

FAIR RENTS ACT.

Act No. 66, 1915.

An Act to provide for the determination of fair rents for certain dwelling-houses; to enforce such determination; to amend certain Acts; and for purposes consequent thereon or incidental thereto. [Assented to, 29th December, 1915.]

George V,
No. 66.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title.

1. This Act may be cited as the “Fair Rents Act, 1915,” and shall commence on the first day of January, one thousand nine hundred and sixteen.

George V,
No. 66.
Definitions.

Interpretation and application of Act.

2. In this Act, unless the contrary intention appears,—

“ Court ” means any court constituted under this Act.

“ Dwelling-house ” means any premises leased wholly or partially for residence by a lessee, and includes any part of any such premises separately leased, and any land or appurtenances leased with such premises or such part thereof.

“ Rates ” mean any charges levied by a municipality or shire or by the Metropolitan Board of Water Supply and Sewerage or the Hunter District Water Supply and Sewerage Board.

“ Lease ” includes, subject to the limitations of section three, every letting of a dwelling-house whether oral, in writing, or by deed.

“ Lessor ” and “ lessee ” mean the parties to a “ lease ” as herein defined and respectively include a mesne lessor and a mesne lessee.

“ Registrar ” means registrar appointed under this Act.

“ Rent ” includes—

- (a) any bonus paid or to be paid by the lessee to his lessor.
- (b) the value to the lessor of any covenants or conditions in or relating to the lease to be performed by the lessee other than usual covenants and conditions.
- (c) any rates or taxes payable by the lessee in respect of the dwelling-house, but excepting excess water rates, garbage, and sanitary charges if paid by the tenant.

“ Tax ” includes any tax whether on land or on income derived from land imposed by the laws of the State or Commonwealth.

Where in any lease made after the first day of August, one thousand nine hundred and fourteen, it is provided that a reduced amount, as rent, shall be accepted by the lessor upon any condition to be performed by the lessee, such reduced amount shall be taken to be the “ rent ” under the lease ; and if any rebate,

rebate, discount, allowance, or other reduction from any rent is provided for in any such lease, the "rent" shall be deemed to be the amount payable by the lessee after every such reduction is made. **George V, No. 66.**

3. (1) This Act shall apply to any dwelling-house which is subject to a lease made before or after the commencement of this Act, for any term not exceeding three years, at a rent not exceeding one hundred and fifty-six pounds a year, or a proportionate sum for a less period, or which at any time during a period of six months before the passing of this Act has been let at a rent not exceeding the above-mentioned amount: Provided that nothing herein contained shall apply to dwelling-houses ordinarily leased for summer residence. Application of Act.

(2) This Act shall apply within the localities appointed by the Governor and proclaimed in the Gazette.

(3) This Act shall bind the Crown.

Fair rents court.

4. There shall be fair rents courts under this Act, and each shall consist of a stipendiary or police magistrate who shall be appointed by the Governor upon the recommendation of the Public Service Board. Such courts shall sit at such times and places as the Governor shall direct. Constitution of court.

5. The Governor, upon the recommendation of the Public Service Board, shall appoint a registrar of each court and such other officers as may be necessary for carrying out the provisions of this Act. Appointment of officers.

Application to court.

6. (1) Any lessor or any lessee who has paid or tendered all rent due and payable under his lease, may apply to the court to have the fair rent of the dwelling-house leased by or to him determined by the court. Application to determine rent.

(2) The application shall be made to the registrar and shall be in the form prescribed.

(3) The court shall hear the application and determine the fair rent. In all cases the rent so determined shall be the rent of the dwelling-house as from a date not earlier than the date of such application.

(4)

George V,
No. 66.

(4) If the dwelling-house be subject to any mortgage, the mortgagee shall be entitled to notice of the application and to be a party to the proceedings.

Powers of the court.

Evidence.

7. Upon such hearing the court may receive as evidence statutory declarations made as prescribed, and shall take the oral evidence of the parties and of witnesses called on their behalf. But the magistrate may, if he thinks fit, require the attendance of any declarant for purposes of cross-examination on the contents of his declaration, and failing such attendance the declaration shall not be receivable as evidence.

Practice of
court.

8. The practice upon the hearing of any application under this Act shall in respect of the examination and cross-examination of witnesses and the right of addressing the magistrate upon the case in reply or otherwise be as nearly as possible in accordance with that of the Supreme Court upon the trial of an issue of fact in an action at law.

Deter-
mination.

9. (1) In determining the fair rent the court shall first ascertain the capital value of the dwelling-house. Such capital value shall be the unimproved value of the land, being the capital sum which the fee simple of the land might be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require, assuming that the improvements if any thereon or appertaining thereto had not been made plus the estimated cost of erecting a similar dwelling-house thereon at the time of the receipt of such application, less such fair and reasonable sum as may be estimated for any depreciation.

(2) The court shall determine the fair rent at a rate of not less than the rate of interest which is for the time being charged upon overdrafts by the Commonwealth Bank of Australia and not more than two and a half per centum above such last mentioned rate, on the capital value of the dwelling-house determined as aforesaid, plus the annual rates and taxes on the same, plus the amount estimated to be required annually for repairs (including painting), maintenance, and renewal,
and

and plus insurance of any buildings, and plus an amount estimated to be the annual depreciation in value of the buildings, if such depreciation diminishes their letting value, and plus such amount (if any) as the court may deem proper to be allowed for the estimated time per year when the dwelling-house may be untenanted:

George V,
No. 66.

Provided that, excepting where circumstances which render an increase equitable are proved to the satisfaction of the court, the fair rent shall not exceed the rent at which the dwelling was let on the first day of January, one thousand nine hundred and fifteen.

10. Where a dwelling-house is occupied by two or more separate lessees, the court shall determine the fair rent of the whole, and then determine the proportion of such fair rent which it shall deem to be the fair rent of the portion of the dwelling-house of the lessee making the application.

Lessee of part
of a dwelling-
house

11. If any applicant being a lessee duly pays the rent of the dwelling-house leased by him, and otherwise performs the conditions of his lease, the lessor shall not demand any increased rent or give any notice or take any proceedings to terminate the tenancy during the pendency of the application nor for three months thereafter without reasonable cause.

Pendency of
application.

12. In any case where the applicant is the lessee of a dwelling-house and furniture, the court shall determine the fair rent of the dwelling-house irrespective of the furniture, and shall also determine in its discretion the amount of rent to be paid for the furniture.

Furnished
dwelling-
house.

Duration and effect of determination.

13. The determination of the court, except as hereinafter provided, shall remain in force for such period, not less than six months nor more than three years after such determination as may be therein mentioned; but, if no period is mentioned, it shall remain in force for three years after such determination. Such determination while in force shall apply to any lease of the dwelling-house then current, and to the lessor and lessee thereof, notwithstanding any change of ownership or tenancy.

Period for
which deter-
mination is
in force.

While

**George V,
No. 66.**

While any such determination is in force, no application shall be made to vary it, or to determine the fair rent of the dwelling-house, unless where the applicant is the lessor, and satisfies the registrar that substantial alterations or additions have been made to the dwelling-house since the said determination, or that the outgoings of the lessor in respect of the dwelling-house have been increased.

Rent to be as
determined.

14. While any such determination is in force, the rent paid by any lessee shall not exceed the fair rent determined by the court, notwithstanding any term or covenant in any lease current at the time of the application, or made at any time thereafter during such period, and any sum paid as rent during such period, or any period subsequent to the date fixed by the court, by any lessee in excess of such fair rent, may be recovered by the lessee from the lessor to whom it was paid in an action of debt in any competent court.

Penalty on
lessor.

15. Any person who, during the period while any determination of the fair rent of a dwelling-house is in force, lets the said dwelling-house at a rent exceeding the fair rent determined by the court, or during such period knowingly receives any sum as rent exceeding the fair rent as so determined shall be liable to a penalty not exceeding twenty pounds.

Covenants to
pay rent in
excess of that
determined
to be void.

16. While any such determination in respect of a dwelling-house is in force, the legal remedies for enforcing any covenant or agreement—

- (a) to pay rent for such dwelling-house in excess of that fixed by such determination ; or
- (b) which directly or indirectly would secure to any person the payment of rent or of money in respect of the occupation of such dwelling house so that the amount received by such person would exceed the fair rent fixed by such determination,

shall be limited to enforcing the fair rent so determined.

Threats
against
lessees.

17. (1) Any person who by any threat endeavours to dissuade or prevent a lessee from making or prosecuting any application under this Act shall be liable to a penalty not exceeding fifty pounds.

(2)

(2) Any person who unlawfully does or procures any act or thing to be done for the purpose of imposing any detriment or disadvantage upon a lessee by reason of his having made an application under this Act, shall be liable to a penalty not exceeding fifty pounds; and if two or more persons concur in the doing of any such act, or in procuring any such thing to be done, they shall each be liable to a penalty not exceeding one hundred pounds.

George V,
No. 66.
Acts to the
detriment of
lessees.

Jurisdiction of the court.

18. The court in every case shall have jurisdiction to inquire and decide whether any application or subject matter is within the provisions of this Act, and whether such application and subject matter may be considered and determined hereunder; and every decision, determination, and order of the court purporting to have been made under the provisions of this Act shall be final, and no writ of prohibition or certiorari shall lie in respect thereof.

Determina-
tion to be
final.

19. The court shall have the powers conferred by the Royal Commissioners Evidence Act, 1901, on a commissioner appointed thereunder; and the said Act, section nine excepted, shall, mutatis mutandis, apply to any witness or person summoned by or appearing before the court.

Powers of the
court.

20. No costs shall be allowed in any proceeding under this Act.

Costs.

General provisions.

21. Any covenant or agreement by which any person purports to limit his right to proceed under this Act for the determination of the fair rent of a dwelling-house, or to affect any rights to which he would be entitled under this Act shall be void.

Contracts
limiting right
to proceed
under this
Act to be
void.

22. The clerk or other officer having custody of the rate-books of a municipality or shire shall allow the registrar to inspect and take copies of or extracts from such rate books, and shall not be entitled to charge any fees in respect of such inspection, copies, or extracts.

Inspection of
rate books.

23. Any person on tendering the sum of sixpence shall be entitled to obtain from the registrar information as to the fair rent of any dwelling-house as fixed by the court.

Information
as to fair rent
of dwelling-
house.

24.

George V,
No. 66.
Regulations.

24. The Governor may make regulations for carrying out the provisions of this Act, and in particular for—

regulating the making and receipt of applications to determine fair rent and prescribing the notices to be given of the same ;
prescribing the procedure in respect of such applications ;
prescribing the forms which may be used for the purposes of this Act ; and
prescribing the duties and powers of the registrar and other officers.

Such regulations shall—

- (1) be published in the Gazette ;
- (2) take effect from the date of publication or from a later date to be specified in such regulations ;
and
- (3) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in Session ; and if not, then within fourteen days after the commencement of the next Session.

If either House of Parliament passes a resolution at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation, such regulation shall thereupon cease to have effect.

Penalties.

25. Penalties under this Act may be imposed by and recovered before the court or a stipendiary or police magistrate or any two justices in petty sessions.