



Law Reform (Miscellaneous Provisions) (Scotland) Act 1985

1985 CHAPTER 73

Provisions relating to leases

5 Irritancy clauses etc. not relating to monetary breaches of lease

- (1) Subject to subsection (2) below, a landlord shall not, for the purpose of treating a lease as terminated or terminating it, be entitled to rely—
 - (a) on a provision in the lease which purports to terminate it, or to enable the landlord to terminate it, in the event of an act or omission by the tenant (other than such a failure as is mentioned in section 4(1)(a) of this Act) or of a change in the tenant's circumstances ; or
 - (b) on the fact that such act or omission or change is, or
is deemed by a provision of the lease to be, a material breach of contract, if in all the circumstances of the case a fair and reasonable landlord would not seek so to rely.
- (2) No provision of a lease shall of itself, irrespective of the particular circumstances of the case, be held to be unenforceable by virtue of subsection (1) above.
- (3) In the consideration, for the purposes of subsection (1)(a) or (b) above, of the circumstances of a case where—
 - (a) an act, omission or change is alleged to constitute a breach of a provision of the lease or a breach of contract ; and
 - (b) the breach is capable of being remedied in reasonable time, regard shall be had to whether a reasonable opportunity has been afforded to the tenant to enable the breach to be remedied,