



In relation to the question of arrears of ground rent the following provisions are relevant:-

ARREARS OF GROUND RENT

1. Statute of Limitations, 1957

Under Section 28 of the Statute of Limitations 'No action shall be brought or distress made to recover arrears of a conventional rent or damages in respect thereof after the expiration of six years from the date on which the arrears became due'.

'Conventional Rent' is defined in the Statute of Limitations as 'A rent payable under a lease or other contract of tenancy (whether in writing or not and whether express or implied) ... but does not include a fee farm rent ...'.

It should be noted that this Section does not bar the landlord from collecting arrears of rent which are less than six years in arrear or from enforcing other covenants in the lease etc. It does not affect the landlord's title and only affects his ability to collect the arrears of rent.

2. Law Society's General Conditions of Sale

Under General Condition 10 (c) it is provided that 'The production of the receipt for the last gale of rent reserved by the lease or agreement therefor, under which the whole or any part of the subject property is held (without proof of the title or authority of the person giving such receipt) shall (unless the contrary appears) be accepted as conclusive evidence that all rent accrued due has been paid and all covenants and conditions in such lease or agreement and in every (if any) superior lease have been duly performed and observed or any breaches thereof (past or continuing) effectively waived or sanctioned up to the actual completion of the sale, whether or not it shall appear that the lessor or reversioner was aware of such breaches'.

3. Landlord and Tenant Law Amendment Act Ireland, 1860 (Deasy's Act)

Most Leases contain an express covenant by the lessee or tenant to pay the rent when due. Where it does not, however, Section 42 of Deasy's Act implies in every lease an agreement for the tenant and his successors in title to pay the rent when due. Under Section 52 of Deasy's Act a landlord is entitled to bring ejectment proceedings once rent is more than one year in arrear. This is now subject to 4. below.

4. Landlord and Tenant (Ground Rents) (No. 2) Act, 1978

Under Section 27 of this Act the right to re-enter and take possession of premises or to sue for ejectment under Section 52 of Deasy's Act no longer applies in the case of a dwellinghouse held under a lease where the lessee is entitled to acquire the fee simple.



**ARREARS OF
GROUND RENT**

(Contd.)

Conclusion: While a landlord is not entitled to recover rent which is more than six years in arrear, the tenant who does not pay such rent is still technically in breach of his lease and even if he were able to obtain a receipt for the latest gale of rent, this might not satisfy General Condition 10 (c) in that it might still be quite apparent that there were other arrears outstanding.

However, since a landlord's remedies for collecting rent which is in arrears which is arrears for more than six years are non existent, purchasers should accept either a receipt for the latest gale of rent or else a declaration that the rent has not been demanded coupled with a sum to cover six years of rent.

If a landlord is sent a cheque to cover six years arrears of rent, he is entitled to allocate the money received to the earlier arrears and to refuse to issue a receipt for the latest gale of rent. When acting for a tenant it is therefore important to specify that the arrears which are being paid are in respect of the rent which has accrued within the past six years.