

ÉIRE.

AN BILLE SRIANTA CIOSA, 1944. RENT RESTRICTIONS BILL, 1944.

*Mar do ritheadh ag dhá Thigh an Oireachtais.
As passed by both Houses of the Oireachtas.*

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ÉIRE.

AN BILLE SRIANTA CIOSA, 1944. RENT RESTRICTIONS BILL, 1944.

BILL

entitled

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AN ACT TO MAKE FURTHER AND BETTER PROVISION
FOR RESTRICTING THE INCREASE OF RENT AND
THE RECOVERY OF POSSESSION OF PREMISES IN
CERTAIN CASES AND TO PROVIDE FOR OTHER
MATTERS CONNECTED THEREWITH. 10

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

PART I

PRELIMINARY AND GENERAL.

Short title and duration.	1.—(1) This Act may be cited as the Rent Restrictions Act, 1946.	15
	(2) This Act shall continue in operation until the 31st day of December, 1950.	
Interpretation generally.	2.—(1) In this Act—	
Act of 1923.	the expression “ the Act of 1923 ” means the Increase of Rent and Mortgage Interest (Restrictions) Act, 1923 (No. 19 of 1923);	20
Act of 1926.	the expression “ the Act of 1926 ” means the Increase of Rent and Mortgage Interest (Restrictions) Act, 1926 (No. 24 of 1926);	
basic rent.	the expression “ basic rent ” means—	
	(a) in relation to controlled (1923 Act) premises, the basic rent of the premises determined under <i>section 8</i> or <i>section 9</i> (as the case may be) of this Act,	25
	(b) in relation to controlled (non-1923 Act) premises, the basic rent of the premises determined under <i>section 14</i> , <i>section 15</i> or <i>section 16</i> (as the case may be) of this Act;	30
business premises.	the expression “ business premises ” means premises used for the purposes of any business, trade or profession or for the public service;	
controlled premises.	the expression “ controlled premises ” means any premises to which, by virtue of <i>section 3</i> of this Act, this Act applies;	35
controlled (1923 Act) premises.	the expression “ controlled (1923 Act) premises ” means controlled premises to which, by virtue of <i>section 7</i> of this Act, Chapter 1 of Part II of this Act applies;	
controlled (non-1923 Act) premises.	the expression “ controlled (non-1923 Act) premises ” means controlled premises to which, by virtue of <i>section 13</i> of this Act, Chapter 2 of Part II of this Act applies;	40
District Justice.	the expression “ District Justice ” means a Justice of the District Court;	

- the word "dwelling" means a house let as a separate dwelling, or a part, so let, of any house, whether or not the tenant shares with any other persons any portion thereof or any accommodation, amenity or facility in connection therewith; dwelling.
- 5 the word "landlord", when used in relation to any premises, includes any person from time to time deriving title under the original landlord of the premises, and also includes any person, other than the tenant, who is or would but for this Act be entitled to possession of the premises; landlord.
- 10 the expression "lawful addition" means— lawful addition.
 (a) in relation to the basic rent of controlled (1923 Act) premises, any sum which is, by virtue of section 11 of this Act, a lawful addition to the basic rent;
 (b) in relation to the basic rent of controlled (non-1923 Act) premises, any sum which is, by virtue of section 17 of this Act, a lawful addition to the basic rent;
- 15 the expression "lawful rent" means— lawful rent.
 (a) in relation to controlled (1923 Act) premises, the sum declared by section 12 of this Act to be the lawful rent of the premises,
 (b) in relation to controlled (non-1923 Act) premises, the sum declared by section 18 of this Act to be the lawful rent of the premises;
- 20 the word "let" includes sublet; let.
- 25 the expression "the Minister" means the Minister for Justice; Minister.
 the expression "non-statutory tenant" means a tenant who is not a statutory tenant; non-statutory tenant.
 the expression "the operative date" means the date of the passing of this Act; operative date.
- 30 the expression "the Order of 1944" means the Emergency Powers (No. 313) Order, 1944 (S. R. & O., No. 29 of 1944), as amended by the Emergency Powers (No. 313) Order, 1944 (Amendment) Order, 1945 (S. R. & O., No. 188 of 1945); Order of 1944.
- 35 the word "premises" means any premises being a dwelling or business premises; premises.
- the word "prescribed" means prescribed by the Minister by regulations made under this Act; prescribed.
- 40 the word "rates" means, in relation to any premises, the rates (including water rates) which are made by a local authority (being the council of a county, the corporation of a county or other borough, the council of an urban district or the commissioners of a town) in respect of the premises for the service of any local financial year and which by any Act are, or but for any Act would be, chargeable on the occupier of the premises; rates.
- 45 the expression "standard rent" has the same meaning as it has in the Act of 1923; standard rent.
 the expression "statutory tenancy" means the interest of a statutory tenant in the premises in relation to which the expression is used; statutory tenancy.
- 50 the expression "statutory tenant" means a person being either— statutory tenant.
 (a) a person who retains possession of any controlled premises after his contractual tenancy therein (not being a tenancy to which section 45 of this Act applies) has terminated, or

- (b) a person who retains possession of any controlled premises under subsection (2) or subsection (3) of section 39 of this Act, or
- (c) a person who retains possession of any controlled premises under subparagraph (iii) of paragraph (a), or under paragraph (b), of subsection (5) of section 40 of this Act, or 5
- (d) a person who retains possession of any controlled premises under section 57 of this Act;

tenant.

the word "tenant", unless the context otherwise requires, includes in relation to any premises a statutory tenant, and includes any person from time to time deriving title under the original tenant, and also includes a subtenant. 10

(2) References in this Act to an order for the recovery of possession of any premises shall be construed as including references to an order for the ejection of a tenant therefrom. 15

(3) References in this Act to any enactment shall be construed as references to that enactment as amended by any subsequent enactment.

Controlled premises.

3.—(1) Subject to subsection (2) of this section, this Act applies to every premises. 20

(2) This Act does not apply to—

(a) premises the rateable valuation whereof exceeds—

(i) in case the premises are situate in the county borough of Dublin or the borough of Dún Laoghaire, sixty pounds, 25

(ii) in any other case, forty pounds,

(b) premises erected after, or in course of being erected on, the 7th day of May 1941,

(c) a dwelling provided by a local authority under the Labourers Acts, 1883 to 1941, or under the Housing of the Working Classes Acts, 1890 to 1931, and of which a local authority is for the time being the landlord, or 30

(d) business premises in any market or fair where the rent or conditions of tenancy are controlled or regulated by or under any statute or charter, 35

(e) business premises let for a term of years or let from year to year under a tenancy, notice to determine which (otherwise than for breach of a term of the tenancy) must be a notice of not less than three months, 40

(f) a dwelling let at a rent (hereinafter called the reserved rent) which includes payments for board, attendance or the use of furniture, or for the supply to the dwelling of heat, hot water, fuel, electricity or any other commodity or for the rendering of any services in connection with the dwelling, unless, on apportionment of the reserved rent by the Court, the portion of the reserved rent which, in the opinion of the Court, is attributable to the dwelling alone equals or exceeds three quarters of the reserved rent, in which case the rent of the dwelling shall be taken, for the purposes of this Act, to be the portion of the reserved rent so attributable to the dwelling alone, 45 50

(g) any dwelling or business premises let together with land other than the site of the dwelling or business premises, if the rateable valuation of the land exceeds the lesser of the following:— 55

(i) half the rateable valuation of the site including the building or buildings thereon, or

(ii) (I) in case the dwelling or business premises are situate in the county borough of Dublin or the borough of Dún Laoghaire, fifteen pounds, 60

(II) in any other case, ten pounds.

4.—The application of this Act to a dwelling shall not be excluded by reason only of the fact that part of it is used for the purposes of any business, trade or profession.

Dwellings used in part for business purposes, etc.

5.—(1) The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Repeals and adaptation of references to repealed Acts.

(2) The repeal, effected by subsection (1) of this section, of the proviso to paragraph (b) of subsection (1) of section 2 of the Act of 1923 shall have effect as from the date of the passing of the Act of 1923 but such repeal shall not—

(a) entitle a landlord to recover from a tenant any sums which have been recovered from the landlord before the 1st day of October, 1945, by means of a deduction from rent or otherwise or any rent which has not been paid by reason of such deductions having been made therefrom, or

(b) affect the right to enforce any judgment of a court of competent jurisdiction given before the 1st day of October, 1945, or render recoverable any sum paid under such judgment.

(3) References in any Act to the Increase of Rent and Mortgage Interest (Restrictions) Acts, 1923 to 1930, or to any of those Acts shall be construed as references to this Act.

6.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Expenses.

PART II.

RESTRICTION OF RENT OF CONTROLLED PREMISES.

CHAPTER 1.

Lawful Rent of Controlled (1923 Act) Premises.

7.—(1) Subject to subsection 2 of this section, this Chapter applies to every controlled premises the rateable valuation whereof does not exceed—

Controlled (1923 Act) premises.

(a) thirty pounds in case the premises are situate in either—

(i) the county borough of Dublin as existing immediately before the passing of the Local Government (Dublin) Act, 1930 (No. 27 of 1930), or

(ii) the area comprising the former urban districts of Pembroke, and Rathmines and Rathgar, as existing immediately before the passing of the said Act, or

(iii) the borough of Dún Laoghaire,

(b) twenty-five pounds in any other case.

(2) (a) This Chapter does not apply to premises erected after, or in course of being erected on, the 2nd day of April, 1919, or which at that date were being or have since been *bona fide* reconstructed by way of conversion into two or more separate and self-contained flats or tenements.

(b) This Chapter does not apply to premises which, having been controlled (non-1923 Act) premises, would, by reason of a reduction of the rateable valuation thereof, become, but for this paragraph, premises to which this Chapter applies.

(c) This Chapter does not apply to premises to which the Act of 1923 had, by the operation of section 5 of the

Act of 1926, ceased, before the operative date, to apply.

Basic rent of controlled (1923 Act) premises the standard rent whereof has been determined by Court or by arbitration.

8.—(1) This section applies to controlled (1923 Act) premises in respect of which evidence is forthcoming of both the following facts:— 5

- (a) that the standard rent of the premises was determined by the Court before the operative date, and
- (b) the amount of the standard rent.

(2) This section also applies to controlled (1923 Act) premises in respect of which evidence is forthcoming of both the following facts:— 10

- (a) that the standard rent of the premises was, before the operative date, the subject of an arbitration award, and
- (b) the amount of the standard rent.

(3) The basic rent of premises to which this section applies shall be an amount equal to the sum of the following:— 15

- (a) the standard rent of the premises, and
- (b) (i) in the case of a dwelling, twenty per cent. of the standard rent, or
(ii) in any other case, twenty-five per cent. of the standard rent. 20

Basic rent of controlled (1923 Act) premises to which section 8 does not apply.

9.—(1) This section applies to every controlled (1923 Act) premises other than premises to which section 8 of this Act applies.

(2) The basic rent of premises to which this section applies shall be determined by the Court and shall be a rent of such amount as the Court considers reasonable, under any given contract of tenancy not being for more than a term of five years, having regard to the basic rents of other controlled (1923 Act) premises and, in case evidence is forthcoming of both the following facts,— 25 30

- (i) that the premises the basic rent whereof is to be determined were on the 3rd day of August, 1914, held by an occupying tenant thereof under a contract of tenancy not being for more than a term of five years, or that they were not so held but were last so held on a date not being more than three years before the 3rd day of August, 1914, and 35

(ii) the rent at which they were so held, then, having regard also to the amount of the said rent. 40

(3) For the purpose of the determination by the Court of the basic rent under this section the tenant shall be deemed to be responsible for the rates.

Premises not to cease to be controlled (1923 Act) premises by reason of increase of rateable valuation.

10.—(1) Where, by reason of an increase in the rateable valuation thereof, premises which were, immediately before the date of the increase, controlled (1923 Act) premises would, but for this section, become controlled (non-1923 Act) premises, then, notwithstanding such increase, the premises shall continue to be premises to which this Chapter applies. 45 50

(2) Subsection (1) of this section shall not apply to premises the increase in the rateable valuation whereof arises from improvements or structural alterations carried out by the landlord while in possession of the whole of the premises.

Lawful additions to basic rent of controlled (1923 Act) premises.

11.—(1) In subsection (2) of this section, the expression "the critical date" means— 55

- (a) in the case of premises to which section 8 of this Act applies, the operative date,

(b) in the case of premises to which *section 9* of this Act applies, the date of the institution of the proceedings in which the basic rent of the premises is determined.

5 (2) For the purposes of this Act, the sum mentioned in any paragraph of this subsection shall, in the case set out in that paragraph, be a lawful addition to the basic rent of controlled (1923 Act) premises:—

10 (a) in case the landlord of the premises pays or allows a deduction or set-off against, or indemnifies the tenant in respect of, the rates or any part thereof, a sum equal to the amount for the time being of such payment, deduction, set-off or indemnity (as the case may be);

15 (b) in case the landlord, on or after the critical date, expends any amount (excluding any amount expended on decoration or repairs) on the improvement or structural alteration of the premises, a sum equal to eight per cent. per annum of that amount;

20 (c) in case the landlord, on or after the critical date, expends any amount on repairs to the premises which are wholly or mainly rendered necessary because of acts of waste by, or the neglect or default of, the tenant or any person residing with him or any of his lodgers or subtenants, a sum equal to eight per cent. per annum of that amount;

25 (d) (i) in case the landlord is responsible for the whole of the repairs to the premises, an amount not exceeding one-twelfth part of the basic rent,

30 (ii) in case the landlord is responsible for part only of the repairs, such lesser amount as may be agreed upon between the landlord and the tenant or as may, on the application of either of the said parties, be determined by the Court, or, in the absence of any such agreement or determination, an amount not exceeding one twenty-fourth part of the basic rent;

35 (e) in the case of premises to which *section 8* of this Act applies, if the landlord has, in the year 1922, expended an amount in excess of one-third of the standard rent, or has, during a period comprising the two years 1923 and 1924, or 1925 and 1926, or 1927 and 1928, expended an amount in excess of two-thirds of the standard rent, on putting the premises into a reasonable state of repair, a sum equal to fifteen per cent. per annum of such excess or excesses of expenditure;

40 45 (f) in the case of premises to which *section 8* of this Act applies, if the landlord has, after the 4th day of August, 1914, and before the critical date, expended any amount on the improvement or structural alteration of the premises (but not including therein any amount expended on decoration or repairs) a sum equal to eight per cent. per annum of that amount;

50 55 (g) in case the landlord, during a period comprising the two years 1945 and 1946, or 1946 and 1947, or 1947 and 1948, or 1948 and 1949, or 1949 and 1950, expends an amount in excess of two-thirds of the basic rent of the premises on putting the premises into a reasonable state of repair, a sum equal to fifteen per cent. per annum of such excess or excesses of expenditure.

60 (3) For the purposes of *subsection (2)* of this section, the amount of any grant under the Housing (Financial and Miscellaneous Provisions) Acts, 1932 to 1944, as amended or extended by any subsequent enactment, shall not be reckoned as part of any amount expended on any improvement, structural alteration or repairs to which that subsection applies.

65 (4) In the application of this Chapter to a small dwelling, within the meaning of the Local Government (Rates on Small Dwellings)

Act, 1928 (No. 4 of 1928), the following provisions shall have effect :

- (a) the word "rates" in *paragraph (a) of subsection (2) of this section shall not include a rate made by virtue of the last-mentioned Act on the owner of such small dwelling, and* 5
- (b) the amount by which the rent of such small dwelling is increased by virtue of section 6 of the last-mentioned Act shall be taken into account as a lawful addition in calculating the lawful rent of such small dwelling. 10

Lawful rent of controlled (1923 Act) premises.

12.—The lawful rent of controlled (1923 Act) premises shall be—

- (a) in case there is no lawful addition to the basic rent of the premises, the basic rent of the premises, 15
- (b) in any other case, the sum of the basic rent of the premises and the lawful additions thereto. 15

CHAPTER 2.

Lawful Rent of Controlled (Non-1923 Act) Premises.

Controlled (non-1923 Act) premises.

13.—This Chapter applies to every controlled premises, other than premises in respect of which evidence is forthcoming that they are controlled (1923 Act) premises. 20

Basic rent of certain controlled (non-1923 Act) premises.

14.—(1) Subject to *subsection (2) of this section, this section applies to—*

- (a) controlled (non-1923 Act) premises in respect of which evidence is forthcoming of both the following facts— 25
- (i) that they were, on the 7th day of May, 1941 (in this section referred to as the relevant date) held by an occupying tenant thereof under a contract of tenancy not being for more than a term of five years, and 30
- (ii) the rent at which they were so held;
- (b) controlled (non-1923 Act) premises in respect of which evidence is forthcoming of all the following facts—
- (i) that they were not so held on the 7th day of May, 1941, 35
- (ii) that they were last so held on a date (in this section also referred to as the relevant date) being not more than five years before the 7th day of May, 1941, and
- (iii) the rent at which they were so held. 40

(2) This section shall not apply to premises to which, on the relevant date, the Act of 1923 applied.

(3) The basic rent of premises to which this section applies shall be the net rent at which they were held on the relevant date.

(4) For the purpose of this section, the net rent at which premises were held on the relevant date shall be taken to be— 45

- (a) in case the landlord at the relevant date habitually paid or allowed a deduction or set-off against, or indemnified the tenant in respect of the rates or any part thereof, the rent payable at that date less the amount of such payment, allowance, deduction, set-off or indemnity (as the case may be); 50
- (b) in any other case, the rent payable at that date.

(5) References in *sections 15 and 17 of this Act to the relevant date shall be construed as references to the date which is the relevant date for the purposes of this section.* 55

15.—(1) If, on an application to the Court under this section by the tenant of premises to which *section 14* of this Act applies, the Court is satisfied—

Revision of basic rents of premises to which *section 14* applies.

- 5 (a) that, in the local financial year which includes the relevant date, there was in force, by virtue of any statute, a remission of two-thirds of the rates in respect of the premises or a reduction of the valuation of the premises for the purposes of the assessment and levying of rates, and
- 10 (b) that at the date of the application such remission or reduction is no longer in force, and
- 15 (c) that the basic rent of the premises exceeds the rent (in this subsection referred to as the notional rent) which, if the said remission or reduction had not been in force, the landlord might, at the relevant date, reasonably have expected under a contract of tenancy in the same terms as the contract of tenancy subsisting at the said date, assuming (if it was not the case) that the tenant was responsible for the rates,
- 20 the basic rent of the premises shall be determined by the Court and shall be the amount which, in the opinion of the Court, represents the notional rent, and thenceforth the premises shall, without prejudice to the previous application thereto of *paragraph (a)* of *section 23* of this Act, become premises to which *section 16* of this
- 25 Act applies as if such determination had been made under that section.

(2) If, on an application to the Court under this subsection by the landlord of premises to which *section 14* of this Act applies, the Court is satisfied—

- 30 (a) that, in the local financial year immediately preceding the local financial year which includes the relevant date, there was in force, by virtue of any statute, a remission of two-thirds of the rates in respect of the premises or a reduction of the valuation of the premises for the purpose of the assessment and levying of rates, and
- 35 (b) that, at the relevant date, such remission or reduction was no longer in force, and
- 40 (c) that at the relevant date the landlord habitually paid or allowed a deduction or set-off against, or indemnified the tenant in respect of the rates or any part thereof, and
- 45 (d) that the basic rent of the premises is less than the rent (in this subsection referred to as the notional rent) which, if the said remission or deduction had continued to be in force, the landlord might, at the relevant date, reasonably have expected under a contract of tenancy in the same terms as the contract of tenancy subsisting at the said date, assuming that the tenant was responsible for the rates,
- 50

the basic rent of the premises shall be determined by the Court and shall be the amount which, in the opinion of the Court, represents the notional rent, and thenceforth the premises shall, without prejudice to the previous application thereto of

55 *paragraph (a)* of *section 23* of this Act, become premises to which *section 16* of this Act applies as if such determination had been made under that section.

(3) If, on an application to the Court under this subsection by the landlord or tenant of premises to which *section 14* of this

60 Act applies, the Court is satisfied that the basic rent of the premises either exceeds, or falls short of, by an amount exceeding one-fifth of the basic rent, the rent (in this subsection referred to as the notional rent) which, if the premises were premises to which *section 16* of this Act applies, would be determined by the

Court as the basic rent thereof, the basic rent of the premises shall be determined by the Court and shall be the amount which, in the opinion of the Court, represents the notional rent, and thenceforth the premises shall, without prejudice to the previous application thereto of *paragraph (a) of section 23* of this Act, become premises to which *section 16* of this Act applies as if such determination had been made under that section. 5

Basic rent of controlled (non-1923 Act) premises to which *section 14* does not apply.

16.—(1) This section applies to every controlled (non-1923 Act) premises other than premises to which *section 14* of this Act applies. 10

(2) The basic rent of premises to which this section applies shall be determined by the Court as follows:—

(a) in the case of premises consisting of a separate and self-contained flat or tenement forming part of any buildings which, after the 7th day of May, 1941, are or which at that date were being *bona fide* reconstructed by way of conversion into two or more such flats or tenements, the basic rent of the premises shall be the rent which, in the opinion of the Court, the immediate landlord of an occupying tenant of the premises might, if the premises, as reconstructed, had been in existence in the year ending on the 7th day of May, 1941, reasonably have expected in that year under any given contract of tenancy not being for more than a term of five years; 15 20 25

(b) in any other case, the basic rent shall be the rent which, in the opinion of the Court, the immediate landlord of an occupying tenant of the premises might, in the year ending on the 7th day of May, 1941, reasonably have expected under any given contract of tenancy not being for more than a term of five years. 30

(3) For the purpose of the determination by the Court of the basic rent under this section the tenant shall be deemed to be responsible for the rates.

(4) Where, under Article 5 of the Order of 1944, the basic rent of any premises was determined by the Court, the said determination shall, for the purposes of this Act, be deemed to have been made under this section and the said basic rent shall be the basic rent of the premises. 35

Lawful additions to basic rent of controlled (non-1923 Act) premises.

17.—(1) In *subsection (2)* of this section, the expression “ the critical date ” means— 40

(a) in the case of premises to which *section 14* of this Act applies, the operative date,

(b) in the case of premises to which *section 16* of this Act applies, the date of the institution of the proceedings in which the basic rent of the premises is determined. 45

(2) For the purposes of this Act, the sum mentioned in any paragraph of this subsection shall, in the case set out in that paragraph, be a lawful addition to the basic rent of controlled (non-1923 Act) premises: 50

(a) in case the landlord of the premises pays or allows a deduction or set-off against, or indemnifies the tenant in respect of, the rates or any part thereof, a sum equal to the amount for the time being of such payment, deduction, set-off or indemnity (as the case may be); 55

(b) in case the landlord, on or after the critical date, expends any amount (excluding any amount expended on decoration or repairs) on the improvement or structural alteration of the premises, a sum equal to eight per cent. per annum of that amount; 60

- 5 (c) in case the landlord, on or after the critical date, expends any amount on repairs to the premises which are wholly or mainly rendered necessary because of acts of waste by, or the neglect or default of, the tenant or any person residing with him or any of his lodgers or subtenants a sum equal to eight per cent. per annum of that amount;
- 10 (d) in the case of premises to which *section 14* of this Act applies, if the landlord has, on or after the relevant date, and before the critical date, expended any amount on the improvement or structural alteration of the premises (but not including therein any amount expended on decoration or repairs) a sum equal to eight per cent. per annum of that amount;
- 15 (e) in case the landlord, during a period comprising the two years 1945 and 1946, or 1946 and 1947, or 1947 and 1948, or 1948 and 1949, or 1949 and 1950, expends an amount in excess of two-thirds of the basic rent of the premises on putting the premises into a reasonable state of repair, a sum equal to fifteen per cent. per annum of such excess or excesses of expenditure;
- 20 (f) in the case of premises to which *paragraph (a) of subsection (2) of section 16* of this Act applies, a sum equal to eight per cent. per annum of such amount as bears to the total cost of the reconstruction of the buildings referred to in that paragraph the same proportion as the rateable valuation of the premises bears to the rateable valuation (or the total of the rateable valuations) of the said buildings as reconstructed.
- 25 (3) For the purposes of *subsection (2)* of this section, the amount of any grant under the Housing (Financial and Miscellaneous Provisions) Acts, 1932 to 1944, as amended or extended by any subsequent enactment, shall not be reckoned as part of any amount expended on any improvement, structural alteration or repairs to which that subsection applies.
- 30 35

(4) In the application of this Chapter to a small dwelling, within the meaning of the Local Government (Rates on Small Dwellings) Act, 1928 (No. 4 of 1928), the following provisions shall have effect:

- 40 (a) the word "rates" in *paragraph (a) of subsection (2)* of this section shall not include a rate made by virtue of the last-mentioned Act on the owner of such small dwelling, and
- 45 (b) the amount by which the rent of such small dwelling is increased by virtue of *section 6* of the last-mentioned Act shall be taken into account as a lawful addition in calculating the lawful rent of such small dwelling.

18.—The lawful rent of controlled (non-1923 Act) premises shall be—

- 50 (a) in case there is no lawful addition to the basic rent of the premises, the basic rent of the premises,
- (b) in any other case, the sum of the basic rent of the premises and the lawful additions thereto.

Lawful rent of controlled (non-1923 Act) premises.

CHAPTER 3.

55 *Determination of Rent and Recovery of Overpayments.*

- 19.—(1) The landlord of controlled premises shall, on being so requested in writing, supply the tenant with a statement in writing affording any information in the landlord's possession or procurement requisite to enable the tenant to determine the basic rent of the premises or have it determined by the Court, and if, without reasonable excuse, the landlord fails within twenty-eight days to do so or supplies a statement which is false or misleading

Information as to basic rent to be supplied by landlords and vendors.

in any material particular and not proved to have been made innocently and without intent to deceive, he shall be guilty of an offence under this section and shall, on summary conviction thereof, be liable to a fine not exceeding ten pounds.

(2) There shall be implied in every contract, made on or after the operative date, for the sale of any interest in controlled premises (if not already expressly included) a provision binding the vendor to give to the purchaser any information in the vendor's possession or procurement requisite to enable the purchaser to determine the basic rent of the premises or any part thereof. 5 10

(3) Every stipulation in a contract for the sale of controlled premises, whereby the purchaser is precluded from making requisitions as to the matters mentioned in subsection (2) of this section, shall be void.

Determination
of rent to be
paid by tenants.

20.—(1) The rent to be paid by a tenant in respect of controlled premises shall, subject to this Act, be determined in accordance with the following provisions:— 15

(a) where the landlord and the tenant agree upon the rent to be paid by the tenant and the rent so agreed upon does not exceed the amount which is then the lawful rent of the premises, the rent so agreed upon shall, until varied by agreement or by a notice under this section, be and continue to be the rent to be paid by the tenant in respect of the premises; 20

(b) where the rent for the time being payable by the tenant is less than the lawful rent for the time being and the landlord serves on the tenant a notice under this section increasing the rent to an amount not exceeding the lawful rent for the time being, then, as from the date on which the notice takes effect, the rent as so increased shall, until varied by agreement or by a notice under this section, be and continue to be the rent to be paid by the tenant in respect of the premises; 25 30

(c) where the rent for the time being payable by the tenant exceeds the lawful rent for the time being and the tenant serves on the landlord a notice under this section reducing the rent to an amount equal to the lawful rent for the time being, then, as from the date on which the notice takes effect, the rent as so reduced shall, until varied by agreement or a notice under this section, be and continue to be the rent to be paid by the tenant in respect of the premises; 35 40

(d) where the rent to be paid by a statutory tenant has not been determined under any of the foregoing paragraphs of this subsection, the rent payable by the tenant for the time being in respect of the premises on the operative date, or the then lawful rent (whichever is the lesser), or if the statutory tenant has since the operative date held under any contract of tenancy, the rent last payable by him under that contract or the then lawful rent (whichever is the lesser) shall, subject to this section, be and continue to be the rent to be paid in respect of the premises; 45 50

(e) where the rent to be paid by a non-statutory tenant has not been determined under any of the foregoing paragraphs of this subsection, the rent payable by the tenant for the time being in respect of the premises on the operative date, or the then lawful rent (whichever is the lesser), or if the tenant holds under any contract of tenancy, the tenancy whereunder commenced subsequent to the operative date, the rent payable by him at the commencement of the tenancy or the then lawful rent (whichever is the lesser) shall, 55 60

subject to this section, be and continue to be the rent to be paid in respect of the premises.

(2) Every notice served under this section shall be in the prescribed form, or a form substantially to the same effect, and shall contain the relevant particulars indicated by the form.

(3) The following provisions shall have effect with respect to notices under subsection (1) of this section:

(a) in case the notice purports to increase the rent payable by a non-statutory tenant to an amount exceeding the amount which would, under the terms of his contract of tenancy and disregarding any enactment (including this Act) by which any term thereof relating to rent is modified, be payable at the time when the notice is expressed to take effect, the notice shall take effect on the date mentioned in whichever of the following subparagraphs is applicable:

(i) if the tenancy could be legally determined on any day subsequent to service of the notice but not later than the date on which the notice is expressed to take effect, that date;

(ii) if the tenancy could not be so determined, the earliest date on which, if the notice were a notice to quit, it would be effective to determine the tenancy;

(b) in any other case, the notice shall take effect on the expiry of seven clear days from the date of service.

(4) If a notice served under this section contains any statement or representation which is false or misleading in any material respect the person making or causing to be made such statement or representation shall be guilty of an offence under this section and shall, on summary conviction thereof, be liable to a fine not exceeding ten pounds unless he proves that the statement or representation was made innocently and without intent to deceive.

(5) At any time after the expiry of a notice under paragraph (b) of subsection (1) of this section increasing the rent of any controlled premises by an amount consisting of or including any sum in respect of the matters mentioned in paragraph (b), (c), (f) or (g) of subsection (2) of section 11, or paragraph (b), (c), (d) or (e) of subsection (2) of section 17, of this Act, the Court may, on the application of the tenant, if satisfied that the expenditure (in so far as it is applicable to any of the said matters) in respect of which the notice was served was not incurred or was unnecessary in whole or in part, disallow or reduce the increase accordingly, as from such date (whether before the date of the application or otherwise) as the Court thinks fit.

21.—(1) Any transfer to a tenant of any burden or liability previously borne by the landlord shall, for the purposes of this Act, be treated as an alteration of rent, and where, as the result of such a transfer, the terms on which any premises are held are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased, whether or not the sum periodically payable by way of rent is increased, and any increase of rent in respect of any transfer to a landlord of any burden or liability previously borne by the tenant where, as the result of the transfer, the terms on which any premises are held are, on the whole, not less favourable to the tenant than the previous terms, shall be deemed not to be an increase of rent for the purposes of this Act.

Effect of transfer to tenant of burdens previously borne by landlord.

(2) For the purpose of this section, the rent shall not be deemed to be increased where the liability for rates is transferred from the landlord to the tenant if a corresponding reduction is made in the rent.

Reduction of rent owing to default of landlord in keeping premises in repair.

22.—(1) The tenant or the sanitary authority may at any time apply to the Court on notice to the landlord for an order reducing the rent of any controlled (1923 Act) premises on the ground that the premises are not in all respects in good and tenantable repair.

(2) Where an application is made under this section the Court, on being satisfied that the premises to which the application relates are not in all respects in good and tenantable repair and on being further satisfied that the condition of the premises is wholly or mainly due to the failure of the landlord to carry out such repairs as he is by virtue of any covenant, agreement, or otherwise by operation of law (including this Act) bound to carry out, may order that the rent to be paid for the premises be reduced by such amount, not exceeding twenty per cent. of the lawful rent, as the Court thinks proper.

(3) In any application under this section, a certificate of the sanitary authority that the premises to which the application relates are not in all respects in good and tenantable repair shall be *prima facie* evidence of the facts so certified.

(4) Where an order is made under subsection (2) of this section, the following provisions shall have effect:—

(a) the order shall remain in force unless and until the Court, on the application of the landlord, being satisfied that all repairs, the neglect to carry out which was the ground for the making of the order, have been carried out, makes an order terminating the reduction;

(b) if, on such application, the Court is satisfied that such repairs have wholly or mainly been rendered necessary by the persistent neglect or default of the landlord, the Court may, notwithstanding anything contained in this Act, order that the said reduced rent, or such other amount, not being less than eighty per cent. of the lawful rent, as the Court shall determine, shall be and continue to be the rent to be paid for the premises for such time as the Court thinks proper.

(5) On any application to a sanitary authority for a certificate for the purposes of this section a fee of five shillings shall be payable but on an application made to the Court under this section the Court may order that the tenant shall be entitled to deduct the fee from any subsequent payment of rent.

(6) Where on the operative date proceedings are pending under subsection (2) of section 8 of the Act of 1923, the proceedings shall continue and shall be treated as if they were proceedings under subsection (1) of this section.

(7) In this section the expression "sanitary authority" means the sanitary authority under the Public Health Acts, 1878 to 1931.

23.—If—

(a) the rent of controlled premises (being premises to which section 8 or section 14 of this Act applies) in respect of any period beginning on or after the operative date exceeds the rent to be paid (in accordance with this Act) for those premises in respect of that period, or

(b) the rent of controlled premises (being premises to which section 9 or section 16 of this Act applies) in respect of any period beginning on or after the date on which the basic rent is determined by the Court exceeds the rent to be paid (in accordance with this Act) for those premises in respect of that period,

the amount of the excess shall, notwithstanding any agreement to the contrary, be irrecoverable from the tenant of the premises.

Sums declared to be irrecoverable.

24.—(1) Where any sum—

Recovery of overpayments.

(a) has been paid on account of any rent which has accrued due after the operative date, and

5 (b) is a sum declared by *section 23* of this Act to be irrecoverable from the tenant,

such sum shall, subject to *section 25* of this Act, be recoverable from the landlord who received the payment or his legal personal representative by the tenant by whom it was paid or his legal personal representative.

10 (2) If any person in any rent book or similar document makes an entry showing or purporting to show any tenant as being in arrear in respect of any sum declared by this Act to be irrecoverable that person shall be guilty of an offence under this section and shall, on summary conviction thereof, be liable to a fine not
15 exceeding ten pounds, unless he proves that he acted innocently and without intent to deceive.

25.—No person shall be entitled to recover in any manner any sum paid on account of rent which is by *section 23* of this Act or *section 12* of the Act of 1923 declared to be irrecoverable
20 from the tenant save within six years next after the payment of that sum. Limitation on recovery of overpayments.

PART III.

SPECIAL PROVISIONS FOR THE RELIEF OF TENANTS OF SMALL PREMISES.

25 26.—This Part shall come into operation on such day as the Minister by order appoints for the purpose. Commencement of Part III.

27.—In this Part—

Interpretation of Part III.

the expression "appointed area" means any area being—

appointed area.

(a) a county borough,

30 (b) the borough of Dún Laoghaire, or

(c) any area prescribed by regulations for the time being in force as an appointed area for the purposes of this Part;

the expression "existing rent" means the rent payable by a tenant for small premises immediately prior to his making an application
35 for a provisional order in respect of the premises; existing rent.

the expression "provisional order" means an order under *section 29* of this Act; provisional order.

the expression "small premises" means premises being— small premises.

40 (a) controlled (1923 Act) premises situate in an appointed area which is a county borough or the borough of Dún Laoghaire, the rateable valuation whereof does not exceed ten pounds, or

45 (b) controlled (1923 Act) premises situate in any other appointed area, the rateable valuation whereof does not exceed such amount (not being more than ten pounds) as may be prescribed.

28.—(1) The tenant of premises which he claims to be small premises may apply to a District Justice assigned to the district in which the premises are situate for a provisional order fixing the
50 lawful rent of the premises. Applications for provisional orders.

(2) Every application under this section shall be made by the tenant attending, in person or by agent, the District Court Clerk of the district court area in which the premises concerned are situate and furnishing particulars in support of his claim to the

said District Court Clerk who shall record such particulars and refer the application as soon as may be to the appropriate District Justice.

(3) Any person who, in support of an application under this section, furnishes or causes to be furnished to the District Court Clerk particulars which are false or misleading in any material respect, shall, unless he proves that he acted innocently and without intent to deceive, be guilty of an offence under this section and shall, on summary conviction thereof, be liable to a fine not exceeding ten pounds. 5 10

(4) Where a person, not being a solicitor, acts as agent for any person on an application under this section directly or indirectly for or in expectation of reward or is remunerated directly or indirectly out of the funds of any body corporate or unincorporated body of persons of which the tenant is or was a member or to the funds of which he has been a subscriber, he shall be guilty of an offence under this subsection and shall, without prejudice to his liability to be convicted of any other offence of which he may be guilty, be liable on summary conviction thereof to a fine not exceeding one hundred pounds or, at the discretion of the Court, to imprisonment for a term not exceeding six months or to both such fine and imprisonment. 15 20

Making of provisional orders.

29.—(1) Every application referred to a District Justice under section 28 of this Act shall be dealt with by him as follows:—

(a) he shall deal with the application privately, 25

(b) in case it appears to him—

(i) that the premises are small premises to which section 8 of this Act applies, or

(ii) that the premises are small premises to which section 9 of this Act applies, the basic rent whereof has already been determined by the Court, and that the amount of that basic rent is ascertainable, 30

he may, subject to paragraph (d) of this subsection, by order determine provisionally— 35

(I) the lawful additions to the basic rent of the premises, and

(II) the lawful rent of the premises;

(c) in case it appears to him that the premises are small premises to which paragraph (b) of this subsection does not apply, he may subject to paragraph (d) of this subsection by order determine provisionally— 40

(i) the basic rent of the premises under section 9 of this Act,

(ii) the lawful additions to the basic rent of the premises, and 45

(iii) the lawful rent of the premises;

(d) in case it appears to him that the lawful rent of the premises, if determined by a provisional order, would equal or exceed the existing rent, he shall dismiss the application and cause the tenant to be informed accordingly; 50

(e) if the premises are not separately valued under the Valuation Acts, then, for the purposes of this Act, he may by the provisional order provisionally apportion to the premises such part as he thinks proper of the rateable valuation of the property in which the premises are comprised. 55

(2) An appeal shall not lie to the Circuit Court from the determination of a District Justice on an application under section 28 of this Act. 60

Provisions as to provisional orders.

30.—(1) Where a District Justice makes a provisional order in relation to any premises, he shall as soon as may be cause a copy

thereof to be served on the landlord and on the tenant, which copy may be served in the same manner as a summons under the rules of the District Court for the time being.

(2) Subject to *paragraph (a) of subsection (1) of section 31* and notwithstanding *section 20* of this Act, the lawful rent fixed by a provisional order shall, as on and from the gale day next following the making of the order and for so long as the provisional order remains in force, be the rent to be paid for the premises to which the order applies.

10 (3) No proceedings shall be taken under *Part II* of this Act for the determination of the basic rent of any premises while a provisional order in respect thereof is in force or an application in respect thereof is pending under this Part.

15 **31.—**(1) The landlord of any premises in respect of which a provisional order has been made may, within three months after the service of a copy of the provisional order upon him, apply to the District Court to revoke, or modify the terms of the provisional order and thereupon the following provisions shall have effect:—

Application by
landlord in
relation to
provisional
order.

20 (a) if on the hearing of the application it appears to the Court that the premises are not small premises, the Court shall revoke the provisional order with effect retrospectively from the date of the making thereof;

25 (b) in any other case, the Court may, as it thinks proper—

(i) by order confirm the terms of the provisional order with or without modification, or

(ii) revoke the provisional order and make such new order in relation to the premises as the circumstances may require;

30 (c) if an order is made under *paragraph (b)* of this subsection, then, as on and from the making thereof and notwithstanding anything in any other provision of this Act,—

35 (i) the said order shall have effect as the final determination of the District Court in respect of the matters to which the said order relates,

(ii) the provisional order shall cease to be in force, and

40 (iii) for the purpose of the application of *section 20* of this Act the tenant shall be deemed to have entered into an agreement with the landlord to pay in respect of the premises a rent equal to the lawful rent of the premises as determined by the said order made under *paragraph (b)* of this subsection;

45 (d) on the hearing of the application the Court may make an order for the payment, in such manner as the Court may direct, of any amount due by either party to the other in relation to the premises, whether on account of rent or under any provision of this Act.

50 (2) The costs of the parties in an application under this section shall be in the discretion of the Court, but no costs shall be awarded against the tenant in any case in which it is proved that the existing rent was higher than the lawful rent.

55 (3) If, on an appeal by the landlord to the Circuit Court against an order made by the District Court under this section, the Circuit Court certifies that having regard to all the circumstances of the case it is proper that the whole or a specified part of the amount for which the tenant is liable in respect of the costs of the appeal (including the tenant's own costs and the costs (if any) which, under the order of the Court, the tenant is liable to pay to the landlord) shall be defrayed out of State funds, the Minister shall defray out of moneys provided by the Oireachtas the amount of the costs in respect of which it has been so certified.

Provisions applicable in default of application by landlord.

32.—(1) If the landlord of any premises does not, within three months after the date of service on him of a provisional order in respect of the premises, apply to the District Court for an order under *section 31* of this Act, the following provisions shall have effect, notwithstanding anything in any other provision of this Act: 5

(a) the terms of the provisional order shall be deemed to have been confirmed by the District Court by order under *subsection (1)* of *section 31* of this Act and the provisions of *paragraph (c)* of the said subsection shall apply accordingly; 10

(b) an appeal shall not lie to the Circuit Court from a confirming order which is deemed to have been so made.

(2) As soon as may be after the provisions of *subsection (1)* of this section have taken effect in relation to any premises, the District Justice having jurisdiction for the purposes of this Act in the district in which the premises are situate shall cause to be served (in a manner authorised for the service of a copy of a provisional order under *section 30* of this Act) on the landlord and on the tenant a notice, in the prescribed form, informing such persons thereof accordingly, but failure to comply with the provisions of this subsection shall not be construed as affecting the operation of the said *subsection (1)*. 15 20

Exemption from court fees.

33.—No court fees shall be payable by the tenant in any proceedings (including any appeal or case stated) under this Part. 25

Orders obtained by false statements.

34.—If the Court is satisfied that a provisional order has been obtained by means of any statement or representation on the part of the tenant which was, to the knowledge of the tenant, untrue or misleading, the Court may revoke such order, and make such new and further orders as justice may require including an order requiring the tenant to pay any costs incurred by the landlord in the matter. 30

District court valuers.

35.—(1) The Minister may, with the sanction of the Minister for Finance, appoint such and so many persons as he thinks fit to be district court valuers for the purposes of this Part. 35

(2) Every district court valuer shall hold office at the will of the Minister and may be removed from office by the Minister.

(3) The remuneration and conditions of employment generally of district court valuers shall be determined by the Minister for Finance. 40

(4) Every district court valuer shall be assigned to such district as the Minister shall from time to time direct.

(5) The Civil Service Regulation Acts, 1924 and 1926, shall not apply to the situation of district court valuer. 45

Reference by District Justices of questions affecting rateable valuation or rent of small premises to valuers.

36.—(1) The District Justice assigned to a district to which a district court valuer is assigned may refer to such district court valuer for investigation and report to him any question affecting the rateable valuation or rent of small premises the subject of any proceedings before him under this Part or involving the rent being paid or payable for other small premises. 50

(2) The District Justice assigned to a district to which a district court valuer is not assigned may refer to such person (in this section referred to as a special valuer) as he thinks fit for investigation and report to him any question affecting the rateable valuation or rent of any small premises the subject of proceedings before him under this Part of this Act or involving the rent being paid or payable for other small premises. 55

(3) Special valuers shall be remunerated by the Minister at such rates as may be prescribed by the Minister for Finance.

(4) A district court valuer or a special valuer to whom a District Justice has referred any question under *subsection* (1) or *subsection* (2) of this section may, if authorised in writing by the District Justice so to do, and on production, if demanded, of such authorisation, at all reasonable hours enter and inspect any premises specified in that behalf in such authorisation.

(5) If any person refuses to permit a district court valuer or a special valuer to enter or inspect any premises in exercise of his powers under *subsection* (4) of this section, or obstructs or interferes with him in the exercise of those powers, he shall be guilty of an offence under this subsection and shall, on summary conviction thereof, be liable to imprisonment for a term not exceeding one month or a fine not exceeding ten pounds or both such imprisonment and such fine.

PART IV.

RESTRICTIONS ON RECOVERY OF POSSESSION OF CONTROLLED PREMISES.

20 37.—(1) Subject to *subsections* (2) and (3) of this section, an order for the recovery of possession of controlled premises shall not be made unless the Court considers it reasonable to make the order and—

Restrictions on landlord's right to possession of controlled premises.

25 (a) any rent lawfully due from the tenant has not been paid, or any other obligation of the tenancy, whether under the contract of tenancy (so far as it is consistent with this Act) or under this Act, has been broken or not performed, or

30 (b) any person (being the tenant, any individual residing with the tenant, or any of the tenant's lodgers or sub-tenants) has been guilty of conduct which is a nuisance or annoyance to adjoining occupiers, or has been convicted of using the premises or allowing the premises to be used for an immoral or illegal purpose, or

35 (c) the condition of the premises has, in the opinion of the Court, deteriorated owing to acts of waste by or the neglect or default of any such person, or

40 (d) the tenant has given notice to quit, and in consequence of that notice the landlord has contracted to sell or let the premises or has taken any other steps as a result of which he would, in the opinion of the Court, be seriously prejudiced if he could not obtain possession, or

(e) in the case of a dwelling—

45 (i) the dwelling is reasonably required by the landlord for occupation as a residence for himself or for any person *bona fide* residing or to reside with him, and either—

50 (I) in the opinion of the Court greater hardship would, owing to the special circumstances of the case, be caused by refusing the order for possession than by granting it, or

35 (II) the Court is satisfied that alternative accommodation, reasonably equivalent as regards rent and suitability in all respects, is available, or

60 (ii) the dwelling is reasonably required by the landlord for occupation as a residence for some person in his whole time employment or in the whole time employment of some tenant from him, and the Court is satisfied that alternative accommodation, reasonably equivalent as regards rent and suitability in all respects, is available, or

(f) in the case of business premises—

(i) the premises are reasonably required by the landlord for the purpose of any business, trade or profession, or for the public service, and the Court is satisfied that alternative accommodation, reasonably equivalent as regards rent and suitability in all respects, is available, or

(ii) possession of the premises is *bona fide* required for the purpose of a scheme of reconstruction or improvement which appears to the Court to be desirable in the public interest, or

(g) the premises are reasonably required for the purpose of the execution of the duties, powers or requirements of a Minister of State or the Land Commission or the Commissioners of Public Works in Ireland or a local authority or statutory undertaker.

(2) Nothing in subsection (1) of this section shall affect the right of the landlord to obtain an order against a tenant for the recovery of possession of any controlled premises where—

(a) the tenant has sublet the premises, otherwise than for temporary convenience, to a subtenant, and

(b) the subtenant or any person deriving title under him will be entitled to retain possession of the premises under this Act, notwithstanding the order against the tenant.

(3) Nothing in subsection (1) of this section shall affect the operation of section 26 or section 34 of the Housing (Miscellaneous Provisions) Act, 1931 (No. 50 of 1931).

Saving for rights of subtenants.

38.—An order against a tenant for the recovery of possession of controlled premises shall not affect the right of any subtenant, to whom the premises or any part thereof have been lawfully sublet before proceedings for recovery of possession were commenced, to retain possession under this Act.

Statutory tenancy.

39.—(1) If an order for the recovery of possession of controlled premises is refused by the Court on the ground that the tenant is entitled to retain possession of the premises by virtue of this Act, the Court shall make an order declaring that any tenancy of the tenant otherwise than by virtue of this Act has terminated, and when making any such order as aforesaid may make an order as to the payment by the tenant of any arrears of rent or any mesne rates.

(2) Where the interest of the tenant of controlled premises terminates, either as the result of an order for possession, or for any other reason, a subtenant to whom the premises or any part thereof have been lawfully sublet shall, subject to this Act, be entitled to retain possession of the premises and to hold from the landlord on the same terms as he would have held from the tenant if the tenancy of the tenant had not been terminated.

(3) On the death of the statutory tenant of controlled premises the following provisions shall have effect:

(a) in case the statutory tenant leaves him surviving his wife, who was residing with him at the time of his death, she shall be entitled to retain possession of the premises under the same terms and conditions as the deceased statutory tenant:

(b) in case the statutory tenant does not leave a wife so residing, such member of the statutory tenant's family so residing or, where there is more than one such member, such one of them as may be agreed upon between them or as may be selected by the Court in default of agreement shall be entitled to retain possession as aforesaid;

(c) in case the statutory tenant was a woman, paragraphs (a) and (b) of this subsection shall have effect with respect to her husband and family as they have effect with respect to the wife and family of a statutory tenant being a man;

(d) in any case to which none of the foregoing paragraphs applies, the interest of the statutory tenant shall determine at his death.

40.—(1) A statutory tenant shall, so long as he retains possession of controlled premises by virtue of this Act, observe and be entitled to the benefit of all the terms and conditions of the original contract of tenancy, so far as they are consistent with this Act, and shall be entitled to give up possession of the premises only on giving such notice as would have been required under the original contract of tenancy, or, if no notice would have been so required, on giving not less than three months' notice.

Conditions of
statutory
tenancy.

(2) Notwithstanding anything in subsection (1) of this section, a landlord of controlled premises shall not, for the purpose of exercising any right under this Act or any right exercisable on or after the expiration of this Act, be required to give any notice to quit to a statutory tenant of the premises.

(3) (a) A statutory tenant shall not, as a condition of the assignment or giving up possession of controlled premises, ask or receive the payment of any sum, or any other consideration by any person other than the landlord.

(b) Any person who acts in contravention of paragraph (a) of this subsection shall be guilty of an offence under this subsection and shall, on summary conviction thereof, be liable to a fine not exceeding one hundred pounds.

(c) Where a person is convicted of an offence under this subsection, the Court by which he was convicted may order that any such payment or consideration be repaid to the person by whom it was made or given.

(d) Paragraph (a) of this subsection shall not apply to premises lawfully used wholly or in part for the purposes of any business, trade or profession.

(4) It shall be deemed to be a condition of a statutory tenancy in any controlled premises—

(a) that the tenant shall afford to the landlord access thereto for the purpose of viewing the condition and state of repair of the premises and shall afford all reasonable facilities for executing therein any repairs which the landlord is entitled to execute;

(b) that the tenant will not assign the premises or any part thereof without the consent in writing of the landlord, which consent may be withheld only if greater hardship would, owing to the special circumstances of the case, be caused by granting the consent than by withholding it;

(c) that the landlord shall be responsible for any repairs for which the tenant is not under any liability, whether expressed in the contract or implied under section 42 of the Landlord and Tenant Law Amendment Act (Ireland), 1860.

(5) Where, on or after the operative date, controlled premises are lawfully assigned by the statutory tenant (in this subsection referred to as the assignor), then, in the absence of any express agreement between the landlord and the assignee, the following provisions shall have effect:—

- (a) if the premises are, at the date of the assignment, being lawfully used wholly or in part for the purposes of any business, trade or profession, the assignee shall, from the said date, be deemed to hold the premises in accordance with whichever of the following subparagraphs is applicable:—
- (i) in case evidence is forthcoming that the premises were, immediately before the creation of the statutory tenancy therein, held by the contractual tenant thereof under a tenancy from year to year or for a term of years or other certain period (not being less than one year), or depending on the fall of a life or any other uncertain event, the assignee shall be deemed to hold the premises from the landlord under a tenancy from year to year, terminable, on or after the expiration of the first year thereof, by either party by two months' notice expiring on a gale day and, subject thereto, on the same terms and conditions as the assignor;
 - (ii) in case evidence is forthcoming that the premises were so held under a contract of tenancy to which subparagraph (i) of this paragraph does not relate, the assignee shall be deemed to hold the premises from the landlord under a contract of tenancy of like duration as the contract of tenancy under which they were so held, and, subject thereto, on the same terms and conditions as the assignor;
 - (iii) in any other case, the assignee shall be entitled to retain possession of the premises on the same terms and conditions as the assignor;
- (b) if the premises are premises to which paragraph (a) of this subsection does not relate, the assignee shall be entitled to retain possession of the premises on the same terms and conditions as the assignor.

Powers of Court in ejectment proceedings.

41.—Where an order for the recovery of possession of controlled premises is made by the Court, or was so made before the operative date, the Court may, at the time of the order or at any time before the execution thereof, stay execution on the order or postpone the date of possession for such period or periods, and subject to such conditions, as the Court thinks fit, and if such conditions are complied with the Court may, if it thinks fit, discharge or vary the order.

Amendments of section 15 of Summary Jurisdiction (Ireland) Act, 1851.

42.—(1) Notwithstanding anything in section 15 of the Summary Jurisdiction (Ireland) Act, 1851, every warrant for delivery of possession of, or to enter and give possession of, controlled premises shall remain in force for three months from the day next after the last day named in the order for delivery of possession or, in the case of a warrant under the Summary Jurisdiction (Ireland) Act, 1851, from the date of the issue of the warrant, and in either case for such further period or periods, if any, as the Court shall from time to time, whether before or after the expiration of such three months, direct.

(2) Section 15 of the Summary Jurisdiction (Ireland) Act, 1851, shall apply to every controlled premises occupied by a statutory tenant, the rateable valuation whereof does not exceed ten pounds, notwithstanding that the rent exceeds one pound by the month.

Acceptance of rent by landlord after expiration of notice to quit.

43.—Where the landlord of controlled premises serves a notice to quit on the tenant of the premises, the acceptance of any sum purporting to be rent by the landlord for the period mentioned in whichever of the following paragraphs is applicable shall not prejudice his right (if any) to recover possession of the premises, that is to say,—

5 (a) if he institutes proceedings for the recovery of possession of the premises within three months of the expiration of the notice to quit, the period beginning on the expiration of the notice to quit and ending on the date on which the proceedings are finally determined,

(b) in any other case, the period of three months beginning on the expiration of the notice to quit,

and if an order for possession of the premises is made, any such sum so accepted shall be treated as mesne profits.

10 44.—Where it appears to the Court that an order for possession of controlled premises was obtained by the landlord by misrepresentation or concealment of material facts, the Court may order the landlord to pay to the former tenant such sum as the Court thinks proper by way of compensation for damage or loss sustained by the tenant as the result of the order for possession.

Order for possession obtained by misrepresentation.

15 45.—Sections 37 and 38 of this Act shall not apply to premises let to a person during his continuance in any office, appointment or employment, or let *bona fide* for the temporary convenience or to meet a temporary necessity of the landlord or the tenant.

Non-application of sections 37 and 38 to lettings for temporary convenience, etc.

20 46.—Nothing in this Part shall prevent a local authority from obtaining possession of any premises the possession of which is required by them for the purpose of exercising their powers under any enactment for the time being in force or under any scheme made under any such enactment.

Saving for rights of local authorities under the Housing of the Working Classes Acts.

PART V.

MISCELLANEOUS.

30 47.—For the purposes of paragraph (d) of subsection (2) of section 11 and sections 21, 22 and 48 of this Act, the landlord shall be deemed to be responsible for any repairs for which the tenant is not under any liability, whether expressed in the contract or implied under section 42 of the Landlord and Tenant Law Amendment Act (Ireland), 1860.

Liability for repairs.

35 48.—(1) Where owing to the default of the landlord controlled premises are not in good and tenantable repair, the Court may order the landlord to pay to the tenant such sum as, in the opinion of the Court, will be required to put the premises into good and tenantable repair.

Compensation for disrepair of controlled premises owing to default of landlord.

40 (2) (a) The right of the tenant to obtain relief under this section shall not prejudice his right to seek relief in any other form of proceedings.

45 (b) If at the time of the application for or the making of any order under this section the landlord undertakes to put the relevant premises into good and tenantable repair, the Court may adjourn the application, or stay or suspend execution on the order, and if the undertaking is fulfilled the Court may discharge the order.

50 (c) A sum awarded to a tenant by an order under this section shall be expended on suitable repairs to the premises to which the order relates, and the order may be made subject to such conditions as the Court thinks fit to impose for the purpose of ensuring that the said sum is so expended.

49.—(1) Where premises are not separately valued under the Valuation Acts, the Commissioner of Valuation and Boundary Surveyor may, on the application of the landlord or tenant of the premises, apportion to the premises such part as he thinks proper of the rateable valuation of the property in which the premises are comprised, and the part so apportioned to the said premises shall be taken to be the rateable valuation of the premises for the purposes of this Act, but not further or otherwise.

(2) The Minister for Finance, after consultation with the Minister, may make regulations fixing a scale of the fees to be paid to the Commissioner of Valuation and Boundary Surveyor for apportionments under *subsection* (1) of this section.

(3) The following provisions shall have effect in relation to all fees payable under this section:

(a) such fees shall be collected and taken in such manner as the Minister for Finance shall from time to time direct and shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the said Minister;

(b) the Public Offices Fees Act, 1879, shall not apply in respect of such fees.

50.—(1) A person shall not, as a condition of the grant, renewal, or continuance of a tenancy or subtenancy of any controlled premises, require the payment of any fine, premium, or other like sum, or the giving of any valuable consideration, in addition to the rent, and, where any such payment or consideration is made or given in respect of any such premises, the amount or value thereof may be recovered within, but not later than, six years after the date on which it was made or given.

(2) If any person who recovers any sum made recoverable by this section has assigned or otherwise disposed of his interest in the tenancy for valuable consideration, the sum recovered by him shall be held by him in trust for such person as shall seem to the Court to be equitably entitled thereto.

(3) A person requiring any payment or other consideration in contravention of this section shall be guilty of an offence under this subsection and shall, on summary conviction thereof, be liable to a fine not exceeding one hundred pounds, and the Court by which he is convicted may order the amount paid or the value of the consideration to be repaid to the person by whom the payment or other consideration was made or given.

(4) (a) Any person making or offering to make any payment or giving or offering to give any consideration the requiring of which would be in contravention of this section, or advertising or publishing any such offer shall be guilty of an offence under this subsection and shall, on summary conviction thereof, be liable to a fine not exceeding twenty pounds.

(b) No proceedings under this subsection shall be taken against any person who has instituted any proceedings under *subsection* (1) of this section, or who has supplied any information for the purpose of the institution of any proceedings under *subsection* (3) of this section.

(5) Any grant, renewal, or continuance of a tenancy as a condition of which any payment or consideration has been made or given in contravention of this section shall, without prejudice to the operation of this section, be voidable at the option of either party thereto, without prejudice to the right of the tenant, if he has entered into possession of the premises comprised therein, to retain possession thereof by virtue of the provisions of this Act after any such option has been exercised.

(6) This section shall not apply to the grant, renewal or continuance for a term of fourteen years or upwards of any tenancy.

51.—(1) No distress for the rent of controlled premises shall be levied except by order of the Court.

Restriction on
levy of distress
for rent.

5 (2) Where the Court makes an order under *subsection (1)* of this section, the Court may attach to the execution of the order such conditions as the Court thinks fit.

52.—Any sum which under this Act is recoverable by a tenant from a landlord or payable or repayable by a landlord to a tenant may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.

Method of
recovery of
sums due by
landlords to
tenants.

53.—(1) The Minister may make regulations providing for any or all of the following matters:

Regulations.

15 (a) the supply of rent-books in a form prescribed in the regulations by landlords of controlled premises or any class of controlled premises to the tenants of such premises;

(b) the custody of such rent-books;

(c) the entry of specified particulars in such rent-books;

20 (d) any other matters relating to the user of such rent-books which the Minister may think proper to provide for;

(e) any matter or thing referred to in this Act as prescribed;

25 (f) the compilation of registers of controlled premises, the standard rents or basic rents of which have been determined by the Court, or any classes of such premises, in such form and containing such particulars as may be prescribed in the regulations, the inspection thereof by members of the public and such other matters relating thereto as the Minister may think proper to provide for;

30 (g) the provision by landlords of identifying numbers for parts (being controlled premises) of any houses or classes of houses.

35 (2) Every person who fails to comply with any regulation made under *subsection (1)* (other than *paragraph (e)*) of this section and for the time being in force shall be guilty of an offence under this section and shall, on summary conviction thereof, be liable to a fine not exceeding ten pounds.

40 (3) (a) On an application by a landlord of controlled premises, the Court may by order exempt the landlord from compliance with regulations relating to rent-books made under *subsection (1)* of this section.

(b) An order shall not be made under this subsection unless the Court is satisfied—

45 (i) that the applicant has made satisfactory alternative arrangements for keeping records of payments of rent made by his tenants and for furnishing a proper receipt for each such payment, and

50 (ii) that, having regard to those arrangements and to all the circumstances of the case, it would be unreasonable to require the applicant to comply with the regulations.

55 (c) The Court may attach to an order made under this subsection such conditions as the Court thinks fit to impose, including, in particular, a condition that the applicant shall furnish each tenant of controlled premises, of

which he may from time to time be landlord, with such particulars, relating to the rent payable by the tenant and the rights and obligations of landlords and tenants under this Act, as are required by the regulations to be specified in rent-books. 5

(d) A person who fails to comply with any condition attached to an order made under this subsection in relation to him shall be guilty of an offence under this section and shall, on summary conviction thereof, be liable to a fine not exceeding ten pounds. 10

(4) Every regulation made by the Minister under *subsection (1)* of this section shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution is passed by either House of the Oireachtas within the next subsequent twenty-one days on which that House has sat after the regulation is laid before it annulling the regulation, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under the regulation. 15

Powers of the Court generally.

54.—(1) Where, for the purpose of determining the rateable valuation of premises which are alleged to be controlled premises, it is necessary to apportion the rateable valuation of the property in which the premises are comprised, the Court may, on the application of either party, make such apportionment as it thinks proper. 20

(2) Where premises are let or were let at the date in relation to which the basic rent is to be fixed, at a rent which includes or included payment for board, attendance or the use of furniture, the Court may for any of the purposes of this Act make such apportionment as it thinks proper. 25

(3) On the hearing of an action for the recovery of possession of controlled premises or for the recovery of any rent claimed to be due by a landlord or any sum claimed to be recoverable by a tenant in respect of controlled premises, the Court may on the application of either party at such hearing determine any matter arising under this Act which can in the opinion of the Court be conveniently determined on such hearing. 30 35

(4) The Court shall, if satisfied that any error or omission in a notice served under *section 20* of this Act is due to a *bona fide* mistake on the part of the party serving it, have power to amend the notice by correcting any errors and supplying any omissions therein, whether or not such errors or omissions, if not corrected or supplied, would render the notice invalid, on such terms and conditions as appear to the Court to be proper and, if the Court so directs, the notice as so amended shall have effect and be deemed to have had effect as a valid notice under the said *section 20*. 40 45

(5) In addition to the powers specifically conferred on the Court by this Act the Court may deal with any matter arising under this Act whether a dispute has or has not arisen in relation to that matter. 50

Exercise of jurisdiction of Court.

55.—(1) The jurisdiction and powers conferred on the Court by this Act may be exercised—

(a) by the Circuit Court, or

(b) where the rateable valuation of the relevant premises does not exceed £10, or if the parties consent in writing to such exercise, by the District Court. 55

(2) The Minister may from time to time nominate one or more of the District Justices for the time being assigned to the Dublin Metropolitan District as the Justice or Justices who shall have sole jurisdiction in that District in all cases, within the jurisdiction of the District Court, arising under this Act, and all 60

such cases shall be referred to the Justice or one of the Justices so nominated.

(3) A nomination under *subsection (2)* of this section may be withdrawn at any time by the Minister.

5 (4) No appeal shall lie from the decision of the Circuit Court as to any apportionment of rent or rateable valuation.

10 **56.**—Where on the operative date proceedings are pending for the determination of the standard rent or the basic rent (within the meaning of the Order of 1944) of any premises, the proceedings shall continue and shall be treated as if they were proceedings under this Act to determine the basic rent of the premises. Continuance of pending proceedings.

15 **57.**—To avoid doubts, it is hereby declared that any person who, immediately before the operative date, was in possession of premises by virtue of the provisions of the Act of 1923 or the Order of 1944 shall, subject to this Act, be entitled to retain possession of the premises. Position of statutory tenants under Act of 1923 and Order of 1944.

20 **58.**—(1) Until rules are made regulating the practice and procedure of the Circuit Court for the purposes of this Act, the rules made under section 19 of the Act of 1923, so far as they relate to the Circuit Court, shall apply for the purposes of this Act with the necessary modifications. Rules as to procedure.

(2) Until rules are made regulating the practice and procedure of the District Court for the purposes of this Act, the rules made under section 19 of the Act of 1923, so far as they relate to the District Court, shall apply for the purposes of this Act with the necessary modifications.

SCHEDULE.

Section 5.

ENACTMENTS REPEALED.

Number and Year	Short Title	Extent of repeal
No. 19 of 1923 ...	Increase of Rent and Mortgage Interest (Restrictions) Act, 1923.	The whole Act.
No. 24 of 1926 ...	Increase of Rent and Mortgage Interest (Restrictions) Act, 1926.	The whole Act.
No. 4 of 1928 ...	Local Government (Rates on Small Dwellings) Act, 1928.	Subsection (5) of section 6.
No. 5 of 1928 ...	Increase of Rent and Mortgage Interest (Restrictions) Act, 1928.	The whole Act.
No. 15 of 1929 ...	Increase of Rent and Mortgage Interest (Restrictions) Act, 1929.	The whole Act.
No. 18 of 1930 ...	Increase of Rent and Mortgage Interest (Restrictions) Act, 1930	The whole Act.

Éire.

AN BILLE SRIANTA CIOSA, 1944.

BILLE

dá ngairmtear

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*Rite ag dhó Thigh an Oireachtais,
6ú Márta, 1946.*

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Éire.

RENT RESTRICTIONS BILL, 1944.

BILL

entitled

An Act to make further and better provision for restricting the increase of rent and the recovery of possession of premises in certain cases and to provide for other matters connected therewith.

*Passed by both Houses of the Oireachtas,
6th March, 1946.*

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