

LANDLORD AND TENANT.

22 GEO. V. No. 28.
THE
LESSEES'
RELIEF ACT
OF 1931.

An Act to Provide for a Measure of Relief to Certain Lessees in respect of Certain Leases, and for purposes incidental thereto and consequent thereon.

[ASSENTED TO 16TH DECEMBER, 1931.]

Preamble.

WHEREAS on account of the special economic conditions at present prevailing it is desirable to confer jurisdiction to provide a measure of relief to certain lessees—

Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

Short title and construction.

1. This Act may be cited as "*The Lessees' Relief Act of 1931.*"

Commencement and duration.

2. (1.) This Act shall come into force on the date of the passing thereof, and shall continue in force until a date to be appointed for the ceasing of the operation thereof by Proclamation published in the *Gazette*, or until the thirty-first day of December, one thousand nine hundred and thirty-two, whichever date is the earlier.

Provision for repeal.

(2.) On the date so appointed or fixed under the last preceding subsection for the ceasing of the operation thereof, this Act shall be deemed to have been repealed.

Savings.

(3.) Notwithstanding such repeal, all proceedings pending under this Act at the date of such repeal may be continued and completed as if this Act were still in force, and all orders under this Act theretofore made and then subsisting, or thereafter made in any such pending proceedings, shall enure as if this Act were still in force, and all proceedings may be taken and all jurisdiction exercised with respect to such orders accordingly.

Act not to apply to the Crown.

(4.) The provisions of this Act shall not apply to the Crown.

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3. In this Act unless the contrary intention Interpreta-
tion. appears—

“Court” means the Supreme Court of Queens-
land or any judge thereof: Court.

Provided that in any case where the rent under the lease does not exceed (on a yearly basis) three hundred and twelve pounds per annum (or on a monthly basis) twenty-six pounds per month (or on a weekly basis) six pounds per week, the term “court” shall mean the Magistrates Court constituted pursuant to **The Magistrates Courts Act of 1921*” constituted by a police magistrate sitting alone and held nearest to the residence of the lessee;

“Lease” includes every letting of premises for Lease. any term of not less than one year or for a life or lives, and made in writing or by deed;

“Lessor” and “lessee” means the parties to a Lessor and
lessee. lease: the term respectively includes a mesne lessor and a mesne lessee, and also any person from time to time deriving title under the original lessor or lessee;

“Premises” includes land and buildings, and also Premises. includes any part of a building separately leased.

“Prescribed”—Prescribed by this Act; Prescribed.

“Regulations”—Regulations made under the Regulations. authority of this Act;

“Rules of Court”—Rules of Court made under Rules of
Court. the authority of this Act;

“This Act”—This Act and all regulations and This Act. Rules of Court made thereunder.

This Act shall only apply to leases entered into Operation of
this Act. before the first day of August, one thousand nine hundred and thirty-one, and existing at the passing of this Act.

4. For the purpose of affording a measure of relief Application
by lessee for
measure of
relief. to a lessee detrimentally affected on account of the special economic conditions at present prevailing, a

* 12 Geo. V. No. 22, *supra*, page 9713.

lessee may, by notice in the prescribed form, or to the like effect, apply to the court at any time within six months after the passing of this Act with a view of being afforded a measure of relief by the court in respect of his lease.

Consideration by the court.

5. (1.) In determining whether relief shall be granted to the lessee, the court may take into consideration—

- (i.) The extent to which the lessee has been or is being detrimentally affected on account of the special economic conditions at present prevailing ;
- (ii.) The amount of arrears, if any, in respect of the rent payable under the lease ;
- (iii.) The date of the making of such lease, and whether or not the lease was entered into prior to the first day of July, one thousand nine hundred and thirty ;
- (iv.) In the case of a lease made since the first day of July, one thousand nine hundred and thirty, the rent reserved under the lease payable by the lessee making the application compared with the rent reserved under the lease (if any) of the same premises made prior to the first day of July, one thousand nine hundred and thirty ;
- (v.) The terms and conditions and covenants of the lease ;
- (vi.) The conduct of the lessee in respect of any breaches by him of the covenants of the lease ;
- (vii.) Any hardship that would be inflicted upon the lessor by the making of any order of the court, taking into consideration the economic and financial conditions prevailing at the time of the making of the lease and any relative or other like considerations ;
- (viii.) The extent to which relief, if any, has already been granted to the lessee by the lessor prior to the passing of this Act or prior to the date of lodgment in the court of the notice by the lessee, or by any order of any court under any Act prior to the passing of this Act or prior to the date of lodgment in the

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court of the notice by the lessee, in respect of the rent payable under the lease or in respect of any covenant or terms or conditions of the lease ;

- (ix.) Any other factors and circumstances as may be deemed fit and proper to allow justice to be done in respect of any such application.

(2.) If, having regard to the considerations mentioned in the last preceding subsection and to all other relevant considerations, the court is of opinion that relief should be granted to the lessee, the court may in its absolute discretion, after considering all the circumstances of the case and the position of the parties, by its order grant such measure of relief as shall be indicated in such order of the court as the court thinks just and equitable.

(3.) Such relief, pursuant to this section, which may be granted by the court may be in respect of all or any of the following matters or things—

- (i.) A reduction of the rent reserved by or under the lease and accruing or to accrue due and payable at a rate not exceeding four shillings and sixpence for every one pound of such rent calculated as provided by such lease, for such period as may be specified in the order, but so that such period shall not extend beyond the period in which this Act remains in force ;
- (ii) Any relief and, if so, the extent thereof to be made in respect of painting, repairs, and/or in respect of any other covenants, terms, or conditions of the lease concerned.

(4.) If however, on the hearing of any such application as aforesaid the court, after considering the grounds upon which the application is made, and the grounds (if any) on which any such application is opposed and all other circumstances of the case, is of opinion that such application should be refused, the court may in its absolute discretion make an order refusing such application for relief under this section accordingly.

Effect of
payment or
reduction
of rent.

6. (1.) Every payment of rent made in pursuance of any order made under this Act shall be a full discharge of the lessee's liability for rent under his lease in respect of the period to which such payment relates.

(2.) Every reduction of rent made in pursuance of any order under this Act shall apply only in respect of rent accruing due on and after the date of the passing of this Act.

(3.) Every reduction of rent made in pursuance of any order under this Act shall continue in force during the continuance of the lease by the lessee in respect of whose application the reduction is made.

Notice to be
given.

7. Unless the lessor is actually present by himself or his solicitor or agent at the time of the giving or making of the order of the court under section five of this Act, any application to the court by a lessee shall not be entertained by the court unless the lessee has served on the lessor, in accordance with the practice of the court as to services of summons, a notice of his intention to make the application.

The practice of the court in question as to the time and place and method of service and otherwise shall apply to the service of a notice under this section.

Hearing in
chambers.

8. Any application made under this Act may be made to and disposed of by a judge (or if made to a police magistrate constituting a Magistrates Court) by a police magistrate in chambers.

No appeal.

9. There shall be no appeal from any order of a judge under this Act.

Any order of the Magistrates Court made or purporting to have been made under the provisions of this Act shall be final and conclusive and without appeal, and no writ of prohibition or *certiorari* shall lie in respect thereof.

Effect of
order.

10. An order made by the court pursuant to this Act shall have authority and effect as an order of the court, and shall be obeyed by all persons concerned:

Provided that in any case where a lessee to whom an order of relief has been granted by the court neglects or contravenes or fails to comply with the provisions

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thereof, it shall be competent for the lessor to apply to the court for a cancellation thereof, and the court on such application may make such order as it shall deem fit and proper.

11. During the pendency of an application by a lessee for relief under this Act the lessor shall not, in respect of the lease concerned—

Distrain,
&c., pending
hearing of
application.

- (a) Distrain on the lessee for rent ; or
- (b) Put into execution against the lessee any order or judgment for ejection of the lessor or for the recovery of possession of the premises.

The expression “during the pendency of an application” shall mean the period of time from the lodgment in the court by the lessee of the application for relief until the making by the court of an order in respect of such application.

12. The costs of any application under this Act shall be in the absolute discretion of the court.

Costs.

13. No contract or agreement made or entered into either before or after the passing of this Act by any lessee shall operate to annul or vary or exclude any of the provisions of this Act or to prevent the court from making any order under this Act.

Contracting-out
prohibited.

14. The Governor in Council may from time to time make regulations prescribing the forms to be used and the procedure to be followed under this Act, and all such other matters and things as may be necessary or convenient for giving full effect to the provisions of this Act and for the due administration thereof.

Regulations.

Such regulations shall be published in the *Gazette*, and forthwith upon such publication shall be read and construed as one with this Act, and shall be judicially noticed, and shall not be questioned in any proceedings whatsoever.

All such regulations shall be laid before the Legislative Assembly within fourteen days after such publication, if the Legislative Assembly is in session ; or if not, then within fourteen days after the commencement of the next session thereof.

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Application
of
Magistrates
Courts Act.

15. Subject to this Act, the provisions of **"The Magistrates Courts Act of 1921"* and Rules of Court made thereunder shall, so far as the same are applicable, apply and extend in respect of any matter or thing under this Act where such Magistrates Court has jurisdiction under this Act, and the power and authority to make Rules of Court under such Act shall apply and extend for the purposes of this Act.

* 12 Geo. V. No. 22, *supra*, page 9713.

LAND PURCHASE BY INSURANCE COMMISSIONER.

See INSURANCE.

LEGISLATIVE ASSEMBLY, REDUCTION OF MEMBERS OF.

See ELECTIONS.

LEGISLATIVE POWER TRANSFER.

See COMMONWEALTH AND STATES.

LESSEES' RELIEF.

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LIENS ON CROPS OF SUGAR CANE.

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