



ANNO TERTIO

ELIZABETHAE II REGINAE

A.D. 1954

No. 41 of 1954

An Act to amend the Landlord and Tenant (Control of Rents) Act, 1942-1953.

[Assented to 16th December, 1954.]

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, 1954 ". Short titles.

(2) The Landlord and Tenant (Control of Rents) Act, 1942-1953, as amended by this Act, may be cited as the " Landlord and Tenant (Control of Rents) Act, 1942-1954 ".

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, and as amended by the Landlord and Tenant (Control of Rents) Act Amendment Act, 1952, and the Landlord and Tenant (Control of Rents) Act Amendment Act, 1953, 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 and amended. References to principal Act.

3. Section 6 of the principal Act is amended—

(a) by inserting therein after paragraph (c) of subsection (2) thereof the following paragraphs :—

(d) with respect to any lease in writing of any dwellinghouse the lease of which is for

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

two years or more and which is entered into after the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1954 ;

- (e) with respect to any lease in writing of any premises to which this Act applies any part of which is let or used as a shop the term of which is for one year or more and which is entered into after the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1954.

- (b) by inserting therein after subsection (2) thereof the following subsection :—

(2a.) The provisions of this Act relating to the recovery of possession of premises shall not apply with respect to a lease of any dwellinghouse (whether entered into before or after the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1954) in any case where the lessee is an employee of the lessor and the dwellinghouse is let to the lessee in consequence of his employment by the lessor.

Amendment of principal Act, s. 21—
Basis of fixing rent.

4. Section 21 of the principal Act is amended by striking out the words “twenty-two and one-half” in the eighth line of subsection (2) thereof and by inserting in lieu thereof the words “twenty-seven and one-half”.

Amendment of principal Act s. 42.—
Grounds for giving notice to quit.

5. Section 42 of the principal Act is amended—

- (a) by inserting after the word “lessor” in the last line of subparagraph (i) of paragraph (g) of subsection (6) thereof the words “or by a brother or sister of the lessor or of the wife or husband of the lessor” ;
- (b) by inserting after the word “purchaser” in the last line of subparagraph (i) of paragraph (m) of subsection (6) thereof the words “or by a brother or sister of the purchaser or of the wife or husband of the purchaser” ;
- (c) by striking out the words “and the premises are required by the lessor for re-conversion to a shop or business premises” in paragraph (r) of subsection (6) thereof.

6. Section 49 of the principal Act is amended—

- (a) by striking out the word “twelve” in the last line of paragraph (e) of subsection (6) thereof and by inserting in lieu thereof the word “six” ;
- (b) by striking out the word “twelve” in the last line of paragraph (d) of subsection (7) thereof and by inserting in lieu thereof the word “six” ;
- (c) by striking out the word “twelve” in the penultimate line of paragraph (d) of subsection (9) thereof and by inserting in lieu the word “six” ;
- (d) by adding at the end thereof the following subsection :—

(10) If in any such proceedings where application is made on the ground that the lessee has sublet the premises or some part thereof by a sublease which has not been consented to or approved by the lessor, proof is given to the satisfaction of the court that the lessor has since the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1954, given notice to quit to the lessee for a period of not less than six months, then the court shall not take into consideration any of the matters mentioned in subsection (1) of this section.

Nothing in this subsection shall limit any right of the lessor under any other provision of this Act.

7. The following section is enacted and inserted in the principal Act after section 54 thereof :—

54a. (1) Notwithstanding section 42 but subject to this section, the lessor of any dwellinghouse may give notice to quit to the lessee of the dwellinghouse without specifying any ground therein.

(2) A notice to quit shall not be given under this section except subject to the following provisions :—

- I. The lessor shall be the lessor of the dwellinghouse as the executor or administrator of an estate in which the dwellinghouse is included ;
- II. The gross value of the dwellinghouse shall be an amount which is at least one-half the amount of the gross value of the total estate ;

Amendment of principal Act, s. 49—
Period of giving notice to quit in certain cases.

Enactment of s. 54a of principal Act—

Recovery of possession of dwellinghouse comprised in estate.

III. The purpose for which the notice to quit is given shall be to facilitate the sale of the dwellinghouse either for the purpose of giving effect to a testamentary disposition or trust affecting the dwellinghouse or to prevent hardship to any person entitled to a beneficial interest in the estate ;

IV. The lessor shall give notice to quit for a period of at least six months.

Every such notice to quit shall, in addition to containing such other matters as are necessary, give notice to the lessee of the matters referred to in paragraphs I, II and III of this subsection but if, in any proceedings by the lessor for an order for recovery of possession of the dwellinghouse or for the ejection of the lessee therefrom, an appearance is entered by the defendant, the validity of the notice to quit shall not be affected by the fact only that the notice to quit has not given notice of the matters aforesaid.

(3) On the hearing of any proceedings by the lessor for an order for the recovery of possession of the dwellinghouse or for the ejection of the lessee therefrom if proof is given (the onus of which proof shall be on the lessor) to the court that the lessor was entitled under this section to give the notice to quit, then the court shall make the order without taking into consideration any of the matters mentioned in subsection (1) of section 49.

Amendment of principal Act, s. 55—
Period of notice to quit in certain cases.

8. Section 55 of the principal Act is amended by striking out the word "twelve" in the last line of paragraph III of subsection (2) thereof and by inserting in lieu thereof the word "six".

Enactment of s. 55b of principal Act—

9. The following section is enacted and inserted in the principal Act after section 55a thereof :—

Recovery of possession of dwellinghouse in certain cases.

55b. (1) Notwithstanding section 42 but subject to this section, the lessor of any dwellinghouse may give notice to quit to the lessee of the dwellinghouse without specifying any ground therein.

(2) A notice to quit shall not be given under this section except subject to the following provisions :—

I. The lessor shall be the owner of another dwellinghouse in which he resides at the time of the giving of the notice to quit and shall not, at that time, be the owner of any other dwellinghouse ;

- II. The purpose for which the notice to quit is given shall be to facilitate the sale of the dwellinghouse ;
- III. The lessor shall give notice to quit for a period of at least six months.

Every such notice to quit shall, in addition to containing such other matters as are necessary, give notice to the lessee of the matters referred to in paragraphs I and II of this subsection but if, in any proceedings by the lessor for an order for the recovery of possession of the dwellinghouse or the ejection of the lessee therefrom, an appearance is entered by the defendant, the validity of the notice to quit shall not be affected by the fact only that the notice to quit has not given notice of the matters aforesaid.

(3) On the hearing of any proceedings by the lessor for an order for the recovery of possession of the dwellinghouse or for the ejection of the lessee therefrom if proof is given (the onus of which proof shall be on the lessor) to the court that the lessor was entitled under this section to give the notice to quit, then the court shall make the order without taking into consideration any of the matters mentioned in subsection (1) of section 49.

10. Section 109a of the principal Act is repealed.

Repeal of
s. 109a of
principal Act—
Provisions
applicable to
business
premises.

11. Section 123 of the principal Act is amended by striking out the word "fifty-four" in the second line thereof and by inserting in lieu thereof the word "fifty-five".

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

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

R. A. GEORGE, Governor.