



# Housing Act 1961

## 1961 CHAPTER 65

### PART III

#### MISCELLANEOUS AND GENERAL

##### *Repairing obligations*

### **32 Repairing obligations in short leases of dwelling-houses**

(1) In any lease of a dwelling-house, being a lease to which this section applies, there shall be implied a covenant by the lessor—

- (a) to keep in repair the structure and exterior of the dwelling-house (including drains, gutters and external pipes); and
- (b) to keep in repair and proper working order the installations in the dwelling-house—
  - (i) for the supply of water, gas and electricity, and for sanitation (including basins, sinks, baths and sanitary conveniences but not, except as aforesaid, fixtures, fittings and appliances for making use of the supply of water, gas or electricity), and
  - (ii) for space heating or heating water,

and any covenant by the lessee for the repair of the premises (including any covenant to put in repair or deliver up in repair, to paint, point or render or to pay money in lieu of repairs by the lessee or on account of repairs by the lessor) shall be of no effect so far as it relates to the matters mentioned in paragraphs (a) and (b) of this subsection.

(2) The covenant implied by this section (hereinafter referred to as the lessor's repairing covenant) shall not be construed as requiring the lessor—

- (a) to carry out any works or repairs for which the lessee is liable by virtue of his duty to use the premises in a tenant-like manner, or would be so liable apart from any express covenant on his part;
- (b) to rebuild or reinstate the premises in the case of destruction or damage by fire, or by tempest, flood, or other inevitable accident; or

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- (c) to keep in repair or maintain anything which the lessee is entitled to remove from the dwelling-house ;
- and subsection (1) of this section shall not avoid any covenant by the lessee so far as it imposes on the lessee any of the requirements mentioned in paragraph (a) or paragraph (c) of this subsection.
- (3) In determining the standard of repair required by the lessor's repairing covenant, regard shall be had to the age, character and prospective life of the dwelling-house and the locality in which it is situated.
- (4) In any lease in which the lessor's repairing covenant is implied, there shall also be implied a covenant by the lessee that the lessor, or any person authorised by him in writing, may at reasonable times of the day, on giving twenty-four hours notice in writing to the occupier, enter the premises comprised in the lease for the purpose of viewing their condition and state of repair.
- (5) In this and the next following section the following expressions have the meanings hereby respectively assigned to them, that is to say:—
- " lease " includes an underlease, an agreement for a lease or underlease, and any other tenancy, but does not include a mortgage, and " covenant ", " demise " and " term " shall be construed accordingly ;
- " lease of a dwelling-house " means a lease whereby a building or part of a building is let wholly or mainly as a private dwelling, and " the dwelling-house " means that building or part of a building ;
- " lessee " and " lessor " mean respectively the person for the time being entitled to the term of a lease and to the reversion expectant thereon.

### **33 Application of s.32 and restriction on contracting out**

- (1) Section thirty-two of this Act applies, subject to the provisions of this section, to any lease of a dwelling-house granted after the passing of this Act, being a lease for a term of less than seven years.
- (2) For the purposes of this section a lease shall be treated as a lease for a term of less than seven years if it is determinable at the option of the lessor before the expiration of seven years from the commencement of the term, and, except where the foregoing provisions of this subsection apply, shall not be so treated if it confers on the lessee an option for renewal for a term which, together with the original term, amounts to seven years or more.
- (3) Where a lease of a dwelling-house (hereinafter referred to as " the new lease ") is granted—
- (a) to a person who when, or immediately before, the new lease is granted, is the lessee under another lease of the dwelling-house, or
- (b) to a person who was the lessee under another lease of the dwelling-house which terminated at some time before the new lease is granted and who, between the termination of that other lease and the grant of the new lease was continuously in possession of the dwelling-house or the rents or profits thereof,
- the said section thirty-two shall not apply to the new lease if—
- (i) the new lease is a tenancy to which Part II of the Landlord and Tenant Act, 1954, applies and the other lease either is such a tenancy or would be such a tenancy but for section twenty-eight of the said Act; or

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- (ii) the other lease is not a lease to which the said section thirty-two applies and, in the case of a lease granted before the passing of this Act would not have been such a lease if granted after that date.
- (4) The said section thirty-two does not apply to any lease of a dwelling-house which is a tenancy of an agricultural holding within the meaning of the Agricultural Holdings Act, 1948.
- (5) In the application of this section to a lease granted for a term part of which falls before the grant, that part shall be left out of account and the lease shall be treated as a lease for a term commencing with the grant.
- (6) The county court may, by order made with the consent of the parties concerned, authorise the inclusion in a lease, or in any agreement collateral to a lease, of provisions excluding or modifying in relation to the lease the provisions of the said section thirty-two with respect to the repairing obligations of the parties if it appears to the court, having regard to the other terms and conditions of the lease and to all the circumstances of the case, that it is reasonable to do so ; and any provision so authorised shall have effect accordingly.
- (7) Subject to the last foregoing subsection, any covenant or agreement, whether contained in a lease to which the said section thirty-two applies or in any agreement collateral to such a lease, shall be void so far as it purports to exclude or limit the obligations of the lessor or the immunities of the lessee under that section, or to authorise any forfeiture or impose on the lessee any penalty, disability or obligation, in the event of his enforcing or relying upon those obligations or immunities.
- (8) The county court shall have jurisdiction to make a declaration that section thirty-two of this Act applies, or does not apply, to a lease, whatever the net annual value of the property in question and notwithstanding that the applicant for the declaration does not seek any relief other than the declaration.