4</sup> and any holder of a licence under Part II of the Electricity (Northern Ireland) Order 1992].

<b>F1</b>	1978 NI 20
<b>F2</b>	1978 NI 4
<b>F3</b>	<a href="#">1971 c.7 (NI)</a>
<b>F4</b>	1992 NI 1

## CONTINUATION OF TENANCIES

### **3 Continuation of tenancies to which this Part applies until terminated in accordance with this Part.**

- (1) A tenancy to which this Part applies shall not come to an end unless terminated in accordance with the provisions of this Part; and subject to the following provisions of this Part such a tenancy may be terminated by—
- (a) a notice to determine served by the landlord in accordance with the provisions of section 4; or
  - (b) a request for a new tenancy made by the tenant in accordance with the provisions of section 5.
- (2) Notwithstanding anything in subsection (1)—
- (a) where a tenancy has been continued by virtue of subsection (1) and at any time thereafter ceases to be a tenancy to which this Part 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 three nor more than six 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 Part 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 Part applies;
  - (c) if at any time within twelve 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 Part applies by reason that premises comprised in the tenancy are not occupied by the tenant for the purposes of a business;

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this Part 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.

- (3) For the purposes of this Part “notice to determine” means a notice served by the landlord in accordance with section 4, and “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.

#### **4 Termination of tenancy by the landlord.**

- (1) Subject to section 9 the landlord may terminate a tenancy to which this Part 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 Part referred to as “the date of termination” ).
- (2) A notice to determine shall not have effect unless it complies with the provisions of this section and, subject to subsection (3), is served not more than twelve nor less than six months before the date of termination specified therein.
- (3) In the case of a tenancy which but for this Part could have been brought to an end by notice to quit—
- (a) subsection (2) shall, where but for this Part more than six months' notice to quit would have been required to bring the tenancy to an end, have effect with the substitution for twelve months of a period six 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 Part, 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 twelve nor less than six months before the date of termination specified therein.
- (5) In the case of any tenancy, other than a tenancy referred to in subsection (3) or subsection (4), a notice to determine under this section shall not specify a date of termination earlier than the date on which, but for this Part, the tenancy would have come to an end by effluxion of time.
- (6) A notice to determine shall—
- (a) require the tenant, within two months of the service of the notice, to notify the landlord in writing whether or not, at the date of termination, the tenant will be willing to give up possession of the property comprised in the tenancy; and
  - (b) state whether the landlord would oppose an application to the Lands Tribunal under section 8 and, if so, on which of the grounds mentioned in section 10 he would do so.

## **5 Request by tenant for a new tenancy.**

- (1) A tenant may, subject to and in accordance with this section, make a request for a new tenancy where the tenancy under which he holds for the time being (in this Part referred to as “the current tenancy”) is—
  - (a) a tenancy granted for a term certain exceeding one year, whether or not continued by section 3; or
  - (b) a tenancy granted for a term certain exceeding one year and thereafter from year to year; or
  - (c) a tenancy granted for a period dependent on the fall of a life or other uncertain event and continued by section 3.
- (2) A tenant's request for a new tenancy shall be for a tenancy beginning with such date, not more than twelve nor less than six months after the making of the request, as may be specified therein, and in the case of such a tenancy as is specified in paragraphs (a) and (b) of subsection (1) such date shall not be earlier than the date on which but for this Part 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 if the landlord has already served a notice to determine under section 4, or if the tenant has already served a notice under section 6; and no such notice 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 section, the current tenancy shall, subject to section 9 and to section 17(2), terminate immediately before the date specified in the request for the beginning of the new tenancy.
- (6) Within two months of the making of a tenant's request for a new tenancy in accordance with this section, the landlord may serve notice on the tenant that he will oppose an application to the Lands Tribunal under section 8 for the grant of a new tenancy, and any such notice shall state on which of the grounds mentioned in section 10 the landlord will oppose the application.

## **6 Further provisions for the termination of tenancies to which this Part applies.**

- (1) Section 3(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 [<sup>F5</sup> or by lawful ejection for non-payment of rent].
- (2) Where but for this Part a tenancy would come to an end by the effluxion of time and the tenant, not later than three months before the date on which but for this Part the tenancy would so come to an end, serves on the immediate landlord a notice that the

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tenant does not desire the tenancy to be continued, section 3 shall not have effect in relation to that tenancy.

- (3) A tenancy which but for this Part would have come to an end by effluxion of time and which is continuing by virtue of section 3 may be brought to an end on any gale day by not less than three 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 Part the tenancy would have come to an end by effluxion of time.
- (4) A tenancy which but for this Part 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 section 3 may be brought to an end on any gale day by not less than three months' notice served by the tenant on the immediate landlord.

F5 1968 c.4 (NI)
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## 7 Agreements for future tenancies.

Where the landlord and the tenant holding immediately under him agree for the grant to that tenant of 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 Part applies.

### APPLICATION TO THE LANDS TRIBUNAL FOR NEW TENANCIES

## 8 Application to Lands Tribunal for new tenancies.

- (1) A tenant under a tenancy to which this Part applies may apply to the Lands Tribunal for the grant of a new tenancy—
  - (a) where the landlord has served a notice to determine the tenancy in accordance with section 4; or
  - (b) where the tenant has made a request for a new tenancy in accordance with section 5.
- (2) An application made in consequence of a notice to determine served by the landlord under section 4 shall not be entertained by the Lands Tribunal unless the tenant has notified the landlord that he will not be willing at the date of termination to give up possession of the property comprised in the tenancy.
- (3) An application under this section shall not be entertained by the Lands Tribunal unless it is made not less than two nor more than four months (or with the written consent of the landlord within such longer period as the landlord may specify) after the service of the landlord's notice to determine under section 4, or as the case may be, after the making of the tenant's request for a new tenancy under section 5.

## 9 Interim continuation of tenancies pending determination by the Lands Tribunal.

- (1) In any case where—

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- (a) a notice to determine a tenancy has been served under section 4 or a request for a new tenancy made under section 5; and
- (b) an application to the Lands Tribunal has been made under section 8; and
- (c) but for this section the effect of that notice or request would be to terminate the tenancy before the expiration of the period of three months beginning with the date on which the 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 direct or at the expiration of the said period of three months and not at any other time.

- (2) The reference in subsection (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.

## **10 Opposition by landlord to application for new tenancy.**

- (1) The grounds on which a landlord may oppose an application made under section 8 to the Lands Tribunal for a new tenancy are such of the following grounds as may be stated in the landlord's notice to determine under section 4, or as the case may be, in the landlord's notice under section 5(6), 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

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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 or rebuild the premises comprised in the holding or a substantial part of those premises; or
  - (ii) to carry out substantial works of construction on the holding or part thereof;

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

- (g) subject to subsection (3), that on the termination of the current tenancy the landlord intends that the holding will be occupied for a reasonable period for the purposes, or partly for the purposes, of a business to be carried on by him or by a company in which he has a controlling interest, or as his residence.

(2) Where the landlord opposes an application on the ground specified in subsection (1) (f) the Lands Tribunal may require the landlord to furnish evidence that planning permission required under any enactment has been granted to him in respect of the works which he intends to undertake.

(3) The landlord shall not be entitled to oppose an application on the ground specified in subsection (1)(g) 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 five 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 section 1(1).

(4) For the purposes of subsection (1)(g) the landlord 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 that company, that the affairs of the company are conducted in accordance with his wishes.

## **11 Dismissal of application for new tenancy where landlord successfully opposes.**

(1) The Lands Tribunal shall not make an order under this Part for the grant of a new tenancy where the landlord opposes an application under section 8 on grounds on which he is entitled to oppose it in accordance with section 10 and establishes any of those grounds to the satisfaction of the Lands Tribunal.

(2) Where in a case not falling within subsection (1) the landlord opposes an application for the grant of a new tenancy on one or more of the grounds specified in paragraphs (d), (e) and (f) of section 10(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 a declaration to that effect, stating on which of the said grounds it would have been satisfied as aforesaid and specifying the later date



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determined by the Lands Tribunal as aforesaid, but shall not make an order for the grant of a new tenancy; and

- (b) if, within fourteen 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.

## **12 Powers of Lands Tribunal to grant a new tenancy on application.**

- (1) Where the tenant applies under section 8 to the Lands Tribunal for the grant of a new tenancy and—
  - (a) the landlord fails to establish to the satisfaction of the Lands Tribunal any of the grounds of opposition to the grant of a new tenancy under section 10; or
  - (b) the Lands Tribunal does not make a declaration under section 11(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 Part.
- (2) Where a tenancy is continued or a new tenancy is granted under this Part 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) Subsection (2) shall not operate so as to extend any liability under any guarantee or other security for the payment of rent.

## **13 Property to be comprised in new tenancy.**

- (1) Subject to subsection (2) an order under section 12 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 section 12 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 Part 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 section 12.

## **14 Duration of new tenancy.**

- (1) Where the Lands Tribunal makes an order under this Part 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

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- (b) in the absence of agreement, a tenancy for such period, not exceeding fourteen 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 Part 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 subsection (3), the power of the Lands Tribunal under this Part 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 section, 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 Part 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 subsection (2) grant a reversionary tenancy unless the tenant has, within such time as may be prescribed by 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.

## 15 Rent under new tenancy.

- (1) The rent payable under a new tenancy granted by order of the Lands Tribunal under this Part 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 thereof 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 Acts (Northern Ireland)<sup>6</sup>, any addition to its value attributable to the licence, if it appears to the Lands Tribunal that having regard to the terms of the

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current tenancy and any other relevant circumstances the benefit of the licence belongs to the tenant.

- (3) None of the provisions of the [<sup>F7</sup> 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 subsection (2).

*Subs. (4) rep. by 1978 NI 20*

**F6** 1971 c.13 (NI)

**F7** 1978 NI 20

## 16 Other terms of new tenancy.

The terms of a tenancy granted by order of the Lands Tribunal under this Part (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.

## 17 Carrying out of order for new tenancy.

- (1) Where the Lands Tribunal makes an order under this Part for the grant of a new tenancy, then, unless the order is revoked under subsection (2) or the landlord and tenant agree not to act upon the order, the landlord shall be bound to execute or make in favour of the tenant, and the tenant shall be bound to accept, an agreement for a 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 Part; and where the landlord executes or makes such an agreement the tenant shall be bound, if so required by the landlord, to execute a counterpart or duplicate thereof.
- (2) If the tenant, within fourteen days after the making of an order under this Part 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 subsection, 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 re-letting 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 subsection it shall not be a tenancy to which this Part (other than this subsection and subsection (3)) applies.
- (3) Where an order is revoked under subsection (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) An agreement made under this section, 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 an agreement.

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- (5) In subsection (4) the references 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 section 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 fees, costs or other expenses incurred by him in executing or accepting that document.

**18 Powers of Lands Tribunal where landlord cannot be found or is under a disability.**

Where, on an application under this Part for the grant of a new tenancy, 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 the new tenancy to be granted notwithstanding that impossibility of being found, disability or fiduciary capacity, as the case may be.

**19<sup>F8</sup> Compensation where order for new tenancy is precluded on certain grounds.**

- (1) Where on the making of an application under section 8, the Lands Tribunal is precluded (whether by subsection (1) or subsection (2) of section 11) from making an order for the grant of a new tenancy by reason of any of the grounds specified in paragraphs (e), (f) and (g) of subsection (1) of section 10, and not of any grounds specified in any other paragraph of that subsection, then, subject to the provisions of this Part, the tenant shall be entitled on quitting the holding to recover from the landlord by way of compensation an amount determined in accordance with the following provisions of this section.
- (2) The said amount shall be as follows, that is to say:—
- (a) where the conditions specified in subsection (3) are satisfied it shall be twice the net annual value of the holding;
  - (b) in any other case it shall be the net annual value of the holding.
- (3) The said conditions are—
- (a) that during the whole of the fourteen years immediately preceding the termination of the current tenancy, 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;
  - (b) that, if during those fourteen years 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) Where the Lands Tribunal is precluded from making an order for the grant of a new tenancy under this Part in the circumstances mentioned in subsection (1), the Lands Tribunal shall, on the application of the tenant, certify that fact.

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*Changes to legislation: There are currently no known outstanding effects for the Business Tenancies Act (Northern Ireland) 1964, PART I. (See end of Document for details)*

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- (5) For the purposes of subsection (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 section 4 or, as the case may be, section 5(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 subsection, 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.
- (6) The Ministry of Finance may by regulations made subject to negative resolution prescribe the procedure in connection with references under subsection (5).
- (7) In this section 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 under section 4, 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.

F8	1973 NI 21
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## 20 Restriction on agreements excluding provisions of Part I.

- (1) So much of any agreement relating to a tenancy to which this Part applies (whether contained in the instrument creating the tenancy or not) as purports directly or indirectly by any means whatsoever to preclude the tenant from making an application or request under this Part or provides for the termination or the surrender of the tenancy in the event of his making such an application or request or for the imposition of any penalty, restriction or disability on the tenant in that event, shall be void.
- (2) Where—
- (a) during the whole of the five years immediately preceding the date on which the tenant under a tenancy to which this Part applies is to quit the holding, 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; and
  - (b) if during those five years 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;

any agreement (whether contained in the instrument creating the tenancy or not and whether made before or after the termination of that tenancy) which purports to exclude or reduce compensation under section 19 shall to that extent be void, so however that this subsection shall not affect any agreement as to the amount of any such compensation which is made after the right to compensation has accrued.

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*Changes to legislation: There are currently no known outstanding effects for the Business Tenancies Act (Northern Ireland) 1964, PART I. (See end of Document for details)*

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- (3) In a case not falling within subsection (2) the right to compensation conferred by section 19 may be excluded or modified by agreement.

**21 Compensation for misrepresentation, etc., or landlord's failure to fulfil intentions.**

- (1) Where under this Part the Lands Tribunal refuses an order for the grant of a new tenancy, and it is subsequently made to appear to the Lands Tribunal that the Lands Tribunal was induced to refuse the grant 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 section 10(1)( e)(f) or ( g) 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 and any such order shall be enforceable as if it were an order made by a county court which had jurisdiction to make such an order.
- (2) In subsection (1) the expression “the landlord” means the person opposing an application for the grant of a new tenancy, and the expression “the tenant” means the person to whom the grant of a new tenancy was refused.

**22 Penalties for fraud or the wilful concealment of material facts.**

- (1) Any person who fraudulently or by the wilful concealment of material facts induces the Lands Tribunal to grant, or to refuse to grant, a new tenancy under this Part shall, without prejudice to the provisions of the [<sup>F9</sup> Perjury (Northern Ireland) Order 1979 ], be guilty of an offence and shall be liable—
- (a) on summary conviction, to a fine not exceeding [<sup>F10</sup> level 3 on the standard scale] or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment;
  - (b) on indictment, to [<sup>F10</sup> an unlimited fine] or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.
- (2) For the purposes of any proceedings under this section, 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.

**F9** 1979 NI 19

**F10** 1984 NI 3

## GENERAL AND SUPPLEMENTARY PROVISIONS

**23 Duty of tenants and landlords of business premises to give information to each other.**

- (1) Any person having an estate in any business premises, being an estate in reversion expectant (whether immediately or not) on a tenancy of those premises, may serve on the tenant under such tenancy a notice in the prescribed form, requiring such tenant to notify that person—
  - (a) whether he occupies the premises or any part thereof wholly or partly for the purposes of a business carried on by him; and
  - (b) whether his tenancy has effect subject to any sub-tenancy on which his tenancy is immediately expectant and, if so, what premises are comprised in the sub-tenancy, for what term it has effect (or, if it is terminable by notice, by what notice it can be terminated), what is the rent payable thereunder, who is the sub-tenant, and (to the best of his knowledge and belief) whether the sub-tenant is in occupation of the premises or of part of the premises comprised in the sub-tenancy and, if not, what is the sub-tenant's address.
- (2) A tenant of business premises, being a tenant under such a tenancy as is mentioned in section 5(1), may serve all or any of the following notices:—
  - (a) on his immediate landlord or the person to whom he pays the rent in respect of the premises comprised in the tenancy a notice in the prescribed form requiring such landlord or person to inform him of the nature and duration of that landlord's reversion in such premises or any part thereof and the name and address of the immediately superior landlord, if any, of that landlord;
  - (b) on any person whom the tenant reasonably believes to be a superior landlord or the agent of a superior landlord, a notice in the prescribed form requiring such person to inform him whether such person or any person for whom such person is agent has or has not any estate in the said premises or any part thereof, the nature, tenure and duration of such estate, if any, and the names and addresses of the persons having estates in the said premises or any part thereof immediately superior or immediately inferior to such estate.
- (3) The information which any such person as is mentioned in paragraphs ( a ) and ( b ) of subsection (2) is required to give under that subsection shall include information whether there is a mortgagee in possession of the estate of the immediate landlord, or as the case may be, the superior landlord, in the premises and, if so, what is the name and address of the mortgagee.
- (4) Where a mortgagee is in possession of an estate in the said premises or any part thereof, being an estate in reversion expectant (whether immediately or not) on the estate of the tenant the tenant may serve a notice in the prescribed form requiring the mortgagee to inform him—
  - (a) of the nature and duration of the estate of his mortgagor; and
  - (b) of the name and address of the immediate landlord, if any, of his mortgagor.
- (5) It shall be the duty of any person on whom a notice is served under this section 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.

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*Changes to legislation: There are currently no known outstanding effects for the Business Tenancies Act (Northern Ireland) 1964, PART I. (See end of Document for details)*

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- (6) Where a notice is served under this section and the person on whom such notice is so served fails or neglects to furnish in writing, within the time limited by this section, the information he is required by this section so to furnish, the person by whom the notice was served may apply to the Lands Tribunal and on the hearing of such application the Lands Tribunal may make such order as it thinks necessary with a view to compelling such person so to furnish such information and any such order may be enforced by mandamus.
- (7) In the case of a tenancy granted for a term certain the foregoing provisions of this section shall not apply to a notice served by or on the tenant more than two years before the date on which but for this Part 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 section—
- “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, and the expression “his mortgagor” shall be construed accordingly;
  - “sub-tenant” includes a person retaining possession of any premises by virtue of the Rent Restrictions Acts after the coming to an end of a sub-tenancy, and “sub-tenancy” includes a right so to retain possession.

## 24 Trusts.

- (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 section 1 as equivalent to occupation or the carrying on of a business by the tenant; and in relation to a tenancy to which this Part applies by virtue of the foregoing provisions of this subsection—
- (a) references (however expressed) in this Part and in Schedule 2 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 section 15(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 subsection (1)( *g*) of section 10 to the landlord 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 subsection (3) of that section to the creation of the estate therein mentioned shall be construed as including the creation of the trust.

## 25 Groups of companies.

- (1) For the purposes of this section 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.



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*Changes to legislation:* There are currently no known outstanding effects for the Business Tenancies Act (Northern Ireland) 1964, PART I. (See end of Document for details)

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- (2) In subsection (1) “subsidiary” has<sup>F11</sup> the meaning given by <sup>F12</sup>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 section 1 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 Part applies by virtue of the foregoing provisions of this subsection—
- (a) references (however expressed) in this Part and in Schedule 2 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 section 15(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 the reference in section 10(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.

**F11** 1990 NI 10

**F12** Words in s. 25(2) 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. 13** (with art. 10)

## 26 Provisions as to reversions.

- (1) Where by virtue of any provision of this Part a tenancy (in this subsection referred to as “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 Part and of any other enactment 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 Part 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 as would have subsisted if that estate had not come to an end, to be the immediate landlord in relation to the tenancy so continued.
- (3) Where by virtue of any provision of this Part a tenancy (in this subsection referred to as “the continuing tenancy”) is continued beyond the beginning of a reversionary tenancy which was granted (whether before or after the commencement of this Act) so as to begin on or after the date on which but for this Part 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.

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*Changes to legislation: There are currently no known outstanding effects for the Business Tenancies Act (Northern Ireland) 1964, PART I. (See end of Document for details)*

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- (4) Where by virtue of any provision of this Part a tenancy (in this subsection referred to as “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, whether the reversionary tenancy in question was granted before or after the commencement of this Act, the reversionary tenancy shall have effect as if it had been granted subject to the new tenancy.

**27 Provision as to overholding.**

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 or by virtue of any provision of this Part.

**28 Meaning of “the landlord” in Part I and provisions as to mesne landlords.**

- (1) In this Part the expression “the landlord” , in relation to a tenancy (in this section referred to as “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 fourteen months or less by effluxion of time or 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 a notice to determine as defined in section 3 or a notice under section 5 requesting a new tenancy;

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

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

**29 Interpretation of Part I.**

In this Part—

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

“business” has the meaning assigned to it by section 1(2);

“current tenancy” has the meaning assigned to it by section 5(1);

“date of termination” has the meaning assigned to it by section 4(1);

“the holding” has, subject to section 13(2), the meaning assigned to it by section 1(3);

“notice to quit” has the meaning assigned to it by section 3(3);

“notice to determine” has the meaning assigned to it by section 3(3);

“premises” includes land and buildings;

*Definitions rep. by 1978 NI 20*

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***Changes to legislation:*** *There are currently no known outstanding effects for the Business Tenancies Act (Northern Ireland) 1964, PART I. (See end of Document for details)*

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“tenancy” includes a tenancy created or renewed in pursuance of any enactment (including this Act), 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;

“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.

**Changes to legislation:**

There are currently no known outstanding effects for the Business Tenancies Act (Northern Ireland) 1964, PART I.