

FAIR RENTS (AMENDMENT) ACT.

Act No. 32, 1928.

George V,
No. 32, 1928. An Act to amend in certain respects the Fair Rents Act, 1915, as amended by subsequent Acts, and certain other Acts; and for purposes connected therewith. [Assented to, 9th November, 1928.]

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.** (1) This Act may be cited as the “Fair Rents (Amendment) Act, 1928,” and shall be read with the Fair Rents Act, 1915, as amended by subsequent Acts.
(2)

(2) The Fair Rents Act, 1915, as so amended is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the Fair Rents Acts, 1915-1928.

2. The Principal Act is amended—

(a) by omitting therefrom the words “or shop” wherever occurring;

Amendment of Act No. 66, 1915.

Omission of shops.

Secs. 2, 6, 9, 10, 11, 13, 15, 16, 17A, 21 and 23.

(b) (i) by omitting from section two the definition of the words “Dwelling-house,” and by inserting in lieu thereof the following definition:—

Sec. 2.

(Definitions.)

“Dwelling-house” means any premises leased substantially for residence by a lessee and any land or appurtenances leased with such premises.

(ii) by inserting at the end of the definition of the word “Rates” in the same section the words “or by a statutory authority”;

(iii) by omitting paragraph (a) of the definition of the word “Rent” in the same section, and by omitting from paragraph (c) of the same definition the words “or taxes”;

(iv) by omitting from the same section the definition of the word “Shop.”

(c) (i) by omitting subsections two, three, and four of section three and by inserting the following subsection which shall be read as subsection two of section three:—

Sec. 3.

(Application of Act.)

(2) This Act shall not apply to a dwelling-house erected after or in the course of erection on the date of the commencement of the Fair Rents (Amendment) Act, 1928.

(ii) by omitting subsection six of the same section and by inserting in lieu thereof the following subsection:—

(6) This Act shall not apply to—

(a) the premises of any shop; or

(b) any premises part of which is used as a shop; or

(c)

- (c) any premises licensed under the Liquor Act, 1912; or
- (d) the premises of any registered club; or
- (e) the premises of any lodging-house or boarding establishment; or
- (f) any dwelling-house ordinarily leased for summer residence; or
- (g) the premises of any farm, grazing area, orchard, market garden, or dairy farm; or
- (h) the premises of any residential chambers; or
- (i) the premises of any residential flats; or
- (j) a dwelling-house with which is occupied an area greater than one half acre.

Further amend-
ment of Act No.
66, 1915.

Sec. 6.
(Application
to determine
rent.)

3. The Principal Act is further amended—

- (a) (i) by omitting from subsection one of section six the words “or who satisfies the court that the non-payment of such rent is excusable”;
- (ii) by omitting from the same section the words “and any lessee may so apply notwithstanding that notice to quit or notice to terminate the tenancy has been given”;
- (iii) by inserting at the end of the same section the following new subsections:—
 - (6) Where prior to the date of the receipt of the application the lessor has given a valid written notice to terminate the lease or to quit the premises and such notice has not been waived the court shall not entertain the application.
 - (7) Where upon the hearing of any application it appears to the court that the applicant has sublet the whole or any part of the dwelling-house the court shall dismiss the application.

(8) Where during the period of a determination it is made to appear to the court that the lessee has sublet the whole or any part of the dwelling-house the court shall by order declare the period of the determination to be terminated.

(b) by omitting from section seven the words Sec. 7.
“upon such hearing”; (Evidence.)

(c) (i) by omitting subsection one of section nine Sec. 9.
and by inserting in lieu thereof the following (Determination.)
subsection :—

(1) In determining the fair rent the court shall first ascertain the capital value of the dwelling-house as at the time of the receipt of the application.

Such capital value shall be the capital sum which the fee-simple of the property comprising the dwelling-house and the land occupied therewith might be expected to realise if offered for sale on such reasonable terms and conditions as a bona-fide seller would require.

(ii) by inserting in subsection two of the same section next after the words “not less than” the words “one and one-half per centum above”;

(iii) by omitting from the same subsection the words “and not more than two and a half per centum above such last mentioned rate”;

(iv) by omitting the first proviso to the same subsection;

4. The Principal Act is further amended—

Further
amendmen
of Act No. 66,
1915.

(a) by inserting in section eleven after the words Sec. 11.
“to determine the lease” the words “or (Restrictions.)
recover possession of the dwelling-house”;

(b)

No. 32, 1928.

New subsecs.
(2) (3) (4) (5).

- (b) by inserting at the end of the same section the following new subsections :—

(2) Where a valid notice to quit a dwelling-house, or to terminate the lease thereof has been given prior to the lodging of an application for the determination of the fair rent thereof, the taking of proceedings to recover possession of the dwelling-house shall not be a contravention of this section.

(3) Where at least twenty-eight days' notice to quit a dwelling-house or to terminate the lease thereof at the end of the period of a determination or at some date subsequent to such period, is given by a lessor, the giving of such notice shall not in any case be a contravention of this section.

(4) Where a lessor has upon the sale of a dwelling-house agreed to give vacant possession thereof to the purchaser, and gives at least twenty-eight days' notice to the lessee requiring him to quit the dwelling-house, neither the giving of such notice nor the taking of any proceedings to recover the possession of the dwelling-house, shall be a contravention of this section.

(5) Where a dwelling-house is reasonably required by the lessor for occupation as a residence for himself or for some member of his family, and the lessor gives at least twenty-eight days' notice to the lessee requiring him to quit the dwelling-house, neither the giving of such notice nor the taking of any proceedings to recover the possession of the dwelling-house shall be a contravention of this section.

Sec. 13.
(Period of
determina-
tion.)

- (c) by omitting from section thirteen the words "for such period not less than twelve 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" and by inserting in lieu thereof the words "for a period of twelve months after the determination."

(d)

- (d) by inserting at the end of section eighteen the following new subsections :—

No. 32, 1923.

Sec. 18.

(2) The court may at any stage of the proceedings before it state in the form of a special case for the opinion of the Supreme Court any question of law arising in the course of the proceedings.

(Special case.)

(3) The Supreme Court, for the purpose of hearing any such case, may consist of one or more judges.

(4) The judges of the Supreme Court, or any two of them, may make rules with regard to the setting down of any case for argument, and the hearing and decision of the same, and its return with the decision of the Supreme Court thereon.

(5) The decision of the Supreme Court on the hearing of any such case shall be binding upon the Fair Rents Court and upon the parties to the proceedings.

- (e) by omitting section 21A.

Sec. 21A.

- (f) (i) by inserting in section twenty-four after the word "fourteen" wherever occurring the word "sitting";

Sec. 24.

(Regulations.)

- (ii) by inserting in the same section after the word "resolution" the words "of which notice has been given";

- (iii) by inserting in the same section after the words "any regulation" the words "or part thereof";

- (iv) by inserting in the same section after the words "such regulation" the words "or part";

- (g) by omitting from section twenty-five the words

Sec. 25.

"before the court" and by inserting in lieu thereof the words "before two justices."

(Recovery of penalties.)

5. In the case of any lease, within the meaning of the Fair Rents Act, 1915, as amended by subsequent Acts, a notice to quit shall not be deemed to be waived by the acceptance of rent after the giving of the notice :

Acceptance of rent not to waive notice to quit.

Provided

No. 32, 1928.

Provided that the said notice was not, in the opinion of the court, given to protect the lessor against the provisions of the Fair Rents Act, 1915-1928.

Further
amendment
of Act No. 66,
1915.

New s. 26.
Termination
of Act.

6. The Principal Act is further amended by inserting next after section twenty-five the following new section :—

26. This Act shall cease to have effect on the first day of July in the year one thousand nine hundred and thirty-three.
