AN BILLE SRIANTA CIOSA (Uimh. 2), 1960
RENT RESTRICTIONS (No. 2) BILL, 1960

Mar a ritheadh ag dhá Theach an Oireachtais.
As passed by both Houses of the Oireachtas.

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SCALE FOR CALCULATION OF CERTAIN SUMS

AN BILLE SRIANTA CIOSA (Uimh. 2), 1960
RENT RESTRICTIONS (No. 2) BILL, 1960

BILL

entitled

AN ACT TO MAKE 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.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

PART I.

Preliminary and General.

Short title. and commencement.

1.—(1) This Act may be cited as the Rent Restrictions Act, 1960.

(2) This Act shall come into operation on the 31st day of December, 1960.

Interpretation generally.

2.—(1) In this Act, unless the context otherwise requires—

"the Act of 1946" means the Rent Restrictions Act, 1946; **1946, No. 4.**

"basic rent" means, in relation to a controlled dwelling, the basic rent of the dwelling determined under *section 7*, *section 8* or *section 9* (as the case may be) of this Act;

"controlled dwelling" means any dwelling to which, by virtue of *section 3* of this Act, the Act applies;

"District Justice" means a Justice of the District Court;

"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;

"the former enactments relating to restriction of rent" means—

(*a*) the Increase of Rent and Mortgage Interest (War Restrictions) Act, 1915, **5 & 6 Geo. 5, c. 97.**

(*b*) the Increase of Rent and Mortgage Interest (Restrictions) Act, 1919, **1919, c. 7.**

(*c*) the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, **1920, c. 17.**

(*d*) the Increase of Rent and Mortgage Interest (Restrictions) Acts, 1923 to 1930,

(*e*) the Emergency Powers (No. 313) Order, 1944, and the Emergency Powers (No. 313) Order, 1944 (Amendment) Order, 1945, and **1944, S. R. & O., No. 29. 1945, S. R. & O., No. 188.**

(*f*) the Rent Restrictions Acts, 1946 to 1959;

"landlord", when used in relation to any dwelling, includes any person from time to time deriving title under the original landlord of the dwelling, and also includes any person, other than the tenant, who is or would but for this Act be entitled to possession of the dwelling;

" lawful addition " means, in relation to the basic rent of a controlled dwelling, any sum which is, by virtue of *section 10* of this Act, a lawful addition to the basic rent;

" lawful rent " means, in relation to a controlled dwelling, the sum declared by *section 11* of this Act to be the lawful rent of the dwelling;

" let " includes sublet;

" the Minister " means the Minister for Justice;

" non-statutory tenant " means a tenant who is not a statutory tenant;

" the operative date " means the date of the commencement of this Act, that is to say, the 31st day of December, 1960;

" prescribed " means prescribed by the Minister by regulations made under this Act;

" rates " means, in relation to a controlled dwelling, 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, or the council of an urban district) in respect of the dwelling 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 dwelling;

" statutory tenancy " means the interest of a statutory tenant in the dwelling in relation to which the expression is used;

" statutory tenant " means a person being either—

(*a*) a person who retains possession of any controlled dwelling after his contractual tenancy therein (not being a tenancy to which *section 37* of this Act applies) has terminated, or

(*b*) a person who retains possession of any controlled dwelling under *subsection* (*2*), *subsection* (*3*) or *subsection* (*4*) of *section 31* of this Act, or

(*c*) a person who retains possession of any controlled dwelling under *subparagraph* (*iii*) of *paragraph* (*a*) or under *paragraph* (*b*) of *subsection* (*5*) of *section 32* of this Act, or

(*d*) a person who retains possession of any controlled dwelling under *section 52* of this Act;

" tenant " includes in relation to any dwelling a statutory tenant, and includes any person from time to time deriving title under the original tenant, and also includes a subtenant.

(2) References in this Act to an order for the recovery of possession of a controlled dwelling shall be construed as including references to an order for ejectment of a tenant therefrom.

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

Controlled dwelling.

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

(2) This Act does not apply to—

(*a*) a dwelling the rateable valuation of which exceeds—

(i) in case the dwelling is situate in the county borough of Dublin or the borough of Dún Laoghaire, sixty pounds,

(ii) in any other case, forty pounds,

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

(*c*) a dwelling the letting of which is under the Labourers Acts, 1883 to 1958, or the Housing of the Working Classes Acts, 1890 to 1958,

(*d*) 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,

(*e*) a house which at the commencement of this Act is occupied by the owner thereof for the purposes of his own residence, or thereafter becomes so occupied,

(*f*) a house of which the landlord is, at the commencement of this Act, in possession or thereafter comes into possession and the rateable valuation whereof exceeds—

(i) in case the house is situate in the county borough of Dublin or the borough of Dún Laoghaire, thirty pounds,

(ii) in any other case, twenty-five pounds,

(*g*) a dwelling which is a separate and self-contained flat forming part of any buildings which, after the commencement of this Act, were reconstructed by way of conversion into two or more separate and self-contained flats,

(*h*) a dwelling let together with land other than the site of the dwelling, if the rateable valuation of the land exceeds the lesser of the following:

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

(ii) (I) in case the dwelling is situate in the county borough of Dublin or the borough of Dún Laoghaire, ten pounds,

(II) in any other case, five pounds.

(3) The application of this Act to a dwelling forming part of a house (other than a house erected after, or in course of being erected on, the 7th day of May, 1941, or a house the letting of which is under the Labourers Acts, 1883 to 1958, or the Housing of the Working Classes Acts, 1890 to 1958) shall not be excluded by reason only of the fact that this Act does not apply to the house.

(4) Where the rateable valuation of a dwelling is increased and thereby the valuation becomes a valuation which exceeds—

(*a*) in case the dwelling is situate in the county borough of Dublin or the borough of Dún Laoghaire, sixty pounds, or

(*b*) in any other case, forty pounds,

this Act shall, notwithstanding *paragraph* (*a*) of *subsection* (*2*) of this section, continue to apply to the dwelling unless and until the landlord comes into possession thereof.

(5) Where, immediately before the commencement of this Act,—

(*a*) a dwelling stood let together with land other than the site of the dwelling, and

(*b*) the Act of 1946 applied to the dwelling,

this Act shall, notwithstanding *paragraph* (*h*) of *subsection* (*2*) of this section, apply to the dwelling unless and until the landlord comes into possession thereof.

(6) In *paragraph* (*e*) of *subsection* (*2*) of this section " owner " includes a person having any estate or interest in the house except under a contract of tenancy not being for more than a term of twenty-one years.

(7) In *paragraph* (*f*) of *subsection* (*2*) and in *subsections* (*4*) and (*5*) of this section " possession " means actual possession, and a landlord shall not be deemed to have come into possession by reason only of a change of tenancy made with his consent.

Dwellings used in part for business purposes, etc.

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.

Repeals and adaptations of references to repealed Acts.

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

(2) References in any Act passed before the passing of this Act to the Rent Restrictions Acts, 1946 to 1959, or to any of those Acts, shall be construed as references to this Act.

Expenses.

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.

PART II.

Restriction of Rent of Controlled Dwellings.

Chapter 1.

Lawful Rent of Controlled Dwellings.

Basic rent of certain controlled dwellings.

7.—(1) This section applies to—

(*a*) a controlled dwelling in respect of which evidence is forthcoming of both of the following facts—

(i) that it was on the operative date (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 or under a statutory tenancy (within the meaning of the Act of 1946), and

(ii) the rent at which it was so held;

(*b*) a controlled dwelling in respect of which evidence is forthcoming of all the following facts—

(i) that it was not so held on the operative date,

(ii) that it was last so held on a date (in this section also referred to as the relevant date) during the period of three years ending on the operative date, and

(iii) the rent at which it was so held.

(2) The basic rent of a controlled dwelling to which this section applies shall be—

(*a*) in the case of a dwelling specified in the Schedule attached to the Agreement entered into on the 6th day of October, 1960, between the Dublin Artisans' Dwellings Company Limited and the Dublin Artisans' Dwellings Tenants Association and deposited in the Public Record Office— the rent specified in the third column of that Schedule in respect of the dwelling, and

(*b*) in any other case—the net rent at which it was held on the relevant date.

(3) For the purposes of this section, the net rent at which a controlled dwelling was held on the relevant date shall be taken to be—

(*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 the payment, allowance, deduction, set-off or indemnity (as the case may be);

(*b*) in any other case, the rent payable at that date.

Revision of basic rent of controlled dwellings to which *section 7* applies.

8.—(1) (*a*) If, on an application to the Court under this subsection by the landlord of a controlled dwelling to which *section 7* of this Act applies, not being a dwelling referred to in *paragraph* (*a*) of *subsection* (*2*) of that section, the Court is satisfied—

(i) that the basic rent of the dwelling falls short of, by an amount exceeding one-eighth of the basic rent, the rent (in this subsection referred to as the notional rent) which, if the premises were premises to which *section 9* of this Act applies, would be determined by the Court as the basic rent thereof, and

(ii) that the amount of the basic rent was affected by special circumstances,

the basic rent of the dwelling 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 dwelling shall, without prejudice to the previous application thereto of *paragraph* (*a*) of *section 16* of this Act, become a dwelling to which *section 9* of this Act applies as if such determination had been made under that section.

(*b*) In determining pursuant to *paragraph* (*a*) of this subsection the notional rent of a dwelling to which Chapter 1 of Part II of the Act of 1946 applied, " (being dwellings to which Chapter 1 of Part II of the Act of 1946 applied) " shall be regarded as being contained in *subsection* (*2*) of *section 9* of this Act after " controlled dwellings " and, in determining as aforesaid the notional rent of any other dwelling, " (being dwellings to which Chapter 2 of Part II of the Act of 1946 applied) " shall be regarded as being so contained in that subsection.

(2) (*a*) If, on an application to the Court under this subsection by the tenant of a controlled dwelling to which *section 7* of this Act applies, not being a dwelling referred to in *paragraph* (*a*) of *subsection* (*2*) of that section, the Court is satisfied that the basic rent of the dwelling exceeds, by an amount exceeding one-eighth of the basic rent, the rent (in this subsection referred to as the notional rent) which, if the dwelling were a dwelling to which *section 9* of this Act applies, would be determined by the Court as the basic rent thereof, the basic rent of the dwelling 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 dwelling shall, without prejudice to the previous application thereto of *paragraph* (*a*) of *section 16* of this Act, become a dwelling to which *section 9* of this Act applies as if such determination had been made under that section.

(*b*) In determining pursuant to *paragraph* (*a*) of this subsection the notional rent of a dwelling—

(i) the Court shall have regard to any amount expended on the improvement, structural alteration or repair of the dwelling which is an amount by reference to which a lawful addition within the meaning of the Act of 1946 has been obtained, and

(ii) in the case of a dwelling of which the rateable valuation does not exceed ten pounds and which is a dwelling to which Chapter 1 of Part II of the Act of 1946 applied, " (being dwellings to which Chapter 1 of Part II of the Act of 1946 applied) " shall be regarded as being contained in *subsection* (*2*) of *section 9* of this Act after " controlled dwellings " and, in the case of any other dwelling, " (being dwellings to which Chapter 2 of Part II of the Act of 1946 applied) " shall be regarded as being so contained in that subsection.

(3) (*a*) If, on an application to the Court under this subsection by the tenant of a controlled dwelling, the Court is satisfied that the dwelling is a dwelling to which this subsection applies and that the basic rent of the dwelling exceeds the notional rent, the basic rent of the dwelling 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 dwelling shall, without prejudice to the previous application thereto of *paragraph* (*a*) of *section 16* of this Act, become a dwelling to which *section 9* of this Act applies as if such determination had been made under that section.

(*b*) In this subsection—

" dwelling to which this subsection applies " means a controlled dwelling—

(i) to which *section 7* of this Act applies, not being a dwelling referred to in *paragraph* (*a*) of *subsection* (*2*) of that section,

(ii) with respect to which the basic rent (within the meaning of the Act of 1946) was fixed by section 8 of the Act of 1946 or was determined by the Court under that Act, and

(iii) which was held by the tenant on the relevant date at a rent in excess of the lawful rent (within the meaning of the Act of 1946);

" the notional rent " means, in relation to a dwelling,—

(i) in case, 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, the lawful rent (within the meaning of the Act of 1946) at that date less the amount of the payment, allowance, deduction, set-off or indemnity (as the case may be),

(ii) in any other case, the lawful rent (within the meaning of the Act of 1946) at the relevant date;

" the relevant date " has the same meaning as that expression has in *section 7* of this Act.

Basic rent of controlled dwellings to which *section 7* does not apply.

9.—(1) This section applies to every controlled dwelling other than controlled dwellings to which *section 7* of this Act applies.

(2) The basic rent of a controlled dwelling to which this section applies shall be determined by the Court and shall be a rent of such amount as the Court considers reasonable having regard as far as possible to the basic rents of controlled dwellings which are comparable in regard to location, accommodation, amenities, state of repair and rateable valuation.

(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.

10.—(1) In this section " the critical date " means— **Lawful additions to basic rent.**

(*a*) in the case of a controlled dwelling to which *section 7* of this Act applies, the operative date,

(*b*) in the case of a controlled dwelling to which *section 9* of this Act applies—

(i) in case it has become such a dwelling by virtue of *section 8* of this Act, the operative date, and

(ii) in any other case, the date of the institution of the proceedings in which the basic rent of the dwelling is determined.

(2) For the purposes of this Act and subject to the subsequent provisions of this section, 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 a controlled dwelling:

(*a*) in case the landlord of the dwelling 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 the payment, deduction, set-off or indemnity (as the case may be);

(*b*) in case the landlord is liable for the whole or part of the repairs to the dwelling, a sum equal to twelve and one-half per cent. of the basic rent;

(*c*) 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 dwelling, a sum equal to eight per cent. per annum of that amount;

(*d*) in case the landlord, on or after the critical date, expends any amount on repairs to the dwelling 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;

(*e*) in case the landlord, during any period of two years ending on a 31st day of December (being the 31st day of December, 1960, the 31st day of December, 1961, the 31st day of December, 1962 or any subsequent 31st day of December), expends an amount in excess of two-thirds of the basic rent of the dwelling on putting the dwelling into a reasonable state of repair, a sum calculated in accordance with the scale set out in the *Second Schedule* to this Act.

(3) Where—

(*a*) an amount is expended on improvement, structural alteration or repair of a dwelling, being improvement, alteration or repair commencing on or after the 1st day of April, 1961, and

(*b*) apart from this subsection, there would, having regard to paragraph (*c*), (*d*) or (*e*) (as the case may be) of *subsection* (*2*) of this section, be a lawful addition to the basic rent of the dwelling by reference to the amount,

there shall be no lawful addition to the basic rent of the dwelling by reference to the amount unless the landlord has, at least fourteen days before the commencement of the improvement, alteration or repair, served on the tenant a notice in the prescribed form, or a form substantially to the same effect, containing particulars of the work proposed to be done and the estimated cost thereof.

(4) Where—

(*a*) a house consists of two or more controlled dwellings and the landlord of the dwellings expends—

(i) an amount (excluding any amount expended on decoration or repairs) on the improvement or structural alteration of the house, or

(ii) an amount on repairs to the house which are wholly or mainly rendered necessary because of acts of waste by, or the neglect or default of, any of the tenants or any person residing with any of the tenants or any of the lodgers or subtenants of any of the tenants, and

(*b*) all the controlled dwellings benefit directly or indirectly from the improvement, alteration or repairs,

the amount shall, for the purposes of *subsection* (*2*) of this section, be taken as apportioned among the dwellings in proportion to their respective rateable valuations.

(5) Where—

(*a*) a house consists of two or more controlled dwellings and the landlord of the dwellings expends an amount in excess of two-thirds of the aggregate of the basic rents of the dwellings on putting the house into a reasonable state of repair, and

(*b*) all the controlled dwellings benefit directly or indirectly from the repairs,

the following provisions shall have effect for the purposes of *subsection* (*2*) of this section:

(i) a calculation shall be made in accordance with the provisions of *paragraph* (*e*) of that subsection of the sum which would be the lawful addition if the house were a dwelling having a basic rent equal to the aggregate of the basic rents of the dwellings,

(ii) that sum shall be apportioned among the dwellings in proportion to their respective rateable valuations,

(iii) the said *paragraph* (*e*) shall be taken as having provided, as respects each dwelling, for the sum apportioned to it on the apportionment (and no other sum) being a lawful addition to its basic rent.

(6) (*a*) In the case of a dwelling with respect to which there has been, during a relevant period, an excess of expenditure such as is referred to in paragraph (*g*) of subsection (2) of section 11 or paragraph (*e*) of subsection (2) of section 17 of the Act of 1946 (being an excess of expenditure by reference to which there has been a lawful addition within the meaning of that Act) *paragraph* (*b*) of *subsection* (*2*) of this section shall not apply in relation to the dwelling except in a case in which a relevant grant was made in respect of repairs by reference to which the excess of expenditure occurred, and, in any such case, in the calculation of the lawful addition under the said *paragraph* (*b*), the basic rent shall be reduced by the portion thereof which is attributable to the addition under the said paragraph (*g*) or the said paragraph (*e*) (as the case may be).

(*b*) In the case of a dwelling with respect to which there has been, during a relevant period, an excess of expenditure such as is referred to in *paragraph* (*e*) of *subsection* (*2*) of this section (being an excess of expenditure by reference to which there has been a lawful addition), *paragraph* (*b*) of that subsection shall cease to apply in relation to the dwelling except in a case in which a relevant grant was made in respect of repairs by reference to which the excess of expenditure occurred.

(*c*) In this subsection—

"relevant period" means—

(i) in *paragraph* (*a*)—any period of two years ending on a 31st day of December, being the 31st day of December, 1945, or any subsequent 31st day of December not later than the 31st day of December, 1960, and

(ii) in *paragraph* (*b*)—any period of two years ending on a 31st day of December, being the 31st day of December, 1960, or any subsequent 31st day of December;

"relevant grant" means a grant under section 5 of the Housing and Labourers Act, 1937, under that section as extended by section 33 of the Housing (Amendment) Act, 1952, or under section 12 of the Housing (Amendment) Act, 1954. 1937, No. 42. 1952, No. 16. 1954, No. 16.

(7) Where portion of the basic rent of a dwelling is attributable to an addition under paragraph (*g*) of subsection (2) of section 11 or paragraph (*e*) of subsection (2) of section 17 of the Act of 1946 in respect of expenditure during the period of two years ending on the 31st day of December, 1960, *paragraph* (*e*) of *subsection* (*2*) of this section shall have effect in relation to the dwelling as if the references therein to the 31st day of December, 1960, and the 31st day of December, 1961, were omitted.

(8) For the purposes of *subsection* (*2*) of this section, the amount of any grant under the Housing (Financial and Miscellaneous Provisions) Acts, 1932 to 1958, 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.

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

(*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 the small dwelling, and

(*b*) the amount by which the rent of the 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 the small dwelling.

Lawful rent.

11.—The lawful rent of a controlled dwelling shall be—

(*a*) in case there is no lawful addition to the basic rent of the dwelling, the basic rent of the dwelling,

(*b*) in any other case, the sum of the basic rent of the dwelling and the lawful additions thereto.

Chapter 2.

Determination of Rent and Recovery of Overpayments.

Information as to basic rent or lawful rent.

12.—(1) The landlord or the tenant of a controlled dwelling shall, on being so requested by the Court, supply the Court with a statement in writing affording any information in his possession or procurement requisite to enable the Court to determine the basic rent or the lawful rent of the dwelling.

(2) The landlord of a controlled dwelling shall, on being so requested in writing by the tenant, supply the tenant with a state-

ment affording any information in the landlord's possession or procurement requisite to enable the tenant to determine the basic rent or the lawful rent of the dwelling or have it determined by the Court.

(3) The tenant of a controlled dwelling shall, on being so requested in writing by the landlord, supply the landlord with a statement in writing affording any information in the tenant's possession or procurement requisite to enable the landlord to determine the basic rent or the lawful rent of the dwelling or have it determined by the Court.

(4) There shall be implied in every contract, made on or after the 12th day of March, 1946, and before the operative date or made on or after the operative date, for the sale of any interest in a controlled dwelling (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 or the lawful rent of the dwelling or any part thereof.

(5) Every stipulation in a contract for the sale of a dwelling, whereby the purchaser is precluded from making requisitions as to the matters mentioned in *subsection* (*4*) of this section shall be void.

(6) If, without reasonable excuse, a person requested under *subsection* (*1*), (*2*) or (*3*) of this section to supply a statement fails within twenty-eight days to do so or supplies a statement which is false or misleading in any material particular and not proved to have been made innocently and without intent to deceive, he shall be guilty of an offence and shall, on summary conviction thereof, be liable to a fine not exceeding fifty pounds.

Determination of rent to be paid by tenants.

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

(*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 dwelling, 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 dwelling;

(*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 dwelling;

(*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 dwelling;

(*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 dwelling on the operative date, or the then lawful rent (whichever is the lesser), or if the statutory tenant has since the opera-

tive 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 dwelling;

(*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 dwelling 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, subject to this section, be and continue to be the rent to be paid in respect of the dwelling.

(2) In the case of a controlled dwelling to which *section 9* of this Act applies and of which the basic rent has not been determined under that section, where the landlord serves on the tenant a notice under this section increasing the rent to a rent consisting of the aggregate of—

(*a*) the rent (to be specified in the notice) which the landlord considers would be determined by the Court as the basic rent, and

(*b*) the lawful additions (to be specified in the notice) which he considers could properly be added to that basic rent,

such increased rent shall, until varied by agreement or by the Court, be and continue to be the rent to be paid by the tenant in respect of the dwelling.

(3) 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.

(4) The following provisions shall have effect with respect to notices under *subsection* (*1*) or *subsection* (*2*) of this section:

(*a*) in case—

(i) 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, and

(ii) the increase is not an increase based solely on an increase of the rates payable on a dwelling any tenant of which has availed himself of this Act or of any of the former enactments relating to restriction of rent to obtain a reduction of the rent of the dwelling,

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.

(5) 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 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.

(6) At any time after the expiry of a notice under *paragraph* (*b*) of *subsection* (*1*) or under *subsection* (*2*) of this section increasing the rent of any controlled dwelling by an amount consisting of or including any sum in respect of the matters mentioned in *paragraph* (*c*), (*d*) or (*e*) of *subsection* (*2*) of *section 10* of this Act, the Court may, on the application of the tenant, if satisfied either—

(i) 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, or

(ii) that the improvements, structural alterations or repairs have not been carried out satisfactorily,

disallow or reduce the increase accordingly, as from such date (whether before the date of the application or otherwise) as the Court thinks fit.

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

14.—(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 controlled dwelling is 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 controlled dwelling is 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.

(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 controlled dwelling in repair.

15.—(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 dwelling to which Chapter 1 of Part II of the Act of 1946 applied on the ground that the dwelling is not in all respects in good and tenantable repair.

(2) Where any application is made under this section, the Court, on being satisfied that the dwelling is not in all respects in good and tenantable repair and on being further satisfied that the condition of the dwelling 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 dwelling be reduced by such amount, not exceeding twenty per cent. of the lawful rent, as the Court thinks proper.

(3) For the purposes of this section, a certificate of the sanitary authority that the controlled dwelling to which the application relates is 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 any such application by the landlord, the Court refuses to make an order terminating the reduction and 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 dwelling 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, where that fee has been paid by the tenant, the Court may order that he shall be entitled to deduct it from any subsequent payment of rent.

(6) In this section the expression " sanitary authority " means the sanitary authority under the Local Government (Sanitary Services) Acts, 1878 to 1952.

Sums declared to be irrecoverable.

16.—If—

(*a*) the rent of a controlled dwelling (being a dwelling to which *section 7* 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 that dwelling in respect of that period, or

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

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

Recovery of overpayments.

17.—(1) Where any sum—

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

(*b*) is a sum declared by *section 16* of this Act to be irrecoverable from the tenant,

such sum shall, subject to *section 18* 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.

(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 and shall, on summary conviction thereof, be liable to a fine not exceeding ten pounds unless he proves that he acted innocently and without intent to deceive and that the entry was made in respect of a period during which proceedings in respect of the controlled dwelling were pending.

Limitation on recovery of overpayments.

18.—(1) No person shall be entitled to recover in any manner any sum paid on account of rent which is by *section 16* of this

Act declared to be irrecoverable from the tenant save within two years next after the payment of that sum.

(2) Without prejudice to any proceedings instituted before the passing of this Act, no person shall be entitled to recover in any manner any sum paid on account of rent which is by section 23 of the Act of 1946 declared to be irrecoverable from the tenant.

PART III.

Special Provisions for Relief of Tenants of Small Controlled Dwellings.

Interpretation of *Part III*.

19.—(1) In this Part—

" appointed area " means any area being—

(*a*) the area consisting of—

(i) the county borough of Dublin,

(ii) the borough of Dún Laoghaire, and

(iii) the parts of the Dublin Metropolitan District outside the area consisting of the county borough of Dublin and the borough of Dún Laoghaire,

(*b*) the county borough of Cork,

(*c*) the county borough of Limerick,

(*d*) the county borough of Waterford, or

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

" court area " means—

(*a*) in a case in which the relevant dwelling is situate in the Dublin Metropolitan District—that District, and

(*b*) in any other case—the district court area in which the relevant dwelling is situate;

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

" provisional order " means an order under *section 21* of this Act;

" small controlled dwelling " means a controlled dwelling situate in an appointed area, being a dwelling to which Chapter 1 of Part II of the Act of 1946 applied and being—

(*a*) in case that area is prescribed by regulations, a dwelling the rateable valuation whereof does not exceed such amount (not being more than ten pounds) as may be prescribed, or

(*b*) in any other case, a dwelling the rateable valuation whereof does not exceed ten pounds.

(2) Any reference in this Part to the District Court Clerk shall, where there are two or more District Court Clerks for the court area concerned, be construed as a reference to any of those Clerks.

(3) Where it is provided in this Part that a District Justice is to cause a document to be served, it may be served in the same manner as a summons under the rules of the District Court for the time being in force.

Applications for provisional orders.

20.—(1) The tenant of a dwelling which he claims to be a small controlled dwelling may apply to the District Justice assigned to the district in which the dwelling is situate for a provisional order fixing the lawful rent of the dwelling.

(2) Every application under this section shall be made by the tenant attending, in person or by agent, the District Court Clerk of the court area in which the dwelling concerned is 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 and shall, on summary conviction thereof, be liable to a fine not exceeding ten pounds.

(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 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.

Making of provisional orders.

21.—(1) Where an application under *section 20* of this Act is referred to a District Justice—

(*a*) the District Justice shall deal with the application privately unless a hearing in open court becomes appropriate in accordance with *paragraph* (*e*) of this subsection;

(*b*) the District Justice, unless it appears to him that the application should be refused, shall cause a notice to be served upon the landlord informing him that the application has been made, stating particulars of the application and requiring him to furnish within fourteen days after the service of the notice, to the District Court Clerk of the court area in which the dwelling concerned is situate, such information in the landlord's possession as might assist the Justice in making a provisional order determining the lawful rent of the dwelling;

(*c*) as soon as may be after the said information has been furnished or the expiration of the said fourteen days (whichever first occurs) and, if a reference under *section 28* is made, after receipt of the report made on the reference, the District Justice shall, subject to *paragraphs* (*d*) and (*e*) of this subsection, proceed as follows:

(i) in case it appears to him—

(I) that the dwelling is a small controlled dwelling to which *section 7* of this Act applies and the basic rent does not exceed, by an amount exceeding one-eighth of the basic rent, the rent which, if the dwelling were a dwelling to which *section 9* of this Act applies, would, if " (being dwellings to which Chapter 1 of Part II of the Act of 1946 applied) " were contained in *subsection* (*2*) of the said *section 9* after " controlled dwellings ", be determined by the Court as the basic rent thereof, or

(II) that the dwelling is a small controlled dwelling to which *section 9* of this Act applies, the basic rent whereof has already been deter-

mined by the Court, and that the amount of that basic rent is ascertainable,

he may by order determine provisionally—

(A) the lawful additions to the basic rent of the dwelling, and

(B) the lawful rent of the dwelling;

(ii) in case it appears to him that the dwelling is a small controlled dwelling to which *subparagraph* (*i*) of this paragraph does not apply, he may by order determine provisionally—

(I) the basic rent of the dwelling under *section 9* of this Act,

(II) the lawful additions to the basic rent of the dwelling, and

(III) the lawful rent of the dwelling;

(*d*) in case it appears to the District Justice that the lawful rent of the dwelling, if determined by a provisional order, would equal or exceed the existing rent, he shall dismiss the application and cause the tenant and the landlord to be informed of the dismissal and of the fact that the dismissal does not prejudice the right of either of them to apply to the Court under this Act, other than this Part, to have the rent determined;

(*e*) in case—

(i) the District Justice is not satisfied that he has jurisdiction to make a provisional order, or

(ii) the landlord has claimed an addition in respect of moneys alleged to have been expended on improvements, structural alterations or repairs and the District Justice is not satisfied that the landlord's claim should be allowed without formal evidence and without giving the tenant an opportunity to contest the claim,

the District Justice shall hear the application in open court and, for that purpose, shall cause the application to be listed for hearing, shall fix a date for the hearing and shall cause the landlord and tenant (who shall be entitled to appear and be represented at the hearing) to be notified accordingly;

(*f*) if the dwelling is not separately valued under the Valuation Acts and an apportionment in relation thereto has not already been made under *section 41* of this Act, then, for the purposes of this Act, the District Justice may by order provisionally apportion to the premises such part as he thinks proper of the rateable valuation of the property in which the dwelling is comprised;

(*g*) if it appears to the District Justice that the rent of the dwelling includes payments for any of the matters referred to in *paragraph* (*d*) of *subsection* (*2*) of *section 3* of this Act, he may by the provisional order (if made) apportion the rent for the purposes of this Act and, accordingly, references to "the Court" in that paragraph shall be construed as including references to the District Justice dealing with the application.

(2) An appeal shall not lie to the Circuit Court from the determination of a District Justice on an application under *section 20* of this Act.

Provisions as to provisional orders.

22.—(1) Where a District Justice makes a provisional order in relation to any dwelling, he shall as soon as may be cause a copy thereof to be served on the landlord and on the tenant.

(2) Subject to *paragraph* (*a*) of *subsection* (*1*) of *section 23* and notwithstanding *section 13* 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 dwelling to which the order applies.

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

Application by landlord or tenant in relation to provisional order.

23.—(1) The landlord or the tenant of any dwelling in respect of which a provisional order has been made may, within one month 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:

(*a*) if on the hearing of the application it appears to the Court that the dwelling is not a small controlled dwelling, the Court shall, subject to *paragraph* (*a*) of *subsection* (*2*) of this section, revoke the provisional order with effect retrospectively from the date of the making thereof;

(*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 dwelling as the circumstances may require;

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

(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

(iii) for the purpose of the application of *section 13* of this Act, the tenant shall be deemed to have entered into an agreement with the landlord to pay in respect of the dwelling a rent equal to the lawful rent of the dwelling as determined by the said order made under *paragraph* (*b*) of this subsection;

(*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 dwelling, whether on account of rent or under any provision of this Act.

(2) Where, on the application under this section of a landlord, a provisional order is revoked or modified under *subsection* (*1*) of this section on the ground of information (in the form of evidence adduced by or on his behalf) which he refused or neglected to supply pursuant to a notice served on him under *paragraph* (*b*) of *subsection* (*1*) of *section 21* of this Act—

(*a*) the Court shall not give retrospective effect to the revocation or modification, as the case may be, of the order, and

(*b*) unless the Court for good cause orders otherwise, costs shall be awarded against the landlord and, if a valuer, who pursuant to *section 28* of this Act made a report relating to the relevant dwelling, attended at the hearing of the application, the landlord shall be ordered to pay in respect of his attendance such fee as the Court may fix.

(3) The costs of the parties in an application under this section shall, subject to *paragraph* (*b*) of *subsection* (*2*) of this section, 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.

(4) 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 or tenant.

24.—(1) Where a provisional order has been made and—

(*a*) the landlord has not, within one month after the date of service on him of a copy of the order, applied under *subsection* (*1*) of *section 23* of this Act, and

(*b*) the tenant has not, within one month after the date of service on him of a copy of the order, applied under that subsection,

the following provisions shall have effect notwithstanding anything in any other provision of this Act:

(i) the terms of the provisional order shall be deemed to have been confirmed by the District Court by order under *subsection* (*1*) of *section 23* of this Act and the provisions of *paragraph* (*c*) of that subsection shall apply accordingly;

(ii) 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 dwelling, the District Justice having jurisdiction for the purposes of this Act in the district in which the dwelling is situate shall cause to be served 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*).

Exemption from Court fees.

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

Review on grounds of fraud, surprise, mistake or disability.

26.—(1) Where, under *paragraph* (*i*) of *subsection* (*1*) of *section 24* of this Act, the terms of a provisional order are deemed to have been confirmed, the landlord or the tenant may at any time apply to the Court for a review of the case on the grounds of fraud, surprise, mistake or disability.

(2) Where, on an application under this section, the Court is satisfied that any ground on which the application is made existed, the Court may make such new and further orders as justice may require, including any order awarding costs which the Court considers proper.

(3) An order under *subsection* (*2*) of this section may modify or terminate the effect of any previous order made in the case and, where fraud is proved, may be retrospective.

27.—(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. **District court valuers.**

(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.

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

(5) Neither the Civil Service Commissioners Act, 1956, nor the Civil Service Regulation Act, 1956, shall apply to the situation of district court valuer. **1956, No. 45.** **1956, No. 46.**

28.—(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 a small controlled dwelling the subject of any proceedings before him under this Part or involving the rent being paid or payable for other small controlled dwellings. **Reference by District Justices of questions affecting rateable valuation or rent of small controlled dwellings to valuers.**

(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 controlled dwelling the subject of proceedings before him under this Part or involving the rent being paid or payable for other small controlled dwellings.

(3) Where a report is made on a reference under *subsection* (*1*) or *subsection* (*2*) of this section in relation to proceedings under this Part—

(*a*) the landlord and the tenant of the relevant controlled dwelling shall, on application to the district court office, be entitled to obtain copies of the report, and

(*b*) the District Justice may, and shall on a *bona fide* request by such landlord or tenant, require the valuer to attend the proceedings.

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

(5) 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 dwelling specified in that behalf in such authorisation.

(6) 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* (*5*) of this section, or obstructs or interferes with him in the exercise of those powers, he shall be guilty of an offence 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.

29.—(1) Subject to *subsections* (*3*) and (*4*) of this section, an order for the recovery of possession of a controlled dwelling shall not be made unless the Court considers it reasonable to make the order and— **Restrictions on landlord's right to possession of controlled dwelling.**

(*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

(*b*) any person (being the tenant, any individual residing with the tenant, or any of the tenant's lodgers or subtenants) has been guilty of conduct which is a nuisance or annoyance to the landlord or his agent, or to adjoining occupiers, or has used the dwelling or allowed the dwelling to be used for an immoral or illegal purpose (whether or not he has been convicted of so using it or allowing it to be so used), or

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

(*d*) the tenant has given notice to quit, and in consequence of that notice the landlord has contracted to sell or let the dwelling 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*) the dwelling is reasonably required by the landlord for occupation as a residence for himself or any person *bona fide* residing or to reside with him and either—

(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

(ii) the Court is satisfied that alternative accommodation, reasonably suitable to the residential and other needs of the tenant and his family, is available in a controlled dwelling, or

(*f*) the dwelling is reasonably required by the landlord for occupation as a residence for some person in his whole time employment, and the Court is satisfied that alternative accommodation, reasonably suitable to the residential and other needs of the tenant and his family, is available in a controlled dwelling, or

(*g*) the dwelling is *bona fide* required by the landlord for occupation as a residence for some person who holds a controlled dwelling as a tenant of the landlord and has so held it for a period of not less than twelve months and the Court is satisfied—

(i) that alternative accommodation in that controlled dwelling is or will be available, and

(ii) that the alternative accommodation is reasonably suitable to the residential and other needs of the tenant from whom it is proposed to recover possession, or

(*h*) the dwelling is 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, or

(*i*) the landlord is suffering financial stringency which arose since he acquired the dwelling and which can be relieved only by recovering possession of the dwelling with a view to its sale and he is prepared to pay by way of compensation to the tenant such sum as the Court considers proper, not exceeding three years' rent (including rates, whether or not payable by the tenant), or

(*j*) possession of the dwelling is required in the interests of good estate management or for the erection of further

dwellings or for the erection or extension of premises used for any business, trade or profession and the landlord is prepared to pay by way of compensation to the tenant such sum as the Court considers proper, being not less than three years' rent (including rates, whether or not payable by the tenant), or

(*k*) the Court is satisfied, the dwelling being a dwelling in which the tenant is required by his contract of tenancy to carry on a business restricted in whole or in part to dealing in commodities produced or supplied by the landlord, that, owing to the unsuitability of the tenant or the manner in which the business is being carried on, the sales of those commodities are, or are likely to be, prejudicially affected.

(2) In considering whether it is reasonable to make an order for the recovery of possession of a controlled dwelling, the Court shall have regard to the extent, if any, to which the conduct of the landlord contributed to the existence of the grounds upon which he relies in support of his application for recovery of possession.

(3) 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 dwelling where—

(*a*) the tenant has sublet the dwelling, 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 dwelling under this Act, notwithstanding the order against the tenant.

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

(5) Where—

(*a*) an order for the recovery of possession of a controlled dwelling has been made by virtue of *paragraph* (*e*), (*f*) or (*g*) of *subsection* (*1*) of this section,

(*b*) the tenant appeals against the order, and

(*c*) the appellate court is satisfied that the alternative accommodation which was offered and which was available at the time of the first hearing was reasonably suitable to the residential and other needs of the tenant and his family,

the following provisions shall have effect:

(i) the appellate court shall not have regard to whether or not any alternative accommodation is available at the time of the hearing of the appeal,

(ii) if the appellate court is satisfied that the alternative accommodation which was offered and which was available at the time of the first hearing has been kept available for the tenant and that the landlord has incurred expense or loss in keeping it available, the appellate court may order the tenant to pay to the landlord compensation for the expense or loss incurred between the date of the original order and the date of the appeal.

(6) In making a decision, pursuant to *paragraph* (*e*), (*f*) or (*g*) of *subsection* (*1*) or *paragraph* (*c*) of *subsection* (*5*) of this section, as to the suitability of alternative accommodation, the Court or the appellate court (as the case may be) shall, in particular, take into account the proximity of the accommodation to the place of work of the tenant and of the members of his family residing with him,

the means of the tenant and of the members of his family residing with him and the extent and character of the accommodation.

(7) A sum by way of compensation referred to in *paragraph* (*i*) or (*j*) of *subsection* (*1*) of this section shall be paid into Court for the tenant and the order for possession shall not be issued unless and until it is so paid.

Saving for rights of subtenants.

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

Statutory tenancy.

31.—(1) If an order for the recovery of possession of a controlled dwelling is refused by the Court on the ground that the tenant is entitled to retain possession of the dwelling 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 a controlled dwelling terminates, either as the result of an order for possession or for any other reason, a subtenant to whom the dwelling or any part thereof has been lawfully sublet shall, subject to this Act, be entitled to retain possession of the dwelling 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) (*a*) Where a non-statutory tenant of a controlled dwelling dies leaving him surviving his wife or any member of his family who was *bona fide* residing with him at the time of his death and either—

(i) in the case of an intestacy, the tenancy of the non-statutory tenant terminates before administration is granted in respect of his estate or during administration of his estate, or

(ii) in any other case, the tenancy of the non-statutory tenant terminates while the executor is not in occupation of the dwelling,

the following provisions shall have effect :

(I) in case the non-statutory tenant leaves him surviving his wife, who was *bona fide* residing with him at the time of his death, she shall be entitled to retain possession of the dwelling under the same terms and conditions as the deceased non-statutory tenant;

(II) in case the non-statutory tenant does not leave a wife who was *bona fide* residing with him at the time of his death, such member of his family who was *bona fide* residing with him at the time of his death 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.

(*b*) Where a non-statutory tenant of a controlled dwelling, who is a woman, dies leaving her surviving her husband or any member of her family who was *bona fide* residing with her at the time of her death and either—

(i) in the case of an intestacy, the tenancy of the non-statutory tenant terminates before administration is granted in respect of her estate or during administration of her estate, or

(ii) in any other case, the tenancy of the non-statutory tenant terminates while the executor is not in occupation of the dwelling,

subparagraphs (*I*) and (*II*) of *paragraph* (*a*) 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 non-statutory tenant who is a man.

(4) On the death of the statutory tenant of a controlled dwelling the following provisions shall have effect:

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

(*b*) in case the statutory tenant does not leave a wife who was *bona fide* residing with him at the time of his death, such member of the statutory tenant's family who was *bona fide* residing with him at the time of his death 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 who is 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.

(5) In construing the word "family" for the purposes of *subsection* (*3*) or *subsection* (*4*) of this section—

(*a*) a person shall be taken as being included among the persons to whom the word refers if, but only if, such person is the tenant's father, mother, grandfather, grandmother, step-father, step-mother, father-in-law, mother-in-law, son-in-law, daughter-in-law, son, daughter, nephew, niece, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother, half-sister, uncle or aunt;

(*b*) a person adopted under the Adoption Act, 1952, shall be considered the legitimate offspring of the adopter or adopters, 1952, No. 25.

(*c*) subject to the foregoing paragraph, an illegitimate person shall be considered the legitimate offspring of his mother and reputed father, and

(*d*) unless the relevant *bona fide* residence with the tenant was a residence which began less than six years before the tenant's death, a person *in loco parentis* to another shall be considered the parent of that other.

Conditions of statutory tenancy.

32.—(1) A statutory tenant shall, so long as he retains possession of a controlled dwelling 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 dwelling

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.

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

(3) (*a*) A statutory tenant shall not, as a condition of the assignment or giving up possession of a controlled dwelling, 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 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 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 dwelling—

(*a*) that the tenant shall afford to the landlord access thereto for the purpose of viewing the condition and state of repair of the dwelling 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 dwelling 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.

1860, c. 154.

(5) Where, on or after the operative date, a controlled dwelling is 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 dwelling is, at the date of the assignment, being lawfully used in part for the purposes of any business, trade or profession, the assignee shall, from the said date, be deemed to hold the dwelling in accordance with whichever of the following subparagraphs is applicable—

(i) in case evidence is forthcoming that the dwelling was, 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 dwelling 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 dwelling was 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 dwelling 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 dwelling on the same terms and conditions as the assignor;

(*b*) if the dwelling is a dwelling to which *paragraph* (*a*) of this subsection does not relate, the assignee shall be entitled to retain possession of the dwelling on the same terms and conditions as the assignor.

Powers of Court in ejectment proceedings.

33.—(1) Where an order for the recovery of possession of a controlled dwelling 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.

(2) Where the Court, under *subsection* (*1*) of this section, stays execution on an order for the recovery of possession of a controlled dwelling or postpones the date of possession, the Court may from time to time, on application, which may in case of urgency be made *ex parte*, further stay execution on the order or further postpone the date of possession.

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

1851, c. 92.

34.—(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, a controlled dwelling shall remain in force for six 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 six months, direct.

(2) Section 15 of the Summary Jurisdiction (Ireland) Act, 1851, shall apply to every controlled dwelling 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.

35.—Where the landlord of a controlled dwelling serves a notice to quit on the tenant of the dwelling, 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 dwelling, that is to say:

(*a*) if he institutes proceedings for the recovery of possession of the dwelling 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 dwelling is made, any such sum so accepted shall be treated as mesne profits.

Order for possession obtained by misrepresentation.

36.—Where it appears to the Court that an order for possession of a controlled dwelling 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.

Non-application of *sections 29* and *30* to lettings for temporary convenience, etc.

37.—*Sections 29* and *30* of this Act shall not apply—

(*a*) to a controlled dwelling let to a person during his continuance in any office, appointment or employment, or

(*b*) to a controlled dwelling let *bona fide* for the temporary convenience or to meet a temporary necessity of the landlord or the tenant.

Saving for rights of local authorities.

38.—Nothing in this Part shall prevent a local authority from obtaining possession of any controlled dwelling 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.

PART V.

Miscellaneous.

Liability for repairs.

39.—For the purposes of *paragraph* (*b*) of *subsection* (*2*) of *section 10* and *sections 14, 15* and *40* 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.

1860, c. 154.

Payment to tenant in case of disrepair of controlled dwelling owing to default of landlord.

40.—(1) Subject to the subsequent provisions of this section, where owing to the default of the landlord a controlled dwelling is 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 dwelling into good and tenantable repair.

(2) The Court may refuse to make an order under this section if the landlord satisfies the Court that, having regard to the age, condition, character and situation of the relevant controlled dwelling,—

(*a*) the cost of putting it into good and tenantable repair would involve an expenditure which would be excessive having regard to the value of the dwelling or the rent which a tenant might reasonably be expected to pay, or

(*b*) the dwelling could be put into good and tenantable repair only by being rebuilt or reconstructed or structurally altered to a substantial extent.

(3) If, at the time of the application for or the making of any order under this section, the landlord undertakes to put the relevant controlled dwelling 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.

(4) A sum awarded to a tenant by an order under this section shall be expended on suitable repairs to the controlled dwelling 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.

(5) 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.

Apportionment of rateable valuation by Commissioner of Valuation.

41.—(1) Where a dwelling is 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 dwelling, apportion to the dwelling such part as he thinks proper of the rateable valuation of the property in which the dwelling is comprised, and the part so apportioned to the said dwelling shall be taken to be the rateable valuation of the dwelling 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.

Restrictions on premiums.

42.—(1) A person shall not, as a condition of the grant, renewal, or continuance of a tenancy or subtenancy of any controlled dwelling, 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 dwelling, 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 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 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 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 dwelling 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.

Restriction on levy of distress for rent.

43.—(1) No distress for the rent of a controlled dwelling shall be levied except by order of the Court.

(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.

Method of recovery of sums due by landlords to tenants.

44.—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.

Restriction of certain orders.

45.—(1) An order to which this section applies shall be binding only as between the parties consenting thereto and, save as between those parties, shall be disregarded by the Court in determining or adjusting a basic rent.

(2) This section applies to an order made by any court on consent—

(*a*) which was made for the purposes of this Act, with respect to the determination or apportionment of the basic rent, or the apportionment of a rateable valuation, of a controlled dwelling, or

(*b*) which was made before the commencement of this Act, for the purposes of any of the former enactments relating to restriction of rent, with respect to the determination of a rent corresponding to a basic rent, or the apportionment of a rateable valuation, of a house or part of a house.

Recovery of deposit made as security for payment of rent.

46.—(1) Where—

(*a*) the tenancy of a controlled dwelling (being a tenancy which commenced after the commencement of this Act) having terminated, possession of the dwelling is surrendered, and

(*b*) a deposit made as security for payment of the rent stands not repaid, and

(*c*) the person to whom the rent was last paid is not the person with whom the deposit was made,

the deposit shall be deemed, for the purposes of the recovery thereof, to have been made with the person to whom the rent was last paid.

(2) Where—

(*a*) during the tenancy of a controlled dwelling (being a tenancy which commenced after the commencement of this Act) a deposit made as security for payment of the rent stands made, and

(*b*) the deposit is not an approved deposit,

the deposit shall be recoverable on demand and, for that purpose, shall be deemed, in a case in which the person to whom the rent was last paid is not the person with whom the deposit was made, to have been made with the person to whom the rent was last paid.

(3) In *subsection* (*2*) of this section " approved deposit " means a deposit satisfying the following requirements:

(*a*) that it does not exceed in amount a sum equivalent to three months' rent, and

(*b*) that its amount, in case the agreement for the tenancy was made in writing, was set out in or endorsed on that agreement and, in any other case, was set out at the time it was made in the rent book.

(4) There shall be implied in every contract made after the commencement of this Act for the sale of any interest in a controlled dwelling a provision (if not already expressly included) binding the vendor to give (by way of statutory declaration if so required) to the purchaser any information in the vendor's possession or procurement regarding any deposit made after such commencement by a tenant of the dwelling as security for payment of the rent.

Provisions in relation to certain sublettings.

47.—(1) Where the tenant of a controlled dwelling (being a tenant under a contract of tenancy for a term not exceeding twenty-one years) sublets part of the dwelling solely for the purposes of any business, trade or profession, the landlord of the tenant may at any time while the subtenancy subsists, by not less than three months' notice expiring on any gale day served on the tenant, determine the tenancy of the tenant and thereupon—

(*a*) the subtenant shall become immediate tenant, of the part sublet to him, to such landlord on the same terms and conditions as those on which he previously held from the tenant, and

(*b*) the tenant shall become immediate tenant, of the remainder of the dwelling, to such landlord at so much of his former rent as is, on apportionment (to be made, in default of agreement, by the Court) attributable to such remainder and, subject thereto, on the same terms and conditions as he previously held the dwelling from such landlord.

(2) Where the tenant of a controlled dwelling (being a tenant under a contract of tenancy for a term not exceeding twenty-one years) retains and uses solely for the purposes of any business, trade or profession part of the dwelling and sublets the remainder so that it becomes a controlled dwelling, the landlord of the tenant may at any time while the subtenancy subsists, by not less than three months' notice expiring on any gale day served on the tenant, determine the tenancy of the tenant and thereupon—

(*a*) the subtenant shall become immediate tenant, of the part sublet to him, to such landlord on the same terms and conditions, but subject to this Act, as those on which he previously held from the tenant, and

(*b*) for the purposes of the Landlord and Tenant Act, 1931, the tenant shall be deemed always to have held a tenancy in that part only of the dwelling which he retained and used solely for the purposes of any business, trade or profession and the references to a notice to quit in sections 19 and 24 of that Act shall be construed as references to the notice under this subsection.

1931, No. 55.

Regulations.

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

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

(*b*) the custody of such rent books;

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

(*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;

(*f*) the compilation of registers of rents of controlled dwellings, or any classes of such dwellings, 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;

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

(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 and shall, on summary conviction thereof, be liable to a fine not exceeding ten pounds.

(3) (*a*) On an application by a landlord of a controlled dwelling, 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—

(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

(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.

(*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 a controlled dwelling, 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.

(*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 and shall, on summary conviction thereof, be liable to a fine not exceeding ten pounds.

(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.

Powers of the Court generally.

49.—(1) Where, for the purpose of determining the rateable valuation of a dwelling which is alleged to be a controlled dwelling, it is necessary to apportion the rateable valuation of the property in which the dwelling is comprised (such apportionment not having already been made under *section 41* of this Act), the Court may, on the application of either party, make such apportionment as it thinks proper.

(2) Where a dwelling is let or was 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, or for the supply to the dwelling of heat, hot water, fuel, electricity or any other commodity or for the rendering of any service in connection with the dwelling, the Court may for any of the purposes of this Act make such apportionment as it thinks proper.

(3) On the hearing of an action for the recovery of possession of a controlled dwelling 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 a controlled dwelling, 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.

(4) The Court shall, if satisfied that any error or omission in a notice served under *section 13* 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 13*.

(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.

Exercise of jurisdiction of Court.

50.—The jurisdiction and powers conferred on the Court by this Act may be exercised—

(*a*) by the Circuit Court, or

(*b*) where—

(i) the rateable valuation of the relevant dwelling does not exceed £10, or

(ii) an order for recovery of possession of the relevant dwelling is sought, the rent of the dwelling being a rent which does not exceed such sum as amounts or might amount to £53 per annum, or

(iii) the parties consent in writing to such exercise,

by the District Court.

Continuance of pending proceedings.

51.—(1) Where, immediately before the operative date, proceedings stood pending for the determination of the basic rent (within the meaning of the Act of 1946) of any dwelling, the proceedings shall continue and shall be treated as if they were proceedings under *subsection* (*1*) or *subsection* (*2*) (as may be appropriate) of *section 8* of this Act.

(2) (*a*) Where, immediately before the operative date, an application which was made under section 28 of the Act of 1946 stood not dealt with under section 29 of that Act, the application shall be treated for the purposes of this Act as an application which was made under *section 20* of this Act and, if the application was referred pursuant to subsection (2) of section 28 of the Act of 1946 to the appropriate District Justice, it shall be taken for the purposes of this Act as having been referred pursuant to *subsection* (*2*) of *section 20* of this Act to that Justice.

(*b*) Where a provisional order which was made on a particular date under section 29 of the Act of 1946 stood in force immediately before the operative date, the order shall be treated for the purposes of this Act as a provisional order which was made on that date under *subparagraph* (*ii*) of *paragraph* (*c*) of *subsection* (*1*) of *section 21* of this Act, subject to the modifications that, with respect to the order, the references to one month in *subsection* (*1*) of *section 23* and *paragraph* (*a*) of *subsection* (*1*) of *section 24* of this Act shall be construed as references to three months and that in the order—

(i) for the amount specified therein as the basic rent of the dwelling in question there shall be substituted an amount equal to the lawful rent so specified less any amount so specified in respect of rates, and

(ii) for the amount so specified in respect of lawful additions there shall be substituted an amount equal to any amount so specified in respect of rates,

and, if a copy of the order was served pursuant to subsection (1) of section 30 of the Act of 1946 on a particular date before the operative date, a copy thereof shall be taken for the purposes of this Act as having been served pursuant to *subsection* (*1*) of *section 22* of this Act on that date.

(3) Where, immediately before the operative date, any proceedings, other than proceedings referred to in the foregoing subsections of this section, stood pending under the Act of 1946, the proceedings shall continue and shall be treated as if they were proceedings under the corresponding provisions of this Act.

Position of statutory tenants under Act of 1946.

52.—To avoid doubts, it is hereby declared that any person who, immediately before the operative date, was a statutory tenant (within the meaning of the Act of 1946) of a dwelling shall, subject to this Act, be entitled to retain possession of the dwelling.

Rules as to procedure.

53.—(1) Until rules are made regulating the practice and procedure of the Circuit Court for the purposes of this Act, the rules regulating the practice and procedure of the Circuit Court for the purposes of the Act of 1946 shall apply for the purposes of this Act with the necessary modifications.

1923, No. 19.

(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 Increase of Rent and Mortgage Interest (Restrictions) Act, 1923, so far as they relate to the District Court, and the District Court Rules (No. 1), 1947, shall apply for the purposes of this Act with the necessary modifications.

Application of Landlord and Tenant Act, 1931, to certain premises.

54.—(1) This section applies to premises which, immediately before the operative date, were—

(*a*) controlled premises within the meaning of the Act of 1946 and business premises within that meaning, and

(*b*) premises the letting of which was not—

(i) a letting made and expressed to be made for the temporary convenience of the landlord or of the tenant and (if made after the 22nd day of December, 1931) stating the nature of such temporary convenience, or

(ii) a letting made for or dependent on the continuance of the tenant in any office, employment or appointment.

1931, No. 55.

(2) The Landlord and Tenant Act, 1931, shall apply to all premises to which this section applies and for that purpose—

(i) "tenement" in that Act shall include all such premises,

(ii) "business" in that Act shall include all trades, professions and businesses, whether or not carried on for gain or reward, and also the public service,

(iii) subsection (1) of section 19 of that Act shall have effect as if the following word and paragraph were added thereto:
"or

(*e*) such tenement is premises referred to in *subsection* (*1*) of *section 54* of the Rent Restrictions Act, 1960.",

(iv) in any application of paragraph (a) of subsection (2) of section 24 of that Act to any such premises, the reference in that paragraph to one month shall be construed as a reference to six months,

(v) where any such premises were, immediately before the operative date, held under a statutory tenancy within the meaning of the Act of 1946, the tenant under that tenancy shall, on and after that date, be deemed to hold the premises from the landlord under a tenancy having the same terms and conditions as the statutory tenancy except that the landlord may, by not less than three months' notice expiring on any gale day served on the tenant, determine the tenancy,

(vi) any notice under the foregoing paragraph shall, for the purposes of paragraph (a) of subsection (2) of section 24 of that Act be deemed to be a notice to quit.

FIRST SCHEDULE.

Section 5.

ENACTMENTS REPEALED.

Number and Year	Short title	Extent of Repeal
No. 4 of 1946.	Rent Restrictions Act, 1946.	The whole Act.
No. 24 of 1949.	Rent Restrictions (Amendment) Act, 1949.	The whole Act.
No. 28 of 1950.	Rent Restrictions (Continuance and Amendment) Act, 1950.	The whole Act.
No. 20 of 1952.	Rent Restrictions (Continuance and Amendment) Act, 1952.	The whole Act.
No. 34 of 1953.	Rent Restrictions (Continuance and Amendment) Act, 1953.	The whole Act.
No. 2 of 1954.	Rent Restrictions (Amendment) Act, 1954.	The whole Act.
No. 34 of 1954.	Rent Restrictions (Continuance and Amendment) Act, 1954.	The whole Act.
No. 24 of 1955.	Rent Restrictions (Continuance and Amendment) Act, 1955.	The whole Act.
No. 43 of 1956.	Rent Restrictions (Continuance and Amendment) Act, 1956.	The whole Act.
No. 22 of 1957.	Rent Restrictions (Continuance and Amendment) Act, 1957.	The whole Act.
No. 32 of 1958.	Rent Restrictions (Continuance and Amendment) Act, 1958.	The whole Act.
No. 34 of 1959.	Rent Restrictions (Continuance and Amendment) Act, 1959.	The whole Act.

Section 10.

SECOND SCHEDULE.

Scale for Calculation of certain Sums.

Amount in excess of two-thirds of basic rent expended in period of two years	Lawful addition
Not more than £100	A sum equal to 15% per annum of excess.
More than £100 but not more than £200	A sum equal to— 15% per annum on the first £100 of excess, and 8% per annum on the remainder.
More than £200	A sum equal to— 15% per annum on the first £100 of excess, and 8% per annum on the second £100, and 6% per annum on the remainder.

AN BILLE SRIANTA CIOSA (Uimh. 2), 1960.

BILLE

dá ngairtear

Acht do dhéanamh socrú chun méadú cíosa agus aisghabháil seilbhe ar áitribh a shrianadh i gcásanna áirithe agus do dhéanamh socrú i dtaobh nithe eile a bhaineann leis sin.

Rite ag dhá Theach an Oireachtais,
15 *Nollaig,* 1960.

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ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR.

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RENT RESTRICTIONS (No. 2) BILL, 1960.

BILL

entitled

An Act to make 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,
15*th December,* 1960.

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