



ANNO TERTIO

## GEORGI VI REGIS.

A.D. 1939.

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### No. 20 of 1939.

An Act to restrict, in connection with the present war, the increase of the rent of dwelling-houses and for purposes incidental thereto.

[Assented to 22nd November, 1939.]

BE IT ENACTED by the Governor of the State of South Australia with the advice and consent of the Parliament thereof, as follows :

1. This Act may be cited as the "Increase of Rent (War Restrictions) Act, 1939". Short titles.

2. In this Act, unless the context otherwise requires—

"dwelling-house" means—

(a) a house or part of a house let as a separate dwelling, where such letting does not include any land other than the site of the dwelling-house and a garden or other premises within the curtilage of the dwelling-house :

(b) any rooms in a dwelling-house as defined in paragraph (a) of this definition which are the subject of a separate letting as a dwelling ;

but does not include a dwelling-house let at a rent which includes payments in respect of board, attendance or use of furniture, or any dwelling-house the building of which is completed after the commencement of this Act or any dwelling-house let by the South Australian Housing Trust under the South Australian Housing Trust Act, 1936-1937 :

Interpretation.  
Cf. U.K.  
5 & 8 Geo. 5,  
c. 97, s. 2.

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“ landlord ” includes any person from time to time deriving title under the original landlord :

“ rates ” includes rates levied by a municipal or district council or by the Commissioner of Waterworks or the Commissioner of Sewers :

“ tenant ” includes any person from time to time deriving title under the original tenant.

Interpretation  
of standard  
rent.

Cl. U.K.  
5 & 6 Geo. 5,  
c. 97, s. 2.

**3.** (1) Subject to this section, the expression “ standard rent ” where used in this Act means—

(a) the rent at which the dwelling-house was let on the first day of September, nineteen hundred and thirty-nine ; or

(b) where the dwelling-house was not let on that day, the rent at which it was last let before that day ; or

(c) in the case of a dwelling-house which was first let after the said day, the rent at which it was first let.

(2) In the case of any dwelling-house let at a progressive rent payable under a tenancy agreement or lease, the maximum rent payable under such tenancy agreement or lease shall be the standard rent.

(3) Where the standard rent as ascertained in accordance with subsections (1) and (2) of this section is less than—

(a) the gross annual rental of the dwelling-house as assessed under section 173 of the Local Government Act, 1934-1936, and in force on the first day of September, nineteen hundred and thirty-nine, or in the case of a dwelling-house which was first let after that day, on the day on which it was first let ; or

(b) the part of such gross annual rental apportioned to the dwelling-house under subsection (4) of this section,

that gross annual rental or the apportioned part thereof shall be deemed to be the standard rent for the purposes of this Act.

(4) Where, for the purpose of determining the standard rent or gross annual rental of a dwelling-house, it is necessary to apportion the rent of the property in which the dwelling-house is comprised, or the gross annual rental as assessed under section 173 of the Local Government Act, 1934-1936, of such property, the local court nearest to the dwelling-house concerned may, on application by either party, make such apportionment as seems just and the decision of the court as to the amount to be apportioned to the dwelling-house shall be final and conclusive.

(5) The landlord of a dwelling-house shall, on being so requested by the tenant of that house furnish to him a written

statement as to what is the standard rent of the house, and if he fails within fourteen days to do so or furnishes a statement which is false in any material particular, he shall be guilty of an offence and liable to a fine not exceeding ten pounds.

4. (1) Subject to this Act, where the rent of a dwelling-house has been since the thirty-first day of August, nineteen hundred and thirty-nine, or is during the continuance of this Act increased above the standard rent, then the amount by which the rent as increased exceeds the amount which would have been payable if the increase had not been made shall, notwithstanding any agreement to the contrary, be irrecoverable: Provided that this section shall not apply to any amounts of rent which under the other provisions of this Act are deemed not to be increases of rent for the purposes of this Act.

Restriction on raising rent.  
Cf. U.K. 5 & 6 Geo. 5, c. 97, s. 1.

(2) Where any sum has been paid on account of any rent, being a sum which by virtue of this Act, would have been irrecoverable by the landlord, the sum so paid shall at any time within six months after the date of payment, be recoverable from the landlord who received the payment or his legal personal representative by the tenant by whom it was paid, and may, without prejudice to any other method of recovery, be deducted by that tenant from any rent payable within such six months by him to such landlord.

(3) If any person in any rent book or similar document makes any entry showing or purporting to show any tenant as being in arrear in respect of any sum which by virtue of the said Act is irrecoverable, he shall be guilty of an offence and liable to a fine not exceeding twenty pounds.

5. Where the landlord has, since the thirty-first day of August, nineteen hundred and thirty-nine, incurred or during the continuance of this Act incurs, expenditure on the improvement or structural alteration of a dwelling-house (not including expenditure on decoration or repairs), an increase of rent at a rate not exceeding eight per cent. per annum on the amount so expended shall not be deemed to be an increase for the purposes of this Act.

Expenditure on improvements and structural alterations.  
U.K. 5 & 6 Geo. 5, c. 97, s. 1 (1) (ii.).

6. (1) Any transfer to a tenant of any burden or liability previously borne by the landlord shall for the purposes of this Act be treated as an alteration of rent and where, as the result of such a transfer the terms on which the dwelling-house is held are, on the whole, less favourable to the tenant than the previous terms, the rent shall be deemed to be increased whether or not the sum periodically payable by way of rent is increased.

Alterations of burdens and liabilities.  
U.K. 5 & 6 Geo. 5, c. 97, s. 1 (1) (iii.).

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(2) Any increase of rent in respect of any transfer to a landlord of any burden or liability previously borne by the tenant where, as a result of the transfer, the terms on which a dwelling-house is held are, on the whole, more favourable to the tenant than the previous terms, shall be deemed not to be an increase of rent for the purposes of this Act.

(3) If any question arises under this section, the question shall be determined by the local court nearest to the dwelling-house concerned, either in special proceedings instituted in the court for the purpose of determining the question, or in any other proceedings in which the question may arise. The decision of the local court on such question given in any proceedings shall be final and conclusive.

Payment of rates by landlord.

Cf. U.K. 5 & 6 Geo. 5, c. 97, s. 1 (1) (iii.).

7. Where under the terms of the tenancy the landlord is bound to pay any rates or taxes on any dwelling-house, and the amount of any such rates or taxes is increased over the corresponding amount paid or payable in respect of the financial year ending on the thirtieth day of June, nineteen hundred and forty, any increase in the rent of the dwelling-house for any period which increase does not exceed such part of the amount of the increase in the rates or taxes as is proportionate to that period, shall not be deemed an increase for the purposes of this Act.

Provision as to furnished houses.

8. Where a dwelling-house which is let unfurnished at the date of the passing of this Act is during the period of operation of this Act let together with the use of furniture therein, that dwelling-house shall, notwithstanding that it is so let, continue to be a dwelling-house within the meaning of this Act, and an increase of rent at a rate not exceeding eight per cent. per annum on the value of the furniture shall not be deemed to be an increase for the purposes of this Act.

Notice of permitted increase in rent.

U.K. 5 & 6 Geo. 5, c. 97, s. 2 (1) (vi.).

9. (1) Wherever an increase of rent is by this Act permitted no such increase shall be deemed to be recoverable until or in respect of any period prior to the expiry of four clear weeks after the landlord has served upon the tenant a notice in writing of his intention to increase the rent, accompanied—

- (a) where the increase of rent is on account of expenditure as mentioned in section 5 of this Act, by a statement of the improvements or alterations effected and of their cost :
- (b) where the increase of rent is on account of an increase in rates or taxes, by a statement showing particulars of the increased amount charged in respect of rates or taxes on the dwelling-house.

(2) Where such a notice has been served on any tenant the increase may be continued without service of any further notice on any subsequent tenant.

10. A person shall not, in consideration of the grant, renewal or continuance of a tenancy of any dwelling-house require the payment of any fine, premium or other like sum in addition to the rent; and any amount paid by way of any such fine, premium, or sum, shall be recoverable by the person by whom it was paid from the person to whom it was paid:

Restriction on payment of fines and premiums.  
Cf. U.K. 5 & 6 Geo. 5, c. 97, s. 1 (2).

Provided that this section shall not apply to a lease of a dwelling-house for a term of twenty-one years or more.

11. (1) After the passing of this Act no order or judgment for the recovery of possession of a dwelling-house or for the ejectment of a tenant therefrom shall be made or given, so long as the tenant continues to pay rent at the agreed rate as modified by this Act and performs the other conditions of the tenancy unless—

Orders for possession.  
Cf. U.K. 9 & 10 Geo. 5, c. 90, s. 1.

- (a) the tenant has committed waste, or has been guilty of conduct which is a nuisance or an annoyance to adjoining or neighbouring occupiers, or has been convicted of using the premises or allowing suffering or permitting the premises to be used for an immoral or illegal purpose, and the court considers it reasonable to make such an order or give such judgment; or
- (b) the tenant, by sub-letting the dwelling-house or any part thereof, or by taking in lodgers, is making a profit which, having regard to the rent paid by the tenant, is unreasonable, and the court considers it reasonable to make such an order or give such judgment; or
- (c) the premises are required by the landlord for the occupation of the landlord or the spouse, son, daughter, son-in-law, daughter-in-law, father or mother of the landlord; or
- (d) the premises are reasonably required by the landlord for the occupation of some person in his employ, or in the employ of some tenant from him, and the court, after considering all the circumstances of the case, including especially the alternative accommodation available for the tenant, considers it reasonable to make such an order or give such judgment: or
- (e) the landlord has entered into a contract to sell the dwelling-house, under which contract he is obliged to give vacant possession of the dwelling-house to

the buyer, and has received not less than twenty per cent. of the purchase money, or in a case where the landlord is a mortgagee who has contracted to sell the dwelling-house pursuant to his powers as such mortgagee or after having foreclosed upon the property, not less than ten per centum of the purchase money; or

- (f) the tenant has given notice of his intention to quit and in consequence of that notice the landlord has contracted to let the dwelling-house or has taken other steps as a result of which he would, in the opinion of the court, be seriously prejudiced if he could not obtain possession: or
- (g) the dwelling-house is reasonably required by the landlord for demolition, or for reconstruction to a substantial extent, and the court is satisfied that greater hardship would be caused by refusing to grant an order or judgment for possession than by granting it: or
- (h) the dwelling-house is reasonably required by the landlord for the purpose of enabling him to comply with the requirements of a municipal or district council, the local board of health, or the Central Board of Health: or
- (i) the tenant was in the employment of the landlord and the dwelling-house was let to him in consequence of that employment, and he has ceased to be in that employment.

(2) At the time of making any order or giving any judgment for the recovery of possession of any such dwelling-house or for the ejectment of a tenant therefrom, or in the case of any such order or judgment which has been made or given, whether before or after the passing of this Act, and not executed, at any subsequent time, the court may stay or suspend execution of the order or judgment or postpone the date of possession, for such period or periods as it shall think fit, either unconditionally or subject to such conditions in regard to payment by the tenant of rent or mesne profits and otherwise as the court shall think fit, and if such conditions are complied with, the court may, if it thinks fit, discharge or rescind such order or judgment.

(3) Where any order or judgment has been made or given before the passing of this Act, but not executed, and in the opinion of the court the order or judgment would not have been made or given if this Act had been in force at the time when such order or judgment was made or given, the court may,

on application by the tenant, rescind or vary such order or judgment in such manner as the court may think fit for the purpose of giving effect to this Act.

(4) Notwithstanding anything in the Local Courts Act, 1926, or any other Act a warrant for delivery of possession of a dwelling-house which pursuant to such Act and apart from this section would remain in force for any fixed period prescribed in that behalf, shall remain in force for such further period or periods, if any, as the court shall from time to time, whether before or after the expiration of such fixed period, direct.

12. The Governor may make any regulations necessary or convenient for the purpose of carrying this Act into effect and may by any such regulation impose fines recoverable summarily and not exceeding twenty pounds for a breach of any such regulation. Regulations.

13. Any rules of court made for the purposes of this Act may provide that any proceedings under this Act may be conducted in private, and for the remission of any fees. Rules of Court.

14. Proceedings for offences against this Act shall be disposed of summarily. Summary procedure for offences.

15. This Act shall continue in operation until six months after the termination of the present state of war or until the thirty-first day of December, nineteen hundred and forty, whichever is the earlier date, but the expiration of this Act shall not render recoverable any rent which during the continuance of this Act was irrecoverable or affect the right of a tenant to recover any sum which during the continuance of this Act was under this Act recoverable by him. Duration of Act.  
U.K. 5 & 6  
Geo. 5, c. 97,  
s. 5 (2).

In the name and on behalf of His Majesty, I hereby assent to this Bill.

C. M. BARCLAY-HARVEY, Governor.