

## LANDLORD AND TENANT (AMENDMENT) ACT.

Act No. 54, 1951.

An Act to amend the Landlord and Tenant (Amendment) Act, 1948, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 28th December, 1951.] George VI.  
No. 54, 1951.

**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 "Landlord and Tenant (Amendment) Act, 1951". Short title  
and  
citation.

(2)

**Landlord and Tenant (Amendment) Act.****No. 54, 1951.**

(2) The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Landlord and Tenant (Amendment) Act, 1948-1951.

Amendment  
of Act No.  
25, 1948.

Sec. 4.

(Savings.)

**2. (1) The Principal Act is amended—**

- (a) (i) by inserting in subsection one of section four after the word “made” where firstly occurring the words “or purporting to have been made”;
- (ii) by inserting in the same subsection after the words “force or effect” the words “or purporting to have force or effect”;
- (iii) by inserting in subsections two, three and four of the same section after the words “which are pending” wherever occurring the words “or purport to be pending”;
- (iv) by omitting from subsection two of the same section the words “pending application” and by inserting in lieu thereof the words “application pending or purporting to be pending”;

Sec. 6.

(Declarations as to application of Act.)

- (b) (i) by inserting in subsection three of section six after the word “made” where firstly occurring the words “or purporting to have been made”;
- (ii) by inserting in the same subsection after the words “force or effect” the words “or purporting to have force or effect”;
- (iii) by inserting in the same subsection after the word “made” where secondly occurring the words “or purported to have been made”;

Sec. 7.

(Holiday premises.)

- (c) (i) by inserting in subsection four of section seven after the word “issued” where firstly occurring the words “or purporting to have been issued”;

(ii)

- (ii) by inserting in the same subsection after No. 54, 1951. the words "force or effect" the words "or purporting to have force or effect";
- (iii) by inserting in the same subsection after the word "issued" where secondly occurring the words "or purported to have been issued";
- (d) (i) by inserting in the definition of "Common-wealth Regulations" in subsection one of Sec. 8. (Definitions.) section eight after the words "as in force" the words "or as purporting to be in force";
  - (ii) by inserting in subsection four of the same section after the word "made" where firstly occurring the words "or purporting to have been made";
  - (iii) by inserting in the same subsection after the words "in force" where firstly occurring the words "or purporting to be in force";
- (e) (i) by inserting in subsection one of section nine after the word "constituted" where firstly occurring the words "or purporting to have been constituted"; Sec. 9. (Constitution and abolition of Fair Rents Boards.)
  - (ii) by inserting in the same subsection after the word "existence" the words "or purporting to be in existence";
- (f) (i) by omitting subsections one, two and (2A) of section fifteen and by inserting in lieu thereof the following subsections:— Sec. 15. (Rent of prescribed premises.)
  - (1) Except in the case of premises which were not in existence or were not leased on the first day of March, one thousand nine hundred and forty-nine, 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, 1951, and notwithstanding any term or covenant in any lease in force at any time after such commencement, exceed the rent payable in respect of the prescribed premises at the first day of March,

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March, one thousand nine hundred and forty-nine (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 such commencement and in force immediately before such commencement the rent as so increased or decreased.

(2) The rent payable by the lessee of any prescribed premises which were not in existence, or were not leased, on the first day of March, one thousand nine hundred and forty-nine, but were leased on the first day of November, one thousand nine hundred and fifty-one, or by the lessee of any such premises together with goods leased therewith, shall not, in respect of any period after the commencement of the Landlord and Tenant (Amendment) Act, 1951, and notwithstanding any term or covenant in any lease in force at any time after such 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 such commencement and in force immediately before such commencement the rent as so increased or decreased.

(ii) by omitting from subsection four of the same section the words and symbols "or subsection (2A)";

(g) by omitting subsection one of section sixteen and by inserting in lieu thereof the following subsection:—

(1) Where the rent of any prescribed premises (or of prescribed premises together with

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

with goods) is fixed by subsection one or subsection two of section fifteen of this Act, the lessee may, if the lessor of the premises was the lessor on the first day of March, one thousand nine hundred and forty-nine, or on the first day of November, one thousand nine hundred and fifty-one, as the case may be, by notice require the lessor to furnish him with a statutory declaration as to the rent of the prescribed premises (or of the prescribed premises together with goods) on that date, and the lessor shall furnish a statutory declaration accordingly within seven days after the receipt by him of the notice. No. 54, 1951.

- (h) (i) by omitting from subsection two of section fifty-seven the words "prescribed date" wherever occurring and by inserting in lieu thereof the words "first day of March, one thousand nine hundred and forty-nine"; Sec. 57.  
(Lessor to ascertain fair rent.)
- (ii) by omitting from subsection three of the same section the words "prescribed date" and by inserting in lieu thereof the words "first day of March, one thousand nine hundred and forty-nine";
- (iii) by omitting from the same subsection the words "first day of March, one thousand nine hundred and forty-five" wherever occurring and by inserting in lieu thereof the words "first day of November, one thousand nine hundred and fifty-one";
- (iv) by omitting subsection four of the same section;
- (i) (i) by inserting in subsection two of section seventy-one after the word "made" wherever occurring the words "or purporting to have been made"; Sec. 71.  
(Power to stay proceedings or order.)
- (ii) by inserting in the same subsection after the word "issued" the words "or purporting to have been issued";

(j)

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Sec. 75.

(Ejectment orders not enforceable unless made under this Act.)

(j) (i) by inserting in section seventy-five after the words "Part or" the words "made or purporting to be made";

(ii) by inserting in the same section immediately before the words "by any court" the words "or purporting to have been made";

Sec. 87.

(Exclusion of certain subdivided premises, &amp;c., from operation of Part III.)

(k) by inserting in paragraph (b) of subsection one of section eighty-seven after the word "issued" where firstly occurring the words "or purporting to have been issued."

(2) (a) The amendments made by paragraphs (a), (b), (c), (d), (e), (i), (j) and (k) of subsection one of this section shall be deemed to have commenced on the sixteenth day of August, one thousand nine hundred and forty-eight.

(b) A person shall not, by reason of the operation of the amendments made by such paragraphs, be guilty of an offence against the Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, in respect of anything done or omitted to be done by him before the commencement of this Act if he would not have been so guilty had such amendments not been made.

Further amendment of Act No. 25, 1948.

**3. The Principal Act is further amended—**

New sec. 24A.

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

Determination based on increased out-goings.

24A. (1) This section applies to any prescribed premises other than shared accommodation which were in existence on the thirty-first day of August, one thousand nine hundred and thirty-nine, and the fair rents of which are fixed by a determination 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.

(2)

(2) The lessor of any prescribed premises to which this section applies may make application in writing—

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(a) where the premises are situated within, or partly within and partly outside, the Metropolitan Area—to the Controller; or

(b) where the premises are situated wholly outside the Metropolitan Area—to the clerk of the Fair Rents Board nearest to the premises,

for an increase in the fair rent of the premises pursuant to the provisions of this section.

(3) The Controller or the clerk of the Fair Rents Board, as the case may be, shall thereupon make an assessment of the fair rent of the premises by adding to the existing fair rent thereof, calculated on an annual basis, the amount by which he is satisfied that the lessor's liability in respect of such premises and fixtures thereon for annual rates and insurance premiums and for the annual cost of repairs, maintenance and renewals has increased since—

(a) the date of the last determination of the fair rent of the premises; or

(b) if there has been no determination—the date by reference to which the fair rent of the premises was fixed under section fifteen of this Act as enacted immediately before the commencement of the Landlord and Tenant (Amendment) Act, 1951.

(4) (a) Notice of the fair rent so assessed shall be given in writing by the Controller or the clerk of the Fair Rents Board, as the case may be, to the lessee of the premises.

The fair rent so assessed may be expressed on a weekly basis or on such other basis as the Controller or the clerk of the Fair Rents Board, as the case may be, may determine.

(b)

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(b) Such notice shall specify a date not less than twenty-eight days from the date on which the notice is given before which objection to the fair rent so assessed may be lodged with the Controller or the clerk of the Fair Rents Board, as the case may be, by the lessee of the premises.

(5) (a) If no such objection is lodged with the Controller or the clerk of the Fair Rents Board, as the case may be, before the date so specified—

(i) the rent specified in the notice of assessment shall, as from the date so specified and until varied in pursuance of this Part, be the fair rent of the premises in all respects as if the same had been determined by a Fair Rents Board in accordance with this Part;

(ii) notice that the rent specified in the notice of assessment is to be the fair rent of the premises as from the date so specified shall be given by the Controller or the clerk of the Fair Rents Board, as the case may be, to the lessor and lessee of the premises.

(b) If any such objection is lodged with the Controller or the clerk of the Fair Rents Board, as the case may be, before the date so specified, the Controller or the clerk of the Fair Rents Board, as the case may be, shall refer the lessor's application to the Fair Rents Board nearest to the premises.

(6) Any application made to the Controller or the clerk of a Fair Rents Board, as the case may be, pursuant to subsection two of this section may, notwithstanding the provisions of subsection three of this section, at any time be referred by him of his own motion to the Fair Rents Board nearest to the prescribed premises.

(7)



(7) Any reference to a Fair Rents Board under paragraph (b) of subsection five or under subsection six of this section shall be deemed to be—

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- (a) where the fair rent of the premises has been previously fixed by a determination—an application by the lessor to that Fair Rents Board pursuant to section thirty-two of this Act for a variation of the last determination;
- (b) where the fair rent of the premises is not fixed by a determination—an application by the lessor to that Fair Rents Board pursuant to section eighteen of this Act to have the fair rent of the premises determined,

and shall be dealt with accordingly.

(8) Notwithstanding anything contained in subsection two of section thirty-two of this Act, application may be made at any time to vary a determination of the fair rent of any prescribed premises made by the Controller or the clerk of a Fair Rents Board and having effect pursuant to subsection five of this section as a determination made by a Fair Rents Board.

- (b) (i) by omitting from paragraph (a) of subsection one of section thirty-six the word “require” where firstly occurring and by inserting in lieu thereof the word “seek”;
- (ii) by omitting from the same paragraph the words “require the purchase or exchange of any goods” and by inserting in lieu thereof the words “sell, purchase or exchange any goods”;
- (iii) by inserting in the second proviso to the same paragraph after the words “No person shall” the words “demand, seek”;
- (iv) by omitting from subsection three of the same section the words “been required to purchase or exchange” and by inserting in lieu thereof the words “purchased or exchanged”;

Sec. 36.  
(Certain payments prohibited.)

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- (v) by omitting from the same subsection the words "guilty of the contravention" and by inserting in lieu thereof the words "from whom the goods or goodwill was purchased or with whom the goods were exchanged";
- (vi) by omitting from the same subsection the words "in accordance with the requirement";
- (vii) by inserting at the end of the same section the following new subsection:—

(4) Where a person has, in contravention of this section, sold any goods or goodwill, he may recover in any court of competent jurisdiction, from the person to whom the goods or goodwill was sold, so much of the fair value thereof as exceeds the amount for which the goods or goodwill was sold.

Sec. 59.  
(Service  
of  
notices.)

- (c) (i) by inserting in subsection one of section fifty-nine after the word "may" where firstly occurring the words "subject to subsection (1A) of this section";
- (ii) by inserting next after subsection one of the same section the following new subsection:—

(1A) Any notice required by section 24A of this Act to be given to any person may be given—

- (a) by delivering the notice to him personally; or
- (b) by forwarding the same by post in a registered letter addressed to him at his usual or last-known place of abode or business or at any address notified to the Controller or the clerk of the Fair Rents Board as the address at which notices may be given to or served upon him.

4. The Principal Act is further amended—

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- (a) by inserting at the end of paragraph (b) of subsection five of section sixty-two the following new subparagraph:—
- (ii) that the lessee has become the lessee by reason of an assignment or transfer made after the fourteenth day of March, one thousand nine hundred and forty-seven, in breach of a term or condition of the lease and the transfer or assignment has not been consented to or approved by the lessor;
- (b) (i) by inserting in subsection one of section sixty-five after the words “purchase thereof” wherever occurring the words “or any person claiming under or through such lessor (whether such claim arises before or after the commencement of the Landlord and Tenant (Amendment) Act, 1951)”;
- (ii) by omitting from the proviso to the same subsection the words “one thousand nine hundred and fifty-two” and by inserting in lieu thereof the words “one thousand nine hundred and fifty-five”;
- (iii) by omitting from the same proviso the words “after the commencement of the Landlord and Tenant (Amendment) Act, 1949”;
- (c) (i) by inserting in paragraph (a) of the first proviso to subsection two of section seventy after the word “lessor” the words and symbols “(not being himself a lessee of the dwelling-house under a concurrent lease)”;
- (ii) by omitting from the same subsection the words “one thousand nine hundred and fifty-two” and by inserting in lieu thereof the words “one thousand nine hundred and fifty-five”;

Further amendment of Act No. 25, 1948.

Sec. 62.

(Restriction on eviction.)

Sec. 65.

(Notice to quit where dwelling-house sold.)

Sec. 70.

(Court to consider hardship.)

**Broken Hill Water and Sewerage (Amendment)  
Act.**No. 54, 1951.

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

(3A) Where the application is made—

(a) on the ground specified in subparagraph (i) of paragraph (b) of subsection five of section sixty-two of this Act in reliance upon the lessee's failure to perform or observe a term or condition of the lease against sub-letting by the lessee; or

(b) on the ground specified in subparagraph (ii) of paragraph (b) of the said subsection,

the court shall not refuse, in the exercise of the discretion vested in it by subsection one of this section, to make the order unless the court is satisfied that special circumstances exist by reason of which the order should not be made.

(iv) by inserting in subsection four of the same section after the words "subsection three" the words and symbols "or subsection (3A)".

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