

EJECTMENTS POSTPONEMENT ACT.

Act No. 30, 1931.

An Act to make provision for the postponement of the ejectment of persons who are in occupation of certain dwelling-houses and who are in impoverished circumstances; to amend the Landlord and Tenant Act of 1899, and certain other Acts; and for purposes connected therewith. [Assented to, 14th August, 1931.]

George V,
No. 30, 1931.

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:—

1. (1) This Act may be cited as the "Ejectments Postponement Act, 1931." Short title.

(2) This Act shall commence on a day appointed by the Governor and notified by proclamation published in the Gazette.

2. In this Act, unless the context or subject-matter otherwise indicates or requires,—

"Dwelling-house" means any premises which were before or after the commencement of this Act leased wholly or partially for private residence at a rent not exceeding three pounds a week to a lessee who has become an occupier of them within the meaning of this Act, and any land or appurtenances which were leased and are now occupied therewith.

"Lease" includes every letting of a dwelling-house, whether oral, in writing, or by deed; and "leased" has a corresponding meaning.

"Lessee"

No. 30, 1931.

“Lessee” includes a mesne lessee and also any person from time to time deriving title from the original lessee.

“Occupier” means any person retaining possession of a dwelling-house after the termination of his lease, whether it terminated by effluxion of time, through determination by notice to quit, by forfeiture, or in any other way whatsoever.

“Owner” means the person for the time being entitled to the rents or profits of any dwelling-house.

No re-entry without order of court or consent of occupier.

3. No person shall, except under an order of a competent court, take possession of any dwelling-house without the consent, express or implied, of the occupier.

Postponement of ejectment of impoverished occupiers.

4. (1) At the time of the hearing of the application for or the making or giving of any order or judgment for the recovery or possession of any dwelling-house or for the ejectment of the occupier therefrom, the court, upon the application of the occupier, and upon being satisfied by him that he is in impoverished circumstances, shall stay or suspend execution on any such order or judgment or postpone the date of possession for a period to end not less than three months from the date of the occupier's application.

Postponement where order made before this Act.

(2) Where any order or judgment has been made or given before the commencement of this Act, but not executed, if the occupier applies to the court and satisfies it that he was in impoverished circumstances at the time of the making of the order or judgment the court shall stay or suspend execution on the order or judgment or postpone the date of possession for a period to end not less than three months from the date of the original making of the order or giving of the judgment.

Further postponement of ejectment.

(3) Where the court has exercised its powers under this section it may on the application of the occupier made before the end of the first or any subsequent period for which it has stayed or suspended execution of the order or judgment or has postponed the date of possession make a further order of stay, suspension or postponement for such period and upon such terms as to it seems just.

(4)

(4) Any stay or suspension of execution or postponement of possession made by the court under this section may be made subject to the payment by the occupier to the owner of such sum (if any) by way of compensation for his occupancy of the dwelling-house as is fixed by the court; and any occupation payment so fixed shall be paid by such instalments and at such times as the court orders.

No. 30, 1931.

Occupation payment during period of postponement.

(5) An occupier capable of working shall not be deemed to be in impoverished circumstances unless he satisfies the court—

When occupier able to work is not deemed to be in impoverished circumstances.

(a) that by reason of unemployment he was unable to pay any rent which accrued due before the making of his application and is at the date of the application, through the same cause, unable to make payments for his possession equal in amount to the rent; and

(b) that his failure to obtain sufficient employment has been through no fault on his part.

5. The court shall not grant any stay or suspension of execution or postponement of possession under this Act if it is satisfied—

Court not to grant postponement in certain circumstances.

(a) that the owner would thereby suffer undue hardship; or

(b) that the occupier or any person residing with him has been guilty of acts of waste depreciating the value of the dwelling-house; or

(c) that the occupier has been convicted of using the premises or allowing the premises to be used for an immoral or illegal purpose.

6. If the occupier or any person residing with him commits any act of waste depreciating the value of the dwelling-house, the court may direct that the order or judgment be immediately enforced.

Court may order enforcement of order for waste.

7. The court may at any time, upon proof that the financial circumstances of the occupier have improved order an occupation payment to be made, or increase the amount of any occupation payment already ordered to such sum not exceeding the amount of the rent as it in its discretion considers reasonable; and upon proof that the occupier's financial circumstances have become worse it may decrease the amount of any occupation payment.

Court may in certain circumstances increase amount of occupation payment.

Should

No. 30, 1931.

Should the occupier not comply with any order under this section the court may direct that the order or judgment for the recovery of possession or ejectment be immediately enforced.

Amendment
of Landlord
and Tenant
Act, 1899,
s. 23.

8. (1) Section twenty-three, subsection two, paragraph (c) of the Landlord and Tenant Act, 1899, as amended by subparagraph one of paragraph (a) of section three of the Landlord and Tenant Amendment (Distress Abolition) Act, 1930, is further amended by adding to it the words "and shall in any case where it is necessary to comply with the provisions of the Ejectments Postponement Act, 1931, be such period as shall comply with these provisions."

Amendment
of Landlord
and Tenant
Act, 1899,
s. 24.

(2) (a) Section twenty-four of the Landlord and Tenant Act, 1899, as amended by paragraph (b) of section three of the Landlord and Tenant Amendment (Distress Abolition) Act, 1930, is hereby repealed, and is re-enacted as follows:—

Power of
court to
postpone
issue of
warrant, &c.

24. The court by which such adjudication is made may postpone the issuing of such warrant and other proceedings under such adjudication, or may then or at any subsequent time suspend the execution of such warrant and other proceedings for any period which seems in the circumstances of the case just and reasonable, either upon such terms as to security or otherwise, or absolutely without imposing any terms, as to such court seems meet.

The court shall when it is necessary so to do exercise its powers under this section so as to comply with the provisions of the Ejectments Postponement Act, 1931.

Amendment
of Act No. 49,
1930, s. 3 (b).
(Revision.)

(b) The Landlord and Tenant Amendment (Distress Abolition) Act, 1930, is amended by omitting paragraph (b) of section three.