

LANDLORD AND TENANT (AMENDMENT) ACT.

Act No. 50, 1936.

Edward VIII, No. 50, 1936. **An** Act to amend the law relating to landlord and tenant; for this and other purposes to amend the Landlord and Tenant Act of 1899, the Landlord and Tenant (Amendment) Act, 1932-1935, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 9th December, 1936.]

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 “Landlord and Tenant (Amendment) Act, 1936.”

2.

2. The Landlord and Tenant Act of 1899, as amended by subsequent Acts, is amended—

No. 50, 1936.

Amendment
of Act No.
18, 1899.

- (a) by inserting next after section twenty-two the following new section:—

New s. 22A.

22A. For the purposes of this Part of this Act and notwithstanding anything in such Part contained—

Special
provisions
applicable
to Part IV.

- (a) Proof of the payment by any person of rent in respect of any land shall give rise to a conclusive presumption—

- (i) of the existence of a tenancy in respect of such land; and
- (ii) that such person holds such land as tenant of the person to whom or to whose agent such rent is paid; and
- (iii) that the person to whom or to whose agent such rent is paid is the landlord of whom such tenant holds such land.

- (b) Any tenancy the existence of which is so presumed shall, in the absence of proof to the contrary, be deemed to be a tenancy determinable at the will of either of the parties—

- (i) by one week's notice in writing in any case in which the rent is paid or payable in respect of weekly intervals;
- (ii) by one month's notice in writing in any other case.

- (c) A warrant issued under this Part of this Act may be executed not only against the person against whom the information was exhibited but also against every person claiming under him who is in actual occupation of the land or any part thereof.

A

No. 50, 1936.

A person who became the occupier of the land or any part thereof, under a tenancy held of the person against whom the information was exhibited and whose occupancy is referable to such tenancy, shall be deemed to claim under the person against whom the information was exhibited whether or not such tenancy has expired or otherwise been determined.

- (d) Where a landlord has conveyed to a purchaser the land the subject of a tenancy, a notice in writing of such fact, signed by the landlord or his solicitor, specifying the name of the purchaser and directing the tenant to pay all future rents to such purchaser, served upon the tenant of such land, shall be deemed to operate as an attornment as tenant to such purchaser by such tenant at the rent and subject to the stipulations, agreements and conditions of such tenancy subsisting at the date of service of such notice.

Such notice may be served either personally or by leaving the same for the tenant at any occupied house or building upon the land or by properly addressing, prepaying and posting a letter containing the notice, and where so served by the post the service shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course of post.

- (e) A notice to quit or a notice of intention to quit may expire at any time provided the length of the notice required by law or by the agreement of the parties is given, notwithstanding that the date indicated in the notice as the date upon which possession is to be given, does not coincide with the last day of a period of the tenancy.

(b)

- (b) by omitting from subsection two of section twenty-three the word "creation" and by inserting in lieu thereof the word "holding."

No. 50, 1936.
Sec. 23 (2).
(Proceedings at the hearing.)

3. (1) The Landlord and Tenant (Amendment) Act, 1932-1935, is amended—

Amendment of Act No. 67, 1932.

- (a) by inserting next after section sixteen the following new section:—

New s. 16A.

16A. (1) Any lessee or lessor may apply to the court to have the annual rent of a lease to which this Part of this Act applies (including a lease brought within the operation of this Part of this Act by the amendments made by section two of the Landlord and Tenant (Amendment) Act, 1935) determined for the balance of the term or during the period for which this Part of this Act is in force whichever is the shorter period.

Further time for determination by court.

(2) Such application shall be made not later than the thirtieth day of June, one thousand nine hundred and thirty-seven.

(3) Any such application may be so made whether or not an application has been made with respect to the same lease under section sixteen of this Act.

(4) The provisions of subsections three and four of section sixteen of this Act shall apply to and in respect of any application under this section.

(5) Every order made by the court upon any application under this section shall have effect according to its tenor from such date not earlier than the date of the application as may be specified in the order.

(6) Any order which was made by the court upon an application under section sixteen of this Act to determine the annual rent of any lease and which, either as originally made or as altered or amended under the authority of this

Act,

No. 50, 1936.

Act, is in force immediately before the commencement of subsection one of section three of the Landlord and Tenant (Amendment) Act, 1936, shall continue in force—

- (a) for the balance of the term of such lease or during the period for which this Part of this Act is in force whichever is the shorter period; or
- (b) until an order made with respect to the same lease on an application under this section takes effect.

Sec. 24.
(Consequential.)

- (b) by inserting in paragraph (a) of subsection one of section twenty-four after the word “sixteen” the words and figures “or under section 16A”;

Sec. 28.
(Duration of Parts II and III.)

- (c) by omitting from section twenty-eight the word “thirty-six” and inserting in lieu thereof the word “thirty-eight.”

Further amendment of Act No. 67, 1932.

(2) The Landlord and Tenant (Amendment) Act, 1932-1935, is further amended by inserting at the end of section twenty the following new subsection:—

Sec. 20.
(Leases made after 8th October, 1931.)

- (3) An application under this section shall not be made after the date upon which the assent of His Majesty to the Landlord and Tenant (Amendment) Act, 1936, is signified.

(3) Subsection one of this section shall commence on the thirty-first day of December, one thousand nine hundred and thirty-six.