



# Landlord and Tenant (War Damage) Act 1939

1939 CHAPTER 72 2 and 3 Geo 6

## PART III

### MISCELLANEOUS AND GENERAL

#### **18 Extension of powers as to restrictive covenants in certain cases.**

(1) Where the buildings comprised in a ground lease or a multiple lease (whether made before or after the commencement of this Act) have been rendered unfit by war damage, the provisions of section eighty-four of the <sup>M1</sup>Law of Property Act 1925 (which relate to the discharge and modification of restrictive covenants) shall have effect, in relation to the land comprised in the lease, subject to the modifications specified in this section:

Provided that no application which could not have been entertained by the Authority if this section had not passed shall be made to the Authority after the buildings have been rendered fit.

(2) In addition to the grounds for the exercise of the powers of the Authority specified in paragraphs (a), (b) and (c) of subsection (1) of the said section eighty-four, those powers may be exercised, in relation to restrictions affecting the interest created by the lease, on the Authority being satisfied that the proposed discharge or modification is desirable in order to permit the economical use or development of the land comprised in the lease, or is otherwise desirable in the national interest.

(3) Where any restriction affecting the interest created by the lease is wholly or partially discharged or modified on any of the additional grounds specified in the last foregoing subsection, the powers of the Authority may be exercised on any of those additional grounds in relation to any similar restriction affecting the freehold out of which that interest is derived.

(4) The said section eighty-four shall, notwithstanding anything in subsection (12) thereof, apply to restrictions affecting interests created by the lease in like manner as

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it would have applied to restrictions affecting the land had the land been freehold, whatever the term of the lease and whatever period of the term has expired.

**Modifications etc. (not altering text)**

**C1** Functions of the Authority under [Law of Property Act 1925 \(c. 20\)](#), **s. 84** now exercisable by Lands Tribunal: [Lands Tribunal Act 1949 \(c. 42\)](#), **s. 1(4)**

**Marginal Citations**

**M1** [1925 c. 20](#).

**19 Provision as to agricultural and mining leases.**

Where any buildings or works comprised in an agricultural lease or mining lease (whether made before or after the commencement of this Act) are unfit by reason of war damage, the court may, on the application of the tenant, either determine the lease or modify the terms thereof, whether by reducing the rent payable thereunder or otherwise, according as appears just having regard to all the circumstances of the case.

**20 Provision as to notices.**

- (1) Any notice required or authorised to be served under this Act shall be in writing.
- (2) Any such notice may be served either—
  - (a) by delivering it to the person on whom it is to be served; or
  - (b) by leaving it at the usual or last known place of abode of that person; or
  - (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode; or
  - (d) in a case where it is to be served on a body corporate, by delivering it to the secretary or clerk thereof at the registered or principal office thereof or sending it in a prepaid registered letter addressed to the secretary or clerk thereof at that office; or
  - (e) in such other manner as the court on an application made in that behalf may direct.
- (3) Where the interest of a former landlord or tenant in the land comprised in a lease has passed to any person—
  - (a) service of any such notice on that former landlord or tenant by a person who does not know and has no reason to believe that the interest has passed, shall be treated for the purpose of this Act as service on the person to whom the interest has passed;
  - (b) the former landlord or tenant, on the receipt of any such notice, shall forthwith serve the notice on the person to whom the interest has passed, and, if he fails to do so, shall be liable to make good to any other person any damage suffered by that other person by reason of the failure.
- (4) A notice with respect to a lease shall be deemed for the purposes of this Act to have been served on the landlord if it is served on any person for the time being authorised by the landlord to receive the rent payable under the lease.

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## 21 Contracting out forbidden.

The provisions of this Act shall have effect in relation to any war damage notwithstanding any contract to the contrary made before that damage occurred.

## 22 Application to the Crown.

This Act binds the Crown, and shall apply to land belonging to His Majesty, or forming part of the possessions of the Duchy of Cornwall, or belonging to a Government Department, or held in trust for His Majesty for the purposes of a Government Department.

## 23 Provisions as to county courts.

- (1) Subject to the provisions of [<sup>F1</sup>section one hundred and fifteen of the <sup>M2</sup>County Courts Act 1959] (which provides for the removal into the High Court of any proceedings commenced in [<sup>F2</sup>the county court]), the jurisdiction of the court under this Act shall be exercised by [<sup>F2</sup>the county court].
- (2) In any proceedings under this Act, the powers of a judge of summoning one assessor under subsection (1) of [<sup>F1</sup>section ninety-one of the <sup>M3</sup>County Courts Act 1959], may be exercised notwithstanding that no application is made in that behalf by any party to the proceedings.
- (3) Where an assessor is summoned by a judge in any proceedings by virtue of the last foregoing subsection—
  - (a) he may, if so directed by the judge, inspect the land to which the proceedings relate without the judge, and report to the judge in writing thereon; and
  - (b) the judge may, on consideration of the report and any observations of the parties thereon, give such judgment or make such order in the proceedings as may be just.
- (4) The remuneration of an assessor summoned as aforesaid shall be defrayed out of moneys provided by Parliament.

### Textual Amendments

- F1** Words substituted by virtue of [County Courts Act 1959 \(c. 22\), s. 205\(5\)](#)
- F2** Words in s. 23(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 52; S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

### Marginal Citations

- M2** 1959 c. 22.
- M3** 1959 c. 22.

## 24 Interpretation.

In this Act unless the context otherwise requires the following expressions have the meanings hereby respectively assigned to them, that is to say,—

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“agricultural lease” means a lease the land comprised wherein consists wholly or mainly of agricultural land or agricultural buildings within the meaning of [<sup>F3</sup>the <sup>M4</sup>General Rate Act 1967];

“annual value”, in relation to land, means the rent at which the land might reasonably be expected to let from year to year, if the tenant undertook to pay all usual tenants’ rates and taxes and the landlord undertook to bear the cost of repairs and insurance and the other expenses necessary to command that rent;

“ground lease” means a lease at a rent (or, where the rent varies, at a maximum rent) which does not substantially exceed the rent which a tenant might reasonably have been expected, at the commencement of the term created by the lease, to pay for the land comprised in the lease, excluding any buildings, for a term equal to the term created by the lease;

“interest,” in relation to land, means any estate or interest in the land, whether legal or equitable;

“land” means land of any tenure, and includes any buildings or works situated on, over or under land;

“landlord” in relation to a lease means the person who under the lease is, as between himself and the tenant, for the time being entitled to the rents and profits of the demised premises payable under the lease;

“lease” and “mining lease” have the same meaning as in the <sup>M5</sup>Landlord and Tenant Act 1927;

“mortgage” includes charge and debenture;

“multiple lease” means a lease comprising buildings which are used or adapted for use as two or more separate tenements;

“tenant,” in relation to a lease, means the person for the time being entitled to the term created by the lease;

“unfit” means—

- (a) in relation to buildings or works, or to land of which three-quarters or more of the value is attributable to buildings or works, unfit for the purpose for which those buildings or works were used or adapted for use immediately before the occurrence of the war damage in question, having regard to the class of tenant likely to occupy similar buildings or works which are not unfit for that purpose, to the standard of accommodation available at the material time, and to all other circumstances; and
- (b) in relation to other land, unfit for any purpose for which the tenant can be reasonably expected to use the land, having regard to the terms of the lease under which it is held;

and the expression “fit” shall be construed accordingly;

<sup>F4</sup>

...

#### **Textual Amendments**

**F3** Words substituted by virtue of [General Rate Act 1967 \(c. 9\), s. 116\(6\)](#)

**F4** Definition of “war damage” repealed by [Landlord and Tenant \(War Damage\) \(Amendment\) Act 1941 \(c. 41\), s. 17\(2\)](#)

#### **Modifications etc. (not altering text)**

**C2** [S. 24](#) amended by [Landlord and Tenant \(War Damage\) \(Amendment\) Act 1941 \(c. 41\), s. 17\(2\)](#); explained by [ibid.](#), s. 17(3)

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**Marginal Citations**

- M4** 1967 c. 9.
- M5** 1927 c. 36.

**25** ..... <sup>F5</sup>

**Textual Amendments**

- F5** S. 25 repealed by [Northern Ireland Constitution Act 1973 \(c. 36\)](#), [Sch. 6 Pt. 1](#)

**26 Short title and extent.**

- (1) This Act may be cited as the Landlord and Tenant (War Damage) Act 1939.
- (2) No provision of this Act shall extend to Scotland, and no provision of this Act, . . .  
<sup>F6</sup> shall extend to Northern Ireland.

**Textual Amendments**

- F6** Words repealed by [Northern Ireland Constitution Act 1973 \(c. 36\)](#), [Sch. 6 Pt. 1](#)

**Changes to legislation:**

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