



ANNO PRIMO

ELIZABETHAE II REGINAE

A.D. 1952

No. 39 of 1952.**An Act to amend the Landlord and Tenant (Control of Rents) Act, 1942-1951.**

[Assented to 4th December, 1952.]

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

1. (1) This Act may be cited as the "Landlord and Tenant (Control of Rents) Act Amendment Act, 1952". Short titles.

(2) The Landlord and Tenant (Control of Rents) Act, 1942-1951, as amended by this Act, may be cited as the "Landlord and Tenant (Control of Rents) Act, 1942-1952".

2. The Landlord and Tenant (Control of Rents) Act, 1942-1951, as reprinted pursuant to the Amendments Incorporation Act, 1937, and section 46 of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1951, is hereinafter referred to as "the principal Act" and any reference in this Act to any provision of the principal Act shall be construed as a reference to that Act as so reprinted. Reference to principal Act.

3. Section 4 of the principal Act is amended by inserting after the word "premises" in the first line of the definition of "dwellinghouse" therein the words "the whole or a substantial part of which is". Amendment of principal Act, s. 4—
Interpretation.

Amendment of principal Act, s. 6—
Exemptions from Act.

4. Subsection (1) of section 6 of the principal Act is amended so as to read as follows:—

(1) The provisions of this Act shall not apply with respect to any lease of premises under which lease the lessor is—

- (a) the Government of the Commonwealth or the State or any instrumentality of any such Government;
- (b) any municipal council or district council; or
- (c) the trust.

Amendment of principal Act, s. 18—
Final determination of rent.

5. Section 18 of the principal Act is amended by inserting after the word "objection" in the second line of subsection (2) thereof the words "and any reply to such objection".

Amendment of principal Act, s. 36—
Receipt for rent for caravan, etc.

6. Section 36 of the principal Act is amended by inserting therein after subsection (1) thereof the following subsection:—

(1a) If the payment received by any person as aforesaid consists of rent with respect of a caravan together with rent with respect to any land, either the receipt to be given pursuant to subsection (1) shall specify an amount which is the part of the payment which is payable as rent with respect to the caravan and an amount which is the part of the payment which is payable as rent with respect to land or separate receipts shall be given as provided by subsection (1) for each such part of the payment. If any receipt such as is first mentioned in this subsection does not specify the said parts of the payments so made, then, without limiting any liability under this section of the person by whom the receipt is given, the amount stated in the receipt shall, for the purposes of any proceedings under this Part and in the absence of proof to the contrary, be deemed to be the rent paid as rent in respect of the caravan.

Amendment of principal Act, s. 49—
Discretion of court.

7. Section 49 of the principal Act is amended—

- (a) by striking out the passage "(k), (l)," in the third line of paragraph (c) of subsection (1) thereof;
- (b) by adding at the end thereof the following subsection:—

(8) If in any such proceedings where application is made in respect of a dwellinghouse upon a ground specified in paragraph (g) or (m) of subsection (6) of section 42 proof is given to the satisfaction of the court—

- (a) that the lessor has constructed or caused to be constructed a dwellinghouse upon land in which he had a beneficial interest;

(b) that the dwellinghouse was completed after the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1952; and

(c) that the dwellinghouse on its completion was available for occupation by the lessee as a residence but the lessee has not so occupied the dwellinghouse,

then the court shall not take into account any of the matters mentioned in subsection (1) of this section.

8. Section 60 of the principal Act is amended by adding at the end thereof the following subsection :—

Amendment of principal Act, s. 60—

(4) A complaint in respect of any offence against this section shall be made within twelve months from the time when the matter of complaint arose.

Sale or letting of premises after order for possession.

9. Section 68 of the principal Act is amended—

Amendment of principal Act, s. 68—

(a) by inserting after the word “owner” in the first line of subsection (2) thereof the words “or the lessee”;

Exclusion certificates.

(b) by adding at the end of subsection (2) thereof the words “An application shall not be made as aforesaid by a lessee of premises except with the consent in writing of the owner of the premises”.

10. Section 72 of the principal Act is amended by inserting therein after subsection (1) thereof the following subsection :—

Amendment of principal Act, s. 72—

(1a) For the purposes of this Part the Korean War and any operations under a British commander for the suppression of unlawful violence in Malaya shall be deemed to be a war in which His Majesty became engaged on or after the third day of September, nineteen hundred and thirty-nine but before the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1951.

Interpretation.

11. Section 75 of the principal Act is amended—

Amendment of principal Act, s. 75—

(a) by inserting after the word “has” in the third line thereof the words “, after a copy of an application under subsection (1) of that section has been served as provided by subsection (3) of that section,”;

Where dwellinghouse deemed to be unoccupied.

(b) by striking out the words “in contravention of subsection (4) of that section” in the fifth and sixth lines thereof;

- (c) by inserting after the word "has" in the second line of paragraph (b) thereof the words ", after a copy of an application under subsection (1) of that section has been served as provided by subsection (3) of that section," ;
- (d) by striking out the words "in contravention of subsection (4) of that section" in the third or fourth lines of paragraph (b) thereof.

Amendment of principal Act, s. 107—
Contracts to evade Act.

12. Section 107 of the principal Act is amended by adding thereto the following subsection (the preceding portion of the said section being read as subsection (1) thereof):—

(2) If pursuant to any agreement, licence or arrangement of any kind whatsoever (not being a lease and whether oral or in writing and whether made before or after the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1952) any person in consideration of a payment or payments made or to be made to any other person is entitled or authorized to occupy any premises or any part of any premises for the purpose of residence, then, for the purposes of this Act, that agreement, licence or arrangement shall be deemed to be a lease of the premises or part thereof, the person to whom the payment or payments are made or are to be made shall be deemed to be the lessor of the premises or part thereof, the person by whom the payment or payments are made or are to be made shall be deemed to be the lessee of the premises or part thereof, and any such payment shall be deemed to be rent paid or payable in respect of the premises or part thereof:

Provided that if any such agreement, licence, or arrangement was made before the seventeenth day of September, nineteen hundred and fifty-two, the only provisions of this Act which shall apply with respect to that agreement, licence, or arrangement shall be the provisions of this Act relating to the control of rents.

Amendment of principal Act, s. 123—
Duration of Act.

13. Section 123 of the principal Act is amended by striking out the word "fifty-two" in the second line thereof and by inserting in lieu thereof the word "fifty-three".

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

J. M. NAPIER, Lieutenant-Governor.