

IRRIGATION AREAS (REDUCTION OF RENTS) ACT.

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 83, 1974.

An Act to make provision for the reduction of rent payable by certain classes of pensioners in respect of certain classes of leases in irrigation areas; and for purposes connected therewith. [Assented to, 3rd December, 1974.]

BE 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. **1.** This Act may be cited as the "Irrigation Areas (Reduction of Rents) Act, 1974".

2.

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2. (1) This section and section 1 shall commence on the date of assent to this Act. No. 83, 1974

Commence-
ment.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Inter-
pretation.

“application” means an application made under this Act;

“appropriate authority”, in relation to an application for the reduction of the rent payable for the whole or a part of a year in respect of a lease, means—

(a) except as provided in paragraph (b)—the Commission; or

(b) where the rent payable for the whole or a part of the previous year in respect of that lease was required to be reduced under this Act—the Bank;

“Bank” means the Rural Bank of New South Wales;

“Commission” means The Water Conservation and Irrigation Commission constituted under the Irrigation Act, 1912;

“eligible pensioner”, in relation to a lease, means a pensioner who is the holder or one of the holders of the lease and who occupies a dwelling situated on the land the subject of the lease as his or her sole or principal place of abode;

“lease”

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“lease” means—

- (a) a town land lease, an irrigation farm lease or a non-irrigable lease made under or by operation of the Crown Lands Consolidation Act, 1913, in respect of land within an irrigation area within the meaning of the Irrigation Act, 1912; or
- (b) a lease from the Commission made under the Wentworth Irrigation Act in respect of land within the irrigation area within the meaning of that Act;

“pensioner” means—

(a) a person—

- (i) who is in receipt of a pension under Part III or IV of the Social Services Act 1947–1974, as amended by subsequent Acts, of the Parliament of the Commonwealth; or
- (ii) who is in receipt of a service pension under Division 5 of Part III of the Repatriation Act 1920–1974, as amended by subsequent Acts, of the Parliament of the Commonwealth,

and who is the holder of a pensioner medical service entitlement card issued by the Commonwealth Department of Social Services;

- (b) a person who is in receipt of a pension under Part III of the Repatriation Act 1920–1974, as amended by subsequent Acts, of the Parliament of the Commonwealth as—
 - (i) the widow of a member of the Forces;
 - (ii) the unmarried mother of a deceased unmarried member of the Forces; or
 - (iii)

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- (iii) the widowed mother of a deceased ^{No. 83, 1974} unmarried member of the Forces, and either—
- (iv) who is the holder of a pensioner medical service entitlement card issued by the Commonwealth Department of Social Services; or
- (v) whose assets and income are such as, if that person were a pensioner of the kind referred to in paragraph (a) (i), would entitle that person to be the holder of a pensioner medical service entitlement card issued by the Commonwealth Department of Social Services;
- (c) a person who, under Part III of the Repatriation Act 1920–1974, as amended by subsequent Acts, of the Parliament of the Commonwealth, is in receipt of a special pension referred to in the Second Schedule to that Act; or
- (d) a person who is of a class or description prescribed for the purposes of this paragraph;

“regulations” means the regulations under this Act;

“relevant date”, in relation to an application for the reduction of rent, means—

- (a) where the application is made on or after the day on which the rent is due and payable—that day; or
- (b) where the application is made before the day on which the rent is due and payable—the date of the application;

“the

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“the 1955 Act” means the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act, 1955;

“year” means the period of twelve months commencing on 1st July, 1974, or any subsequent period of twelve months commencing on 1st July.

(2) A reference in this Act to a jointly eligible occupier is, in relation to a lease held by an eligible pensioner with one or more other persons, a reference to a person who—

- (a) is the spouse of that eligible pensioner;
- (b) is another eligible pensioner; or
- (c) where another eligible pensioner and his or her spouse have the same sole or principal place of abode, is the spouse of that other eligible pensioner, and whose sole or principal place of abode is the same as that of that firstmentioned eligible pensioner.

Entitlement to reduction.

4. Where—

- (a) an application is made in accordance with this Act for the reduction of the rent payable for the whole or a part of a year in respect of a lease;
- (b) the applicant was, as at the relevant date applicable to the application, an eligible pensioner;
- (c) the Commission is satisfied, on such evidence as it thinks fit, that the land the subject of the lease was, during so much of the period during which the lease was in force in that year as preceded the Commission’s consideration of the application, used primarily for residential purposes; and
- (d) evidence, sufficient to enable the Bank to calculate the amount of the reduction, has been produced to the appropriate authority,

that rent shall be reduced in accordance with section 5 or 6, as the case may require.

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5. (1) In this section, "prescribed percentage", in relation to an application for the reduction of the rent payable for the whole or a part of a year in respect of a lease to which section 20 of the 1955 Act does not apply as at the relevant date, means—

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Amount of reduction: rents other than rents reduced under the 1955 Act.

- (a) except as provided in paragraph (b)—50%; or
- (b) where a regulation made for the purposes of this paragraph prescribes some other percentage in relation to that year—that other percentage.

(2) The amount by which rent payable in respect of a lease (other than a lease to which section 20 of the 1955 Act applies as at the relevant date) is required to be reduced by section 4 is—

- (a) where, as at the relevant date, the applicant is the sole holder of the lease or holds the lease with one or more jointly eligible occupiers but with no other person—the prescribed percentage of that rent; or
- (b) where, as at the relevant date, the applicant holds the lease with one other person who is not a jointly eligible occupier, or with two or more other persons, any of whom is not a jointly eligible occupier—an amount that bears to the prescribed percentage of that rent the same proportion as the interests (as between themselves) of the applicant and any jointly eligible occupiers in the lease bear, as at the relevant date, to the interests (as between themselves) of all the lessees in the lease.

6. (1) In this section, "prescribed percentage", in relation to an application for the reduction of the rent payable for the whole or a part of a year in respect of a lease to which section 20 of the 1955 Act applies as at the relevant date, means—

Amount of reduction: rents reduced under the 1955 Act.

- (a) except as provided in paragraph (b)—27½%; or

(b)

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- (b) where a regulation made for the purposes of paragraph (b) of the definition of "prescribed percentage" in section 5 (1) prescribes some other percentage in relation to that year—the percentage obtained in accordance with the following formula :—

$$a = \left(b - \frac{22\frac{1}{2}}{100} \right)$$

where—

a is the percentage to be obtained; and

b is the percentage prescribed by that regulation, or 22½%, whichever is the greater.

(2) The amount by which rent payable in respect of a lease to which section 20 of the 1955 Act applies as at the relevant date is required to be reduced by section 4 is—

- (a) where, as at the relevant date, the applicant is the sole holder of the lease or holds the lease with one or more jointly eligible occupiers but with no other person—the prescribed percentage of the rent that would have been payable as at the relevant date if section 20 of the 1955 Act had not been enacted; or
- (b) where, as at the relevant date, the applicant holds the lease with one other person who is not a jointly eligible occupier, or with two or more other persons, any of whom is not a jointly eligible occupier—an amount that bears to the prescribed percentage of the rent that would have been payable as at the relevant date if section 20 of the 1955 Act had not been enacted the same proportion as the interests (as between themselves) of the applicant and any jointly eligible occupiers in the lease bear, as at the relevant date, to the interests (as between themselves) of all the lessees in the lease.

(3)

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(3) The reduction required to be made by section 4 No. 83, 1974 in the rent payable in respect of a lease to which section 20 of the 1955 Act applies is in addition to that prescribed by section 20 of that Act.

(4) Section 20 (4) of the 1955 Act does not apply in relation to the reduction required to be made by section 4 in the rent payable in respect of a lease to which section 20 of that Act applies.

7. (1) An application for the reduction of the rent payable in respect of a lease shall, for the purposes of this Act, be deemed not to be made in accordance with this Act unless—

- (a) it is made to the appropriate authority in the manner and form prescribed by regulation or, if no such regulation is in force, in the manner and form determined by the appropriate authority; and
- (b) it is made—
 - (i) during the period of four months commencing one month before the rent became or becomes due and payable, whether or not the appropriate authority approves any other time under subsection (2) as the time when the application may be made; or
 - (ii) at such time, applicable to the application, as the appropriate authority approves under subsection (2).

(2) The appropriate authority may, in its discretion, approve, whether generally or in a particular case or class of cases, some time outside the period referred to in subsection (1) (b) (i) as the time when an application may be made.

8.

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- No. 83, 1974** **8.** Where a person who is an eligible pensioner or a jointly eligible occupier holds a lease with one or more other persons, that person is, to the extent to which any rent payable in respect of the lease was, by virtue of his being an eligible pensioner or a jointly eligible occupier, reduced under this Act, discharged from liability as between that person and any other person jointly liable to pay that rent.
- Liability as between lessees.**
- 9.** Where the holder of a lease the rent of which has been reduced under this Act notifies his intention to convert the lease into a purchase under section 145 of the Crown Lands Consolidation Act, 1913, the amount of the purchase money in respect of the lease shall be determined in accordance with section 147A of that Act as if the rent had not been so reduced.
- Conversion of lease.**
- 10.** Where the rent of a lease has been reduced under this Act and the land the subject of the lease is subdivided, the rent shall, for the purposes of section 144B (2) of the Crown Lands Consolidation Act, 1913, be deemed not to have been so reduced.
- Subdivision of leased land.**
- 11.** Any power, authority, duty or function conferred or imposed on the Bank by or under this Act (other than section 13) shall be exercised or performed through its Irrigation Agency.
- Exercise of Bank's power, etc.**
- 12. (1)** A person shall not make a wilfully false statement in an application.
- Offence.**

Penalty : \$200.

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(2) A penalty imposed by subsection (1) may be recovered in a summary manner before a stipendiary magistrate or any two justices of the peace in petty sessions. No. 83, 1974

13. The amount of the reduction in the rent payable in respect of a lease made by reason of a false statement made in an application is recoverable by the Bank as a debt in any court of competent jurisdiction. Recovery of certain amounts.

14. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to— Regulations.

- (a) prescribing a class or description of persons for the purposes of paragraph (d) of the definition of "pensioner" in section 3 (1); and
- (b) prescribing a percentage for the purposes of paragraph (b) of the definition of "prescribed percentage" in section 5 (1).

(2) Regulations may be made so as to apply differently according to such factors as may be specified in the regulations.

(3) Where the prescribed percentage (within the meaning of section 5 or 6) applicable to a year is varied by or by operation of a regulation, the regulation shall not have any force in so far as it would, but for this subsection, take effect later than six months after the commencement of that year.

(4)

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(4) Where, after an application for the reduction of the rent payable for the whole or a part of a year in respect of a lease has been disposed of under this Act, the prescribed percentage (within the meaning of section 5 or 6) applicable to the year is varied by or by operation of a regulation, the regulation shall, in relation only to the rent that is the subject of the application, be deemed not to have any force.
