

LANDLORD AND TENANT (AMENDMENT) ACT.

Act No. 26, 1965.

Elizabeth II, No. 26, 1965 An Act to amend the law relating to landlord and tenant; for this and other purposes to amend the Landlord and Tenant (Amendment) Act, 1948, and certain other Acts; and for purposes connected therewith. [Assented to, 17th December, 1965.]

BE

BE it enacted by the Queen's Most Excellent Majesty, by No. 26, 1965
 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 "Landlord and Tenant (Amendment) Act, 1965". Short title
and citation.

(2) The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts and by this Act, may be cited as the Landlord and Tenant (Amendment) Act, 1948-1965.

2. Part I of the Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is amended— Amendment
of Act No.
25, 1948.

- (a) by omitting subsection one of section four; (Part I—
Prelim-
inary.)
Sec. 4.
(Savings.)
- (b) (i) by omitting from subparagraph (v) of paragraph (b) of subsection one of section 5A the words "(not being a lease of shared accommodation)"; Sec. 5A.
(Certain
premises
excluded
from
operation
of Act.)
- (ii) by omitting from paragraph (c) of the same subsection the words "(not being a lease of shared accommodation)";
- (iii) by omitting from subparagraph (v) of paragraph (d) of the same subsection the words "(not being a lease of shared accommodation or a lease the lessor under which is the employer of the lessee)";
- (iv) by omitting from subparagraph (iv) of paragraph (e) of the same subsection the words "(not being a lease of shared accommodation or a lease the lessor under which is the employer of the lessee)";
- (v) by omitting from subparagraph (iii) of paragraph (f) of the same subsection the words "(not being a lease of shared accommodation)"; (vi)

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- (vi) by omitting from paragraph (b) of the same subparagraph the word "and" where secondly occurring;
- (vii) by omitting from paragraph (c) of the same subparagraph the word "or" where secondly occurring and by inserting in lieu thereof the word "and";
- (viii) by inserting at the end of the same subparagraph the following new subparagraph :—
 - (iv) at the time that lease was entered into, complied with the provisions of the Local Government (Regulation of Flats) Act, 1955, as amended by subsequent Acts in force at that time; or
- (ix) by omitting from subparagraph (iii) of paragraph (g) of the same subsection the words "(not being a lease of shared accommodation or a lease the lessor under which is the employer of the lessee)";
- (x) by inserting at the end of the same subparagraph the following word and new subparagraph :—
 - and
 - (iv) at the time that lease was entered into, complied with the provisions of the Local Government (Regulation of Flats) Act, 1955, as amended by subsequent Acts in force at that time.
- (xi) by inserting next after subsection (1B) of the same section the following new subsection :—
 - (1c) The provisions of Parts II, III, IV and V of this Act do not apply in respect of any premises, being a garage, that are separately leased and are not ordinarily used as a dwelling or for business or commercial purposes.

Nothing in this subsection affects the operation of subsection (1A) of this section.
- (xii)

(xii) by omitting paragraph (b) of the definition of "Residential unit" in subsection four of the same section; No. 26, 1965

(c) by omitting from subparagraph (i) of paragraph (c) of subsection two of section 6A the words "for a period which in the circumstances of the particular case is reasonable, but not exceeding seven days" and by inserting in lieu thereof the words "for a period of at least seven days or, where a period shorter than seven days is reasonable in the circumstances, for that shorter period". Sec. 6A. (Special premises.)

3. (1) Part II of the Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is amended— Further amendment of Act No. 25, 1948.

(Part II— Fair Rents.)

(a) by omitting Division 2;

Division 2. (Rent of Prescribed Premises.)

(b) (i) by omitting from subsection one of section 17A the words "(other than shared accommodation)"; Sec. 17A. (Fixing of fair rent of prescribed premises by agreement.)

(Fixing of fair rent of prescribed premises by agreement.)

(ii) by omitting from paragraph (a) of subsection two of the same section the words "one month" and by inserting in lieu thereof the words "three months".

(c) (i) by omitting paragraph (b) of subsection one of section twenty-one and by inserting in lieu thereof the following paragraph : — Sec. 21. (Matters to be considered.)

(Matters to be considered.)

(b) the lessor's liability for annual rates and insurance premiums in respect of such premises and fixtures thereon;

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(ii) by inserting in paragraph (e) of the same subsection after the words "prescribed premises" the words "(other than premises which are the subject of an agreement in force under section 17A of this Act)";

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

Notwithstanding any other provision of this Act, a Fair Rents Board shall not, in making a determination, or a variation of a determination, of the fair rent of any prescribed premises have regard to any capital value of those premises other than the appropriate capital value of those premises referred to in paragraph (a) of this subsection.

Sec. 24A.
(Determination based on increased out-goings.)

(d) (i) by omitting from subsection one of section 24A the words "or were, immediately before the commencement of the Landlord and Tenant (Amendment) Act, 1951, fixed by section fifteen of this Act as enacted immediately before such commencement";

(ii) by inserting in subsection three of the same section after the word "basis," the words "a reasonable allowance for any increase in the rate of interest charged upon overdrafts by the Commonwealth Trading Bank of Australia and";

(iii) by inserting in the same subsection after the word "premiums" the words "and agent's collecting commission";

(iv) by omitting paragraph (b) of the same subsection;

Sec. 32.
(Variation of determination.)

(e) (i) by omitting from paragraph (f) of subsection two of section thirty-two the words "of the premises, of the goods leased therewith" and by inserting in lieu thereof the words "of the goods leased with the premises";

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(ii) by inserting in paragraph (g) of the same subsection after the word "decreased" the words " , otherwise than by reason of an agreement in force under section 17A of this Act";

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(f) by omitting from subsection one of section forty-four the words "may by summons in writing under his hand or under the hand of the clerk of the Board" and by inserting in lieu thereof the words "or the clerk of a Fair Rents Board at the direction of the Controller or such a Stipendiary Magistrate or at the request of a party to any proceedings under this Part or the authorized agent of such a party, may by summons in writing under the hand of the Controller, Stipendiary Magistrate or clerk, as the case may be";

Sec. 44.
(Summoning of witnesses and production of documents.)

(g) by omitting subsection two of section fifty-seven.

Sec. 57.
(Lessor to ascertain fair rent.)

(2) For the avoidance of doubt, it is hereby declared that the amendments made by subparagraphs (ii) and (iii) of paragraph (c), and paragraph (e), of subsection one of this section apply to and in respect of determinations, and variations of determinations, of the fair rent of prescribed premises, whether the application for the determination or the variation was made before or after the commencement of this Act.

4. Part IV of the Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is amended by inserting next after section 88A the following new section :—

Amendment of Act No. 25, 1948.
(Part IV—Miscellaneous.)
New sec. 88B.

88B. Where—

(a) a lessee of prescribed premises who is in receipt of a pension under the Social Services Consolidation

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Consolidation Act 1947 (as amended by subsequent Acts) of the Parliament of the Commonwealth vacates those premises, otherwise than by reason of an order made under Part III of this Act;

- (b) that lessee is, by reason of his vacating the prescribed premises, granted a lease by the Housing Commission of New South Wales of premises provided by that Commission; and
- (c) that Commission notifies, in writing, the lessor of the prescribed premises that it has so granted such a lease,

the lessor of the prescribed premises shall not, within a period of three years after the lessee vacates the prescribed premises, sell those premises unless, on an application made to the court of petty sessions for the petty sessions district in which those premises are situated, that court has consented to the sale.
