

## REDUCTION OF RENTS ACT.

Act No. 45, 1931.

An Act to provide for the reduction of rents in certain cases; and for purposes connected therewith. [Assented to, 7th October, 1931.] George V,  
No. 45, 1931.

**B**E 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 "Reduction of Rents Act, 1931." Short title  
and com-  
mencement.

(2) This Act shall commence upon a date to be 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,— Interpreta-  
tion.

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

"Lessor" and "lessee" mean the parties to a lease, and respectively include a mesne lessor and a mesne lessee, and also any person from time to time deriving title under the original lessor or lessee. "Premises"

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“Premises” includes lands and buildings, and also includes any part of a building separately leased.

“Prescribed” means prescribed by this Act or by the regulations made thereunder.

Application  
of Act.

**3.** (1) This Act shall not apply to or in respect of a lease of any agricultural land to which the provisions of the Agricultural Lessees Relief Act, 1931, apply.

(2) Subject to the provisions of subsection one of this section, and of paragraph (c) of the proviso to section six of this Act, this Act shall apply to and in respect of every lease which is subsisting at the date of the commencement of this Act.

(3) This Act shall not operate to reduce the amount of any rent payable or to become payable to the Crown.

Future  
leases.  
cf. West  
Aust. Act,  
1931, No. 21,  
s. 3 (1).

**4.** Except in pursuance of an order of the court granted under section seven of this Act, it shall not be lawful for the lessor under any lease granted or entered into after the commencement of this Act in respect of any premises which are or have been subject to a lease subsisting at such commencement to reserve in respect of the period during which this Act remains in force a greater or higher rent in respect of such premises than that permitted by or under this Act to be charged and received under the lease subsisting at such commencement.

Contracting  
out  
prohibited.  
cf. *Ibid.*  
s. 3 (2).

**5.** No contract or agreement made or entered into either before or after the commencement of this Act by any lessee shall operate to annul or vary or exclude any of the provisions of this Act or to deprive the lessee of the benefit of any such provision.

Reduction of  
rents.  
cf. *Ibid.* s. 4.

**6.** (1) Rent reserved by or under any lease and accruing or to accrue due and payable during the period in which this Act remains in force is hereby reduced by twenty-two and one-half per centum of the amount thereof, and shall be calculated and payable at such reduced rate accordingly unless and until the lessor has obtained from the court in pursuance of section seven of this Act an order permitting him to charge and receive rent under such lease at a higher rate, and the lease shall be deemed to be altered to such extent as is necessary to give effect to this section:

Provided

Provided that—

- (a) in the case of a lease subsisting on the thirtieth day of June, one thousand nine hundred and thirty, and still subsisting at the commencement of this Act, the present rent payable under the lease shall be deemed to be increased by the amount of any reduction of rent allowed by the lessor or made in pursuance of a determination of a fair rents court since the said thirtieth day of June, one thousand nine hundred and thirty, but such amount shall be included as part of the reduction made by this section ;
- (b) in the case of a lease granted since the thirtieth day of June, one thousand nine hundred and thirty, and subsisting at the commencement of this Act, under which the present rent is less than the rent reserved by a previous lease of the same premises and subsisting on the said thirtieth day of June, one thousand nine hundred and thirty, the present rent payable under the current lease shall be deemed to be increased by the amount of the said difference in rent, but such amount shall be included as part of the reduction made by this section ;
- (c) in the case of premises which were not leased on the thirtieth day of June, one thousand nine hundred and thirty, this Act shall not apply unless the lease thereof was entered into earlier than three months before the commencement of this Act.

(2) Notwithstanding anything contained in this Act, it shall not be lawful for a lessor under a lease of any premises to charge or receive a greater or higher rent in respect of such premises than that provided for in the lease at the commencement of this Act.

(3) The obligation of any lessee to pay rent accruing or to accrue due and payable during the period in which this Act remains in force at any higher rate than that allowed by or under this Act is hereby extinguished.

(4) For the purposes of this Act rent shall be deemed to accrue due and payable from day to day.

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Application  
to the court,  
cf. West  
Aust. Act,  
1981, No. 21,  
s. 5.

**7.** (1) An application for any such order of the court as is referred to in section four or section six of this Act may be made by a lessor to a court of petty sessions holden before a stipendiary magistrate or a police magistrate within the police district in which the premises which are the subject of the lease are situate.

(2) The application shall be by summons calling upon the lessee to show cause why an order should not be granted upon the grounds specified in the summons.

(3) The summons shall be served personally, or if the person to be served cannot conveniently be met with by leaving it with some person for him at his last or most usual place of abode. Service of the summons in the manner aforesaid may be proved by the oath of the person who served it or by affidavit or otherwise.

(4) Every application under this section shall be heard in open court unless the court in its discretion directs that the application shall be heard in camera.

(5) Upon the hearing of the application the court may either dismiss the application, or (if special circumstances are proved by the lessor to the satisfaction of the court to exist) may make an order permitting the lessor to charge and receive rent at such higher rate (not exceeding that provided for in the lease) as the court shall declare to be just and reasonable, having regard to the circumstances and to the economic and financial conditions prevailing in the State.

A special circumstance to be considered by the court shall be the amount by which the rent of the premises the subject of the lease may have been reduced since the thirtieth day of June, one thousand nine hundred and thirty.

(6) The court may direct the summons to be served upon any person it thinks fit in addition to the lessee, and such person shall also be entitled to appear and be heard.

(7) Every order made by the court under this section shall have effect according to its tenor from such date (not earlier than the date of the issue of the summons) as the court may determine, and shall entitle the lessor during the currency of the lease and the period in which this Act remains in force to charge and receive rent as from the date so determined at the rate mentioned in the order.

(8)

(8) Any order made by the court under this section shall be final and conclusive.

(9) The court may make such order for the payment of costs in respect of any proceedings under this section as it deems just.

Any such order for costs shall operate as an order for the payment of money under the Small Debts Recovery Act, 1912, and be enforceable as such an order under the provisions of that Act.

Such order for costs may for such purpose be entered in the prescribed manner in the records of a small debts court exercising jurisdiction in the petty sessions district in which such order was made.

**8.** (1) If any lessor is a trustee—

Lessor  
trustee.

- (a) such lessor shall not be deemed guilty of any breach of trust by reason only of his bona fide failure to make an application under section seven of this Act; and
- (b) the court in making any order as to costs under that section shall have regard to the fiduciary position of such lessor.

(2) In this section "trustee" includes legal representative of a deceased person, committee of the estate of an insane person, manager of the estate of an incapable person, the Master in Lunacy, the Master in Equity, director of a company, and any other person acting in any fiduciary capacity.

**9.** (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, in order to give effect to this Act.

Regulations.

Without limiting the generality of the foregoing provisions of this section the regulations may prescribe the forms to be used and the fees to be paid in connection with applications to the court under this Act.

(2) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication, or from such later date as is specified in the regulations;

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(c)

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(c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof, if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

(3) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

Duration of  
Act.  
cf. West  
Aust. Act,  
1931, No. 21,  
s. 9.

**10.** The provisions of this Act shall cease to have effect upon the thirty-first day of December, one thousand nine hundred and thirty-two.

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