



# Defective Premises (Landlord's Liability) Act (Northern Ireland) 2001

## 2001 CHAPTER 10

An Act to amend the law as to the liability of landlords for injury or damage caused to persons through defects in the state of premises let under certain tenancies. [2nd July 2001]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

### **Landlord's duty of care by virtue of obligation to repair premises demised**

1.—(1) Subsections (2) and (3) apply where—

- (a) premises are let under a tenancy to which this Act applies; and
- (b) the tenancy puts on the landlord an obligation to the tenant for the maintenance or repair of the premises.

(2) The landlord owes to all persons who might reasonably be affected by defects in the state of the premises a duty to take such care as is reasonable in all the circumstances to see that they are reasonably safe from personal injury or from damage to their property caused by a relevant defect.

(3) That duty is owed if—

- (a) the landlord knows of the relevant defect (whether as a result of being notified by the tenant or otherwise); or
- (b) he ought in all the circumstances to have known of that defect.

(4) The duty imposed by this section is in addition to any duty a person may owe apart from this section.

### **Application of this Act where landlord has right of entry to carry out repairs**

2.—(1) Where premises are let under a tenancy which expressly or impliedly gives the landlord the right to enter the premises to carry out any description of maintenance or repair of the premises, the landlord shall be treated for the purposes of this Act (but for no other purposes) as if he were under an obligation to the tenant for that description of maintenance or repair of the premises.

(2) Subsection (1) applies—

(a) as from the time when the landlord first is, or by notice or otherwise can put himself, in a position to exercise the right mentioned in that subsection; and

(b) so long as he is or can put himself in that position.

(3) The landlord shall not owe the tenant any duty of care by virtue of this section in respect of any defect in the state of the premises arising from, or continuing because of, a failure to carry out an obligation expressly imposed on the tenant by the tenancy.

### **Tenancies to which this Act applies**

3.—(1) This Act applies to all tenancies, other than—

(a) a regulated tenancy within the meaning of the [Rent \(Northern Ireland\) Order 1978 \(NI 20\)](#);

(b) a restricted tenancy within the meaning of that Order;

(c) a tenancy under a lease granted for a term of more than 50 years;

(d) a tenancy under a lease under which the rent payable is—

(i) a yearly amount of less than £1; or

(ii) a peppercorn or other rent having no money value.

(2) Section 4 of the Occupiers' Liability Act (Northern Ireland) 1957 (c. 25) shall cease to apply to tenancies to which this Act applies; and accordingly at the end of that section there shall be added—

“(8) Nothing in this section applies to a tenancy to which the Defective Premises (Landlord's Liability) Act (Northern Ireland) 2001 applies.”.

(3) Any term of an agreement which purports to exclude or restrict, or has the effect of excluding or restricting, the operation of any provision of this Act or of any liability arising by virtue of this Act shall be void.

## **Interpretation**

4.—(1) In this Act “tenancy” means—

- (a) a tenancy created either immediately or derivatively out of the freehold, whether by a lease or underlease, by an agreement for a lease or underlease or by a tenancy agreement (but not including a mortgage term or any interest arising in favour of a mortgagor by his attorning tenant to his mortgagee);
- (b) a tenancy at will or a tenancy on sufferance; or
- (c) a tenancy, whether or not constituting a tenancy at common law, created by or in pursuance of any statutory provision.

(2) This Act applies to a right of occupation given by contract or any statutory provision and not amounting to a tenancy as if the right were a tenancy.

(3) For the purposes of this Act obligations imposed or rights given by any statutory provision by virtue of a tenancy shall be treated as imposed or given by the tenancy.

(4) For the purposes of this Act a lease which is, by virtue of Article 37 of, and Schedule 3 to, the [Property \(Northern Ireland\) Order 1997 \(NI 8\)](#) to be construed as a lease for a term of any period is deemed to have been originally granted for a term of that period and the fact (if it is the case) that the lease is determinable after any event is to be disregarded.

(5) Where the amount of any rent under a lease is subject to alteration in consequence of a breach of covenant (whether it is to be increased from a lower amount to a higher amount in the event of a breach or is subject to reduction from a higher amount to a lower amount so long as there is no breach), for the purposes of this Act the amount of the rent is the lower amount.

(6) In this Act “relevant defect” means a defect in the state of the premises—

- (a) existing at or after the material time; and
- (b) arising from, or continuing because of, an act or omission by the landlord which constitutes (or would, if he had had notice of the defect, have constituted) a failure by him to carry out his obligation to the tenant for the maintenance or repair of the premises.

(7) In subsection (6)(a) “material time” means—

- (a) in a case where the tenancy commenced before this Act comes into operation, the coming into operation of this Act;
- (b) in any other case, the earliest of the following times—
  - (i) the time when the tenancy commences;
  - (ii) the time when the tenancy agreement is entered into;
  - (iii) the time when possession is taken of the premises in contemplation of the letting.

### **Application to the Crown**

5. This Act shall bind the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland; but as regards the Crown's liability in tort shall not bind the Crown further than the Crown is made liable in tort by the Crown Proceedings Act 1947 (c. 44).

### **Short title and commencement**

6.—(1) This Act may be cited as the Defective Premises (Landlord's Liability) Act (Northern Ireland) 2001.

(2) This Act shall come into operation at the end of the period of 12 months beginning with the day on which this Act receives Royal Assent.