

## LANDLORD AND TENANT (AMENDMENT) ACT.

### Act No. 7, 1958.

**Elizabeth II, An** Act to amend the law relating to landlord and tenant; for this purpose to amend the Landlord and Tenant (Amendment) Act, 1948, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 10th April, 1958.]  
**No. 7, 1958.**

**B**E it enacted by the Queen'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  
and  
citation.

**1.** (1) This Act may be cited as the "Landlord and Tenant (Amendment) Act, 1958".  
(2)

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(2) The Landlord and Tenant (Amendment) Act, 1948, No. 7, 1958.  
as amended by subsequent Acts and by this Act, may be cited  
as the Landlord and Tenant (Amendment) Act, 1948-1958.

2. The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is amended—

Amendment  
of Act  
No. 25,  
1948.

(a) (i) by inserting in subparagraph (ii) of paragraph (b) of subsection one of section 5A after the word "lease" the words "other than a prescribed lease,";

Sec. 5A.  
(Certain  
premises  
excluded  
from opera-  
tion of Act.)

(ii) by inserting in subparagraph (iii) of the same paragraph after the word "lease" the words "other than a prescribed lease,";

(iii) by omitting the word "or" appearing at the end of subparagraph (v) of the same paragraph;

(iv) by inserting at the end of the same subsection the following new paragraphs:—

(d) any dwelling-house that—

(i) was in existence on the first day of December, one thousand nine hundred and fifty-seven;

(ii) has not been, either in whole or in part, the subject of a lease, other than a prescribed lease, at any time between that day and the commencement of the Landlord and Tenant (Amendment) Act, 1958;

(iii) does not form part of any premises that were the subject of a lease, other than a prescribed lease, between that day and that commencement;

(iv) is not "special premises" for the purposes of this Act; and

(v)

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(v) is the subject of a lease (not being a lease of shared accommodation or a lease the lessor under which is the employer of the lessee)—

(a) that is registered in the office of the Rent Controller;

(b) the execution of which by the lessee is witnessed by a solicitor instructed and employed independently of the lessor; and

(c) that is certified by that solicitor as provided in subsection two of this section;

(e) any dwelling-house (not being a residential unit)—

(i) that was in existence at the commencement of the Landlord and Tenant (Amendment) Act, 1958;

(ii) of which a lessor has obtained vacant possession after that commencement otherwise than by an order for recovery of possession made on any one or more of the grounds specified in paragraph (g), (h), (i), (j), (k), (l), (m), (t) or (v) of subsection five of section sixty-two of this Act;

(iii) that is not “special premises” for the purposes of this Act; and

(iv) that is the subject of a lease (not being a lease of shared accommodation or a lease the lessor under which is the employer of the lessee)—

(a) that is registered in the office of the Rent Controller;

(b)

- (b) the execution of which by the lessee is witnessed by a solicitor instructed and employed independently of the lessor; and
  - (c) that is certified by that solicitor as provided in subsection two of this section;
- (f) any residential unit that—
- (i) came into existence by reason of alterations, or alterations and additions, made after the commencement of the Local Government (Regulation of Flats) Act, 1955, to a dwelling-house that—
    - (a) was in existence at the commencement of the Local Government (Regulation of Flats) Act, 1955;
    - (b) has not been, either in whole or in part, the subject of a lease, other than a prescribed lease, at any time between the seventh day of December, one thousand nine hundred and forty-one, and the twenty-fourth day of February, one thousand nine hundred and fifty-six;
    - (c) does not form part of any premises that were the subject of a lease, other than a prescribed lease, at any time between those days;
    - (d) is not “special premises” for the purposes of this Act;
  - (ii) is one of two or three, but not more, residential units in that dwelling-house which were provided out of that dwelling-house, by those alterations, or those alterations and additions;
  - (iii)

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(iii) is the subject of a lease (not being a lease of shared accommodation)—

- (a) that is registered in the office of the Rent Controller;
- (b) the execution of which by the lessee is witnessed by a solicitor instructed and employed independently of the lessor; and
- (c) that is certified by that solicitor as provided in subsection two of this section; or

(g) any residential unit that—

(i) came into existence by reason of alterations, or alterations and additions, made after the commencement of the Local Government (Regulation of Flats) Act, 1955, to a dwelling-house—

- (a) that was in existence at the commencement of the Local Government (Regulation of Flats) Act, 1955;
  - (b) of which a lessor has obtained vacant possession after the commencement of the Landlord and Tenant (Amendment) Act, 1958, otherwise than by an order for recovery of possession made on any one or more of the grounds specified in paragraph (g), (h), (i), (j), (k), (l), (m), (t) or (v) of subsection five of section sixty-two of this Act;
  - (c) that is not “special premises” for the purposes of this Act;
- (ii)

(ii) is one of two or three, but not more, residential units in that dwelling-house which were provided out of that dwelling-house, by those alterations, or those alterations and additions; and

(iii) is the subject of a lease (not being a lease of shared accommodation or a lease the lessor under which is the employer of the lessee)—

(a) that is registered in the office of the Rent Controller;

(b) the execution of which by the lessee is witnessed by a solicitor instructed and employed independently of the lessor; and

(c) that is certified by that solicitor as provided in subsection two of this section.

(v) by inserting next after the same subsection the following new subsection :—

(1A) The provisions of Parts II, III, IV and V of this Act do not apply in respect of any premises used for business or commercial purposes the erection of which commenced after the twenty-seventh day of September, one thousand nine hundred and fifty-seven.

(vi) by inserting next after subsection two of the same section the following new subsections :—

(2A) Where the lessee under a lease is a company or other corporate body the provisions of this section which, but for this subsection, would require the execution of the lease to be witnessed, and the lease to be certified, in the manner provided in this section shall be deemed to be omitted therefrom.

(2B)

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(2B) Premises that comply with the provisions of any one of the paragraphs (namely, paragraphs (a), (b), (c), (d), (e), (f) and (g)) contained in subsection one of this section and would, if that one paragraph were the only paragraph contained in that subsection, be exempt from the provisions of Parts II, III, IV and V of this Act to the extent provided by this section, shall be so exempt notwithstanding that they comply with some, but not all, of the provisions of any one or more of the other such paragraphs.

(vii) by inserting in subsection three of the same section after the figures and letter "36A," the word "seventy-seven,";

(viii) by inserting next after subsection three of the same section the following new subsections :—

(4) In this section—

"Prescribed lease" means—

(a) a lease that was registered in the office of the Rent Controller and during any part of the currency of which the premises the subject of the lease were, to the extent provided by this section or by the order under section six of this Act published in Gazette No. 19 of the twenty-fourth day of February, one thousand nine hundred and fifty-six, excluded by the operation of this section or that order from the provisions of Parts II, III, IV and V of this Act; or

(b) a lease in respect of which an application under section eighty-six of this Act or under Regulation seventy-eight of the Commonwealth Regulations was granted

granted by the issue of a No. 7, 1958. certificate or any extension thereof pursuant to that section or regulation, as the case may be, but does not include a lease as defined in this paragraph of this definition under which the lessor and lessee were employer and employee.

“Residential unit” means any part of a dwelling-house which is or has been designed for occupation as a residence independently of any other part of the dwelling-house.

(5) This section has effect subject to the operation of sections 70A and 81A of this Act.

- (b) (i) by omitting from paragraph (a) of subsection Sec. 6A. three of section 6A the figures “1954” and by (Special premises.) inserting in lieu thereof the figures “1958”;
- (ii) by inserting in the same paragraph after the words “that commencement” where firstly occurring the words “, whether or not that agreement or arrangement was entered into in substitution for a lease of such premises or of any part of such premises or of the premises of which such premises form a part,”;
- (iii) by inserting in the same paragraph after the word “forty-nine” the words “and before that agreement or arrangement was entered into”;
- (iv) by inserting in the same paragraph after the word “date” the words “and whether or not the lease is still subsisting”;
- (v) by omitting paragraph (d) of the same subsection and by inserting in lieu thereof the following paragraph :—

(d) In this subsection the expression “agreement or arrangement whether oral or in writing of leave and license for the use thereof” in relation



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relation to prescribed premises does not include such an agreement or arrangement under which the licensee of the prescribed premises is a bona-fide boarder.

In this paragraph "bona-fide boarder" means a licensee who is supplied by the licensor with—

- (i) one meal before midday consisting of at least two courses, one of which comprises cereal or porridge and the other of which comprises cooked meat, eggs or a like dish, together with bread (or toast), butter, jam and tea or coffee; and
- (ii) one meal after midday consisting of at least two courses, one of which comprises fish or meat (other than in sandwich form) and cooked vegetables,

if the value of the meals so supplied forms a substantial portion of the whole charge paid by the licensee under the agreement or arrangement.

Further amendment of Act No. 25, 1948.

Sec. 15.  
(Rent of prescribed premises.)

3. The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is further amended—

- (a) (i) by omitting subsections one and two of section fifteen and by inserting in lieu thereof the following subsection:—

(1) Except in the case of premises which were not in existence or were not leased on the first day of November, one thousand nine hundred and fifty-one, the rent payable by the lessee of any prescribed premises (or of prescribed premises together with goods) shall not, in respect of any period after the commencement of the Landlord and Tenant (Amendment) Act, 1958, and notwithstanding any term or covenant in any lease in force at any

any time after that commencement, exceed the rent payable in respect of the prescribed premises at the first day of November, one thousand nine hundred and fifty-one (including the rent of any goods then leased therewith and the charge for any service then provided in connection with the lease), or where that rent has been increased or decreased by a determination made before that commencement and in force immediately before that commencement the rent as so increased or decreased.

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- (ii) by omitting from subsection four of the same section the words "or subsection two" wherever occurring;
  - (iii) by inserting in the same subsection after the words "fair rent" wherever occurring the words "and the rent";
- (b) (i) by omitting from subsection one of section sixteen the words "or subsection two";
- (ii) by omitting from the same subsection the words "on the first day of March, one thousand nine hundred and forty-nine, or";
- (iii) by omitting from the same subsection the words "as the case may be,";
- (c) by omitting section 16A;
- (d) by omitting from subsection two of section twenty the word "six" and by inserting in lieu thereof the word "eight";
- (e) by omitting from subsection two of section twenty-two the words "the applicant" and by inserting in lieu thereof the word "applicant";
- (f) by inserting in section twenty-three after the words "be the fair rent" wherever occurring the words "and the rent";

Sec. 16.  
(Lessors may be required to furnish statutory declaration as to rent.)

Sec. 20.  
(Determination of application.)

Sec. 22.  
(Date of operation of determination.)

Sec. 23.  
(Effect of determination.)

(g)

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Sec. 24A.  
(Determination based on increased outgoings.)

(g) (i) by omitting from subsection one of section 24A the words "other than shared accommodation which were in existence on the thirty-first day of August, one thousand nine hundred and thirty-nine, and" and by inserting in lieu thereof the words "; other than shared accommodation,";

(ii) by inserting in paragraph (a) of subsection five of the same section after the words "fair rent" wherever occurring the words "and the rent";

Sec. 26B.  
(Determination of rent of shared accommodation.)

(h) by inserting in subsection ten of section 26B after the words "be the fair rent" wherever occurring the words "and the rent";

Sec. 27.  
(Determination of rent of shared accommodation.)

(i) by inserting in subsection nine of section twenty-seven after the words "be the fair rent" wherever occurring the words "and the rent";

Sec. 31.  
(Procedure on appeal.)

(j) by inserting in subsection four of section thirty-one after the words "be the fair rent" wherever occurring the words "and the rent";

Sec. 31MA.  
(Interim determination.)

(k) (i) by inserting in section 31MA after the words "as the case may be, may," the words "from time to time and";

(ii) by omitting from the same section the words :—

"Any interim determination so made shall be deemed to be a determination, and shall remain in force until the application has been finally disposed of by the Board to which the application was made or the Controller, as the case may be, and no longer"

and by inserting in lieu thereof the words :—

"Any interim determination so made shall be deemed to be a determination, and shall remain in force until—

(a) the making of a later interim determination in the proceedings; or

(b)

(b) the application has been finally disposed of by the Board to which the application was made or the Controller, as the case may be,

whichever first happens, and no longer”;

(iii) by omitting from the same section the words “the interim determination” and by inserting in lieu thereof the words “an interim determination or determinations”;

(1) (i) by inserting at the end of paragraph (j) of subsection two of section thirty-two the words “or the amount of land tax payable in respect of the premises by the lessor under those Acts has, since the determination, increased or decreased”;

(Variation of determination.)

(ii) by omitting from subsection four of the same section the words “in need of repair” and by inserting in lieu thereof the words “not in fair and tenable repair”;

(iii) by inserting at the end of the same section the following new subsection :—

(5) (a) Where a party to a determination (not being a determination in which a period is specified within which an application shall not be made to vary the determination) has, during the period commencing with the date of the determination and ending twelve months after that date, made application under subsection two of this section for variation of the determination, he shall not, within the last-mentioned period, make further application to a Fair Rents Board or to the Controller, as the case may be, for variation of the determination unless he has first obtained the leave of the Fair Rents Board or the Controller, as the case may be, to do so.

(b) A Fair Rents Board or the Controller, as the case may be, may, for the purposes of this section, grant or refuse leave to apply

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apply for a variation of the determination without a formal or oral hearing of the persons interested or their representatives.

New sec.  
32A.

(m) by inserting next after section thirty-two the following new section:—

State of  
repair not  
to be  
raised by  
lessee in  
certain cases.

32A. (1) A lessee of prescribed premises who—

- (a) refuses to allow, or fails to take such reasonable steps as are necessary to allow, the lessor of the premises or the lessor's servant or agent to enter and inspect the premises at least once a year at any reasonable time between eight o'clock in the morning and eight o'clock in the evening on any week day after not less than seven days' notice in writing of intention to do so has been given to the lessee; or
- (b) refuses to allow, or fails to take such reasonable steps as are necessary to allow, the lessor his agents servants workmen or contractors to enter the premises for the purpose of effecting necessary repairs or maintenance after reasonable notice of intention to do so has been given to the lessee,

shall not, within a year from the refusal or failure, on any application made to a Fair Rents Board or the Controller, as the case may be, for a determination, or for a variation of a determination, of the fair rent of the prescribed premises, be allowed to raise or put in issue the state of repair of the premises unless he has first obtained the leave of the Fair Rents Board or the Controller, as the case may be, to do so.

(2) Subsection one of this section does not apply where a refusal or failure of the kind described in that subsection on the part of the lessee is authorised or permitted, expressly or impliedly, by the terms of the lease.

(3)

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(3) Without prejudice to the generality of **No. 7, 1958.**  
the meaning of the expression "reasonable time",  
that expression in subsection one of this section does  
not, in the case of a dwelling-house, include any  
time at which the lessee and the other adult members  
of his household are ordinarily absent from the  
dwelling-house in the course or by reason of their  
respective trades, businesses, occupations or employ-  
ments.

- (n) by inserting in subparagraph (iv) of paragraph (b) **Sec. 36.**  
of subsection one of section thirty-six after the word **(Certain pay-**  
"available" where firstly occurring the words "or **ments pro-**  
represented to be available"; **hibited.)**
- (o) (i) by omitting from subsection two of section **Sec. 57.**  
fifty-seven the words "first day of March, one **(Lessor to**  
thousand nine hundred and forty-nine" wher- **ascertain**  
ever occurring and by inserting in lieu thereof **fair rent.)**  
the words "first day of November, one thousand  
nine hundred and fifty-one";
- (ii) by omitting subsection three of the same  
section;
- (p) by inserting in paragraph (b) of subsection (1A) of **Sec. 59.**  
section fifty-nine after the word "letter" the words **(Service of**  
"; or certified mail service,"; **notices.)**

**4. The Landlord and Tenant (Amendment) Act, 1948, as** **Further**  
**amended by subsequent Acts, is further amended—** **amendment**  
**of Act**

- (a) (i) by omitting from the end of paragraph (r) of **Sec. 62.**  
subsection five of section sixty-two the word **(Restriction**  
"or"; **on evic-**  
**tion.)**
- (ii) by inserting at the end of the same subsection  
the following new paragraphs :—
- (t) that the premises, being a dwelling-  
house, are owned by the lessor who,  
being a male, is of or over the age of  
sixty-five years or, being a female, is  
of or over the age of sixty years, that  
not

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not more than two other dwelling-houses (exclusive of the dwelling-house in which he resides) are owned by the lessor if he is living alone or, if the lessor is living with his spouse, not more than two other dwelling-houses (exclusive of the dwelling-house in which they reside) are owned by them, that the premises were purchased or acquired by the lessor or the deceased spouse of the lessor before the twenty-first day of July, one thousand nine hundred and forty-eight, that the income of the lessor if he is living alone, or, if the lessor is living with his spouse, his income together with that of his spouse, does not exceed the Sydney basic wage, and that the premises are required for sale with vacant possession;

- (u) that, where the premises are a dwelling-house, the lessee has reasonably suitable alternative accommodation available for his occupation for residential purposes; or
- (v) that the premises, being shared accommodation, are required by the lessor, being a person of or over the age of sixty-five years, and that at the date on which the notice to quit was given and during the three years immediately preceding that date only one lease of shared accommodation in the dwelling-house of which the shared accommodation forms part was in force at any one time.

(iii) by inserting at the end of subsection six of the same section the following new paragraphs :—

(c) In paragraph (t) of subsection five of this section, "Sydney basic wage" means the basic wage for adult males assessed and calculated in accordance with the provisions of paragraph

paragraph (a) of subsection two of section No. 7, 1958. 61K of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as last adjusted in accordance with the provisions of section 61M of that Act, as so amended, before the notice to quit concerned was given.

(d) For the purposes of paragraph (t) of subsection five of this section if the lessor resides with his spouse a dwelling-house owned by them jointly or by either of them severally shall be taken to be owned by them.

(iv) by inserting next after subsection nine of the same section the following new subsection:—

(9A) (a) Where a lessor has given notice to quit on the ground specified in paragraph (t) of subsection five of this section and the dwelling-house in respect of which the notice was given has been vacated in accordance with the notice or an order for the recovery of possession of that dwelling-house has been made on that ground, a notice to quit on that ground shall not be given in respect of another dwelling-house by the lessor or his spouse within a period of five years immediately succeeding the date on which the dwelling-house first-mentioned in this subsection was vacated or possession thereof was recovered.

(b) Where a notice to quit has been given on the ground specified in paragraph (t) of subsection five of this section and the dwelling-house in respect of which the notice was given has been vacated within a period of six months after the giving of the notice, the dwelling-house shall, unless the contrary is proved or an order for the recovery of possession of the dwelling-house has been made within that period, be deemed for the purposes of this subsection to have been vacated in accordance with the notice.

(b)



**Landlord and Tenant (Amendment) Act.****No. 7, 1958.****Sec. 62A.**

(Judge may bar lessor's right to take proceedings where refusal of consent to assignment, &c., unreasonable.)

(b) by inserting at the end of section 62A the following new subsection:—

(4) In this section the expression "premises used solely as a dwelling-house" does not include premises which are sub-let in whole or in part by the lessee, with the express or implied consent of the lessor, in the course of the lessee's business of sub-letting for residential purposes.

**Sec. 62B.**

(Power to assign certain tenancies at will.)

(c) by inserting at the end of section 62B the following new subsection:—

(3) In this section the expression "premises used solely as a dwelling-house" does not include premises which are sub-let in whole or in part by the lessee, with the express or implied consent of the lessor, in the course of the lessee's business of sub-letting for residential purposes.

**Sec. 65.**

(Notice to quit where dwelling-house sold.)

(d) (i) by inserting in subsection one of section sixty-five after the words "any person claiming under or through such lessor" wherever occurring the words "otherwise than by virtue of a concurrent lease granted after the commencement of the Landlord and Tenant (Amendment) Act, 1958, by such lessor to the person so claiming";

(ii) by omitting from the same subsection the words "June, one thousand nine hundred and fifty-eight" and by inserting in lieu thereof the words "January, one thousand nine hundred and sixty-one";

(iii) by inserting next after subsection one of the same section the following new subsection:—

(1A) A person who has become the lessor of prescribed premises, being a dwelling-house or part of a dwelling-house, by virtue of the assignment or transfer to him, after the commencement of the Landlord and Tenant (Amendment) Act, 1958, of a lease of the prescribed premises or the granting to him, after

after that commencement, of a concurrent lease of the prescribed premises or any person claiming under or through such lessor shall not, within a period of six months after the date of the assignment or transfer of the lease or the grant of the concurrent lease, as the case may be, give a notice to quit on the ground specified in paragraph (g) of subsection five of section sixty-two of this Act to any person who was a lessee of the prescribed premises at the date of the assignment or transfer of the lease or the grant of the concurrent lease, as the case may be :

Provided that in respect of any person who has, before the first day of January, one thousand nine hundred and sixty-one, become the lessor of prescribed premises, being a dwelling-house or part of a dwelling-house, by virtue of the assignment or transfer to him, after the commencement of the Landlord and Tenant (Amendment) Act, 1958, of a lease of the prescribed premises or the granting to him, after that commencement, of a concurrent lease of the prescribed premises or any person claiming under or through such lessor, the foregoing provisions of this subsection shall be read and construed as if—

- (a) the words "six months" were omitted therefrom and the words "two years" were inserted in lieu thereof; and
  - (b) the words "unless, after that date, he has given to the lessee at least eighteen months' notice in writing of his intention to give such notice to quit" were inserted after the words "as the case may be" where secondly occurring.
- (e) (i) by omitting from paragraph (c) of subsection one of section seventy the word, symbols and letter "and (s)" and by inserting in lieu thereof the word, symbols and letters ", (s), (t) and (v)";

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Sec. 70.  
(Court to consider hardship.)

(ii)

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(ii) by omitting subparagraph (iii) of paragraph (d) of the first proviso to subsection two of the same section and by inserting in lieu thereof the following subparagraph:—

(iii) the lessor does not own and has not, since the twenty-first day of July, one thousand nine hundred and forty-eight, owned any other dwelling-house, or, if the dwelling-house is one of a pair of semi-detached dwelling-houses that are owned by the lessor, the only other dwelling-house that the lessor owns or has, since the twenty-first day of July, one thousand nine hundred and forty-eight, owned is the other one of that pair of semi-detached dwelling-houses;

(iii) by inserting at the end of the second proviso to the same subsection the words “or the Australian Soldiers’ Repatriation Act 1920 (as amended by subsequent Acts) of the Parliament of the Commonwealth”;

(iv) by omitting from the same subsection the words “June, one thousand nine hundred and fifty-eight” and by inserting in lieu thereof the words “January, one thousand nine hundred and sixty-one”;

(v) by inserting next after subsection four of the same section the following new subsection:—

(4A) Notwithstanding anything contained in this section, an order for the recovery of possession of any prescribed premises from any person on the ground specified in paragraph (t) of subsection five of section sixty-two of this Act shall not be made unless the court is satisfied that the premises have been offered for sale to the tenant upon terms and conditions which, having regard to all relevant circumstances, are fair and reasonable.

(vi)

(vi) by inserting at the end of the same section the following new subsection:— No. 7, 1958.

(6) In determining for the purposes of this Act whether alternative accommodation which is available for the occupation of persons who are occupying the prescribed premises for the recovery of possession of which the proceedings have been taken is reasonably suitable, the court shall have regard to the terms and conditions of any proposed lease of the alternative accommodation and to the ability of the lessee of the prescribed premises to pay the rent reserved by that proposed lease.

(f) by inserting next after section seventy the following new section:— New sec.  
70A.

70A. (1) Where a lessor institutes proceedings after the commencement of the Landlord and Tenant (Amendment) Act, 1958, for the recovery of possession of any prescribed premises, being a dwelling-house, from any person on any of the grounds specified in paragraphs (g), (i), (l) or (m) of subsection five of section sixty-two of this Act, and an order for the recovery of possession of the dwelling-house cannot be made in those proceedings unless the court is satisfied that the lessor had provided at the date of expiry of the notice to quit, and has immediately available for the occupation of the persons occupying the dwelling-house, reasonably suitable alternative accommodation, the court shall have no jurisdiction in the matter unless there was filed, at the time when the information instituting the proceedings was exhibited, with the clerk of the court in which the proceedings are instituted a statutory declaration made by the owner of, or other the person having authority to lease, that alternative accommodation declaring that—

Certain dwelling-houses to be subject to this Act notwithstanding section 5A.

(a) the premises specified in the declaration are the alternative accommodation which the lessor had provided at the date of expiry of the notice to quit and which would

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would be immediately available for occupation as provided in subsection two of section seventy of this Act; and

- (b) he is aware of the provisions of subsection two of this section and understands their effect.

(2) As on and from the date on which the statutory declaration referred to in subsection one of this section is filed with the clerk of the court in accordance with that subsection the premises specified in the declaration as being the alternative accommodation shall be subject to the provisions of this Act in all respects as though section 5A of this Act had not been enacted.

This subsection ceases to apply in respect of those premises—

- (a) if the court finds that that alternative accommodation is not reasonably suitable or had not been provided at the date of expiry of the notice to quit or is not immediately available for occupation as provided in subsection two of section seventy of this Act—from the time when the court makes that finding;
- (b) if the court finds that that alternative accommodation is reasonably suitable but the lessee of the premises the subject of the proceedings does not accept that alternative accommodation—from the time of that rejection;
- (c) if the lessee vacates the premises for the recovery of possession of which the proceedings were instituted and does not accept that alternative accommodation—from the time when the lessee vacates those premises;
- (d) if the lessor discontinues the proceedings and the court orders that this subsection shall cease to apply to that alternative accommodation—from the time when the court makes that order;

(e)

- (e) if that lessee, having accepted that alternative accommodation, vacates that alternative accommodation—from the time of that vacation. No. 7, 1958.

Nothing in this subsection affects the operation of any order made under section 81A of this Act.

(3) The clerk of the court with whom is filed any such statutory declaration as is referred to in subsection one of this section shall forward particulars of the alternative accommodation referred to in the statutory declaration to the Rent Controller who shall enter the particulars in a register kept for the purpose.

- (g) (i) by inserting in paragraphs (a), (b) and (c) of subsection one of section seventy-seven after the word “leased” wherever occurring the words “or made the subject of an agreement or arrangement whether oral or in writing of leave and license for the use thereof”;  
Sec. 77. (Premises not to be sold or re-let in certain cases.)
- (ii) by inserting in paragraph (a) of subsection two of the same section after the word “letting” the words “, or the entering into of an agreement or arrangement whether oral or in writing of leave and license for the use,”;
- (iii) by inserting in the same paragraph after the word “let” the words “or the subject of that agreement or arrangement”;
- (iv) by inserting at the end of the same subsection the words:—

In this subsection “rent”, in relation to an agreement or arrangement whether oral or in writing of leave and license for the use of the prescribed premises or portion thereof, means any payment or consideration in respect of any leave and license for the use of the premises or portion, as the case may be, and for any services provided for or supplied to any person using the premises or portion, as the case may be, under leave and license.

(h)

**Landlord and Tenant (Amendment) Act.****No. 7, 1958.****Sec. 81.****(Persons not to interfere with use or enjoyment of premises.)**

(h) (i) by inserting next after subsection three of section eighty-one the following new subsection:—

(3A) Where the lessor of any prescribed premises, being a dwelling-house, or any agent or servant of the lessor, has been convicted of an offence arising under subsection one of this section, the court before which the lessor, agent or servant, as the case may be, was convicted, if it is of opinion that the acts or omissions constituting the offence were done or omitted with intent that the person who was lessee at the time when those acts or omissions were done or omitted to be done vacate the premises and that person has vacated the premises, may, in addition to the penalty prescribed by this Act for the offence, order the lessor to pay to that person such sum as appears to the court to be sufficient as compensation for damage or loss sustained by that person as the result of his vacating the premises, and the provisions of subsection three of section sixty-one of this Act shall apply, mutatis mutandis, to and in respect of any order for the payment of any sum under this subsection.

(ii) by inserting in paragraph (b) of subsection four of section eighty-one after the words "power of the lessor" the words "to restore the service or to have the service restored or";

**New sec. 81A.**

(i) by inserting next after section eighty-one the following new section:—

**Court may order that certain dwelling-houses remain subject to this Act.**

81A. (1) A court for the district in which prescribed premises, being a dwelling-house that is not exempt by section 5A of this Act from the provisions of Parts II, III, IV and V of this Act to the extent provided by that section, are situated, shall, on application in that behalf made by the lessee of the premises, order that the premises, if vacated by the lessee

lessee, shall remain subject to the provisions of this Act in all respects as though section 5A of this Act had not been enacted, if the court is satisfied that—

No. 7, 1958.

- (a) the lessor has done, or caused to be done, any act, or omitted, or caused to be omitted, any act whereby the ordinary use or enjoyment by the lessee of the premises or of any goods leased therewith, or of any conveniences usually available to the lessee, or of any service supplied to, or provided in connection with, the premises is interfered with or restricted;
- (b) that the lessor has by his conduct endeavoured to improperly induce the lessee to vacate the premises;
- (c) that the lessor has unreasonably caused expense and inconvenience to the lessee by requiring him to defend proceedings under this Act for the recovery of the premises from the lessee and that those proceedings were vexatious;
- (d) the lessor has allowed the premises to fall into a dilapidated or dangerous condition.

(2) Notwithstanding anything contained in subsection one of this section, the court, although satisfied of any one or more of the matters specified in paragraphs (a), (c) and (d) of subsection one of this section, may refuse to make the order if the lessor satisfies the court that his conduct in relation to that matter or those matters was not intended to induce the lessee to vacate the premises.

(3) An order under this section—

- (a) shall remain in force for such period as is specified in the order or until the court otherwise orders; and
- (b) shall have effect according to its tenor.

(4)



No. 7, 1958.

(4) Where an order is made under this section, the clerk of the court shall forthwith forward a copy of the order to the Rent Controller who shall enter particulars of the order in a register kept for the purpose.

(5) For the purposes of this section, conveniences shall be deemed to be usually available to the lessee where prior to the use of the conveniences having been interfered with or restricted without his consent, he has been allowed, at all times during the tenancy, to use those conveniences as he desired or he has been allowed to use those conveniences at times agreed to by the lessor and lessee or at times equivalent to those times.

(6) In this section "court" means a court of petty sessions holden before a Stipendiary Magistrate.

Sec. 85B.  
(Application  
by solicitor  
or agent.)

(j) by inserting in section 85B after the word "eighty-six," the figures and letter "86A,";

New sec.  
86A.

(k) by inserting next after section eighty-six the following new section:—

Exclusion of  
premises  
from opera-  
tion of  
Part III  
and Part V  
where lessor  
and lessee  
are  
employer  
and  
employee.

86A. (1) The owner of any prescribed premises who wishes to make the premises available for leasing to his employees (whether or not the premises are then let to one of his employees) may make application in writing to the Controller to exclude the premises from the operation of this Part and Part V of this Act.

(2) The applicant shall furnish such information in relation to the application as the Controller requires.

(3) (a) The Controller may, in his discretion, issue a certificate under this section excluding the premises from the operation of this Part and Part V of this Act during—

(i) any period during which the premises are let to any person who is an employee of the applicant; and

(ii)

**Landlord and Tenant (Amendment) Act.**

111

- (ii) where any such person ceases to be an employee of the applicant while the premises are let to that person, the period of two months immediately succeeding the date on which that person so ceases to be an employee, No. 7, 1958.

and the premises shall be excluded accordingly.

(b) Nothing in subparagraph (ii) of paragraph (a) of this subsection shall be construed as affecting or limiting the operation of subparagraph (i) of that paragraph.

(4) The Controller may at any time revoke or vary any certificate issued under subsection three of this section.

- (1) (i) by omitting subsections three and (3A) of section eighty-seven and by inserting in lieu thereof the following subsection: — Sec. 87.  
(Exclusion of certain subdivided premises, &c., from operation of Part III and Part V.)
- (3) The Controller may—
- (a) grant the application and issue the certificate, either unconditionally or subject to such conditions as he thinks fit and for such period as he thinks fit; or
- (b) refuse the application.
- (ii) by inserting at the end of subsection four of the same section the words “unless immediately prior to that date a prior certificate issued under this section had force or effect in respect of that person as such lessee”;

- (m) by inserting in section 87A after the words “this Part” the words “and Part V”. Sec. 87A.  
(Part III not to apply to a dwelling-house let on behalf of an insane patient.)

**No. 7, 1958.** **5.** The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is further amended by inserting next after section eighty-eight the following new section:—

Further amendment of Act No. 25, 1948.  
New sec. 88A.

Dwelling-house not to be sold unless tenant given opportunity to purchase.  
cf. Vict. Act No. 6098, s. 72.

88A. (1) A person shall not sell or agree to sell any prescribed premises, being a dwelling-house which is occupied by a lessee and being the only premises comprised in the sale or agreement for sale, to any person other than the lessee unless—

- (a) the premises are sold at an auction sale of which not less than fourteen days' notice in writing has been given to the lessee; or
- (b) the vendor has first offered in writing to sell the premises to the lessee at a price not greater than the price at which the premises are actually sold or agreed to be sold and upon terms as to payment and otherwise not less favourable to the lessee than the terms upon which the premises are actually sold or agreed to be sold and the lessee has not accepted that offer within fourteen days after the receipt thereof by him:

Provided that nothing in this subsection shall be construed as prohibiting the vendor from entering into and giving effect to a contract to sell the premises to any person conditionally upon the lessee's rejection of an offer of sale of the premises made in accordance with paragraph (b) of this subsection.

(2) Any person who contravenes or fails to comply with any provision of this section shall be guilty of an offence against this Act.

(3) Any contravention of or failure to comply with any provision of this section shall not invalidate any contract or agreement.

This subsection shall have effect notwithstanding anything contained in section eighty-nine of this Act.

**6.** The Landlord and Tenant (Amendment) Act, 1948, as No. 7, 1958. amended by subsequent Acts, is further amended—

(a) by omitting from section one hundred the word, symbols and letter “or (r)” and by inserting in lieu thereof the word, symbols and letters “, (r), (t), (u) or (v)”;

Further amendment of Act No. 25, 1948.

Sec. 100. (Limitation on power of court to make order for recovery of possession.)

(b) by omitting from subsection two of section one hundred and one the word, symbols and letter “or (r)” and by inserting in lieu thereof the word, symbols and letters “, (r), (t), (u) or (v)”.

Sec. 101. (Protection of protected person claiming under lessee where tenancy determined.)

**7.** Any determination of the fair rent of prescribed premises purporting to have been made before the commencement of this Act pursuant to subsection three of section 6A of the Landlord and Tenant (Amendment) Act, 1948, as amended from time to time, which would have been valid, and would have been in force immediately before that commencement, had the amendments made by subparagraphs (ii), (iii) and (iv) of paragraph (b) of section two of this Act been in force at, and since, the time when the determination was made shall, as from that commencement, be the fair rent and the rent of the prescribed premises until it is varied in pursuance of Part II of the Landlord and Tenant (Amendment) Act, 1948-1958.

Effect of certain determinations.