



ANNO DECIMO QUARTO

GEORGI VI REGIS.

A.D. 1950.

No. 50 of 1950.

An Act to amend the Landlord and Tenant (Control of Rents) Act, 1942-1949.

[Assented to 7th December, 1950.]

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, 1950 ". Short titles.

(2) The Landlord and Tenant (Control of Rents) Act, 1942-1949, as amended by this Act, may be cited as the " Landlord and Tenant (Control of Rents) Act, 1942-1950 ".

(3) The Landlord and Tenant (Control of Rents) Act, 1942-1949, is hereinafter referred to as " the principal Act ".

2. Section 6 of the principal Act is amended by inserting therein after subsection (1a) thereof the following subsection :— Amendment of principal Act, s. 6— Exemptions.

(1b) The provisions of this Act relating to the control of rents shall not apply with respect to the rent payable under and in accordance with the provisions of any lease in writing the term of which is for twenty-one years or more and the term of which commenced before the third day of September, nineteen hundred and thirty-nine.

3. The following section is enacted and inserted in the principal Act after section 25 thereof :— Enactment of s. 25a of principal Act—

Application by lessor contemplating repairs, etc.

25a. (1) A lessor of premises to which this Act applies may give notice in writing to the trust stating that he intends carrying out such repairs, renovations, improvements, alterations or additions to the premises as are specified in the notice and requesting the trust to give an estimate of the probable rent of the premises after the carrying out of the work so specified.

(2) The trust shall cause the premises to be inspected and after making such inquiries and obtaining such reports as the trust considers necessary, the trust shall inform the lessor of what would be the probable estimated rent of the premises if the repairs, renovations, improvements, alterations, or additions, as the case may be, are properly carried out.

(3) If subsequently to the carrying out of the work the rent of the premises is fixed by a determination of the trust made upon the application of the lessor or otherwise, the trust shall determine the rent of the premises in accordance with this Act and neither the trust nor, on any appeal from the determination of the trust, the local court, shall be bound by the estimate of rent given by the trust as aforesaid, but the trust or, as the case may be, the local court shall have such regard to the estimate as the trust or local court, as the case may be, deems just in the circumstances.

Amendment of principal Act, s. 26a—
Interpretation.

4. The definition of “‘rent’, with respect to land,” in section 26a of the principal Act is amended—

- (a) by striking out the word “that” in the third line thereof and by inserting in lieu thereof the word “any”;
- (b) by inserting after the word “place” in the fourth line thereof the words “or keep placed”;
- (c) by striking out the word “buildings” in the ninth line thereof and by inserting in lieu thereof the words “dwelling-house, other building, or any part thereof”;
- (d) by adding after the word “goods” in the ninth line thereof the words “or for the use of any land other than the land upon which the caravan is actually placed”.

5. (1) Subsection (5) of section 26n of the principal Act is amended—

Amendment of principal Act, s. 26n—
Grounds for giving notice to quit.

(a) by adding at the end of paragraph (a) thereof the following passage :—

“ or that the lessee has failed to pay any rent which has been due and payable for more than twenty-eight days ” :

(b) by inserting after paragraph (k) thereof the following paragraph :—

(k1) that the premises being a dwelling house situated in or adjacent to any grazing area, farm, orchard, vineyard, market garden, dairy farm, poultry farm, pig farm or apiary of the lessor are reasonably required for the personal occupation as a dwelling house in consequence of that employment by some person employed by, or about to be employed by, the lessor for the purpose of the grazing area, farm, orchard, vineyard, market garden, dairy farm, poultry farm, pig farm, or apiary, as the case may be :

(c) by striking out the word “ or ” last occurring in the third line of paragraph (n) thereof.

(2) Section 26n of the principal Act is amended by inserting the following subsection therein after subsection (8) thereof :—

(9) A notice to quit may be given with respect to any part of any premises to which this Act applies notwithstanding that the lease of the premises comprises that part and other parts of the premises and proceedings may be taken for the recovery of the possession of any such part or for the ejection of the lessee therefrom.

6. (1) Section 26p of the principal Act is amended by inserting after the expression “(k)” in the fourth line thereof the expression “, (k1)”.

Consequential amendments of principal Act.

(2) Section 26u of the principal Act is amended by inserting after the expression “(k)” in the third line of paragraph (c) of subsection (1) thereof the expression “(k1)”.

(3) Section 26ab of the principal Act is amended—

(a) by striking out the passage “ or (k) ” in the second line thereof and by inserting in lieu thereof the passage “, (k), (k1) or (l) ” ;

(b) by striking out the passage “ or (k) ” in the second line of paragraph (b) of subsection (2) thereof and by inserting in lieu thereof the passage “, (k) or (k1) ”.

(4) Section 26an of the principal Act is amended—

(a) by inserting after the expression “ (k) ” in the sixth line of subsection (4) thereof the expression “ (k1), ”;

(b) by inserting after the expression “ (k) ” in the seventh line of subsection (5) thereof the expression “ (k1), ”.

Amendment of
principal Act,
s. 26o—
Period of
notice to quit.

7. Section 26o of the principal Act is amended by inserting after the word “ paragraphs ” in the fifth line of subsection (2) thereof the passage “ (a), ”.

Amendment of
principal Act,
s. 26q—
Notice to quit
where dwelling
house sold.

8. Section 26q of the principal Act is amended—

(a) by striking out the words “ of a lease thereof ” in the sixth line thereof and by inserting in lieu thereof the words “ who becomes the lessor thereof by virtue of a lease granted in respect of the premises ”;

(b) by inserting after the word “ purchase ” in the seventh line thereof the words “, transfer or assignment ”;

(c) by inserting before the word “ lease ” in the eighth line thereof the words “ commencement of the term of the ”;

(d) by inserting after the word “ purchase ” in the last line of subsection (1) thereof the words “ transfer or assignment or, as the case may be, the date of the commencement of the term of the lease ”;

(e) by adding at the end of subsection (1) thereof the following proviso :—

Provided that where a person becomes a lessor as aforesaid in pursuance of an agreement entered into or lease made after the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1950, a notice to quit as aforesaid shall not be given to any such lessee within a period of twelve months after the date of the agreement for purchase, transfer or assignment or, as the case may be, the date of the commencement of the term of the lease :

(f) by adding at the end of subsection (2) thereof the following proviso :

Provided that where any such agreement is made after the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1950, a notice to quit as aforesaid shall not be given to any such lessee within a period of twelve months after the date of the agreement.

9. Section 26u of the principal Act is amended—

Amendment of principal Act, s. 26n—

(a) by striking out the word “since” in the sixth line of paragraph (c) of subsection (1) thereof and by inserting in lieu thereof the words “, whether before or after”;

Matters to be considered by court.

(b) by striking out the word “and” in the last line of paragraph (e) of subsection (1) thereof;

(c) by inserting after paragraph (f) of subsection (1) thereof the following paragraphs :—

(g) where the application is made on a ground specified in paragraph (g) of subsection (5) of section 26n—whether the lessor has been required by circumstances to live elsewhere than in the premises and whether there has been any relevant change in those circumstances :

(h) whether the lessee has made reasonable efforts to secure other premises :

(i) where the proceedings relate to a dwelling-house and a permit has been issued to the lessee under the Building Materials Act, 1949, for the construction of a dwelling-house—whether the lessee has been guilty of unreasonable delay in the construction of the dwellinghouse in respect of which the permit was issued.

(d) by adding at the end thereof the following subsections :—

(4) If, on the hearing of any such proceedings where application is made on a ground specified in paragraph (a), (b), (c), (d) or (e) of subsection (5) of section 26n the court is satisfied that the ground has been proved, the court may, if the court thinks fit, make the order without taking into consideration any of the matters referred to in subsection (1) of this section.

(5) If in any such proceedings where application is made on the ground that a dwelling-house is reasonably needed for the occupation as a dwelling-house by the lessor and proof is given to the satisfaction of the court—

- (a) that the lessor has been the owner of the dwelling-house for at least five years before the giving of the notice to quit; and
- (b) that at the time of the giving of the notice to quit the lessor was not the owner of any other dwelling-house which was reasonably available to him for his occupation; and
- (c) that the lessor has not since the twenty-second day of September, nineteen hundred and forty-nine, as owner, transferred or conveyed or otherwise disposed of any dwelling-house which was at the time of the transfer, conveyance or disposition reasonably available to him for his occupation; and
- (d) that the lessor is a British subject; and
- (e) that the lessor has since the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1950, given notice to quit to the lessee for a period of not less than twelve 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.

The Governor may make regulations prescribing a form of notice to quit which may be given by any lessor in pursuance of this subsection and, without limitation of the right of a lessor to give notice to quit in any other form, any notice to quit in the form prescribed by regulation shall be deemed to be sufficient notice of all the matters referred to in paragraphs (a) to (e) inclusive of this subsection.

10. The following section is enacted and inserted in the principal Act after section 26u thereof:—

Enactment of s. 26ua of principal Act—

26ua. (1) In respect of any proceedings referred to in section 26u the court—

Power of court.

(a) if satisfied that such an order should be made in accordance with the provisions of this Part, may make an order for the recovery of possession of such part of the premises the subject of the proceedings as the court thinks fit or for the ejectment of the lessee from such part :

(b) with the consent of the parties and without any further hearing in the proceedings may make any order which may be made by the court in pursuance of this Part.

(2) In any case where in the opinion of the court it is in the interests of justice so to do, the court, in its discretion, may hear two or more such proceedings together and in any such event the court may regulate the proceedings with reference to the cross-examination of witnesses or otherwise relating to the hearing as the court thinks fit.

11. Section 26ai of the principal Act is amended by striking out the word “ six ” in the third line thereof and by inserting in lieu thereof the word “ twelve ”.

Amendment of principal Act, s. 26ai—
Exclusion certificate.

12. Section 26av of the principal Act is amended—

Amendment of principal Act, s. 26av—
Application of Part.

(a) by adding at the end of subsection (1) thereof the words “ and the grounds upon which the respondent claims to be a protected person within the meaning of this Part ”;

(b) by inserting after the word “ Part ” in the fourth line of subsection (3) thereof the words “ and stating the grounds upon which the respondent claims to be a protected person within the meaning of this Part ”.

13. Section 30 of the principal Act is amended—

Amendment of principal Act, s. 30—

(a) by striking out the words “ or acceptance ” in the seventh line thereof and by inserting in lieu thereof the words “, acceptance, assignment or transfer ”;

Premiums, etc on grant of leases.

(b) by inserting after the word “ renewal ” in the eighth line thereof the words “ or extension ”;

(c) by inserting after the word “ renewal ” in the eleventh line thereof the words “, extension, assignment or transfer ”;

(d) by inserting after the word "recovers" in the first line of paragraph (c) of subsection (1) thereof the words "or attempts to pay, give or recover".

Enactment of
s. 35a of
principal Act—

Power of court
to make order
for inspection
of leased
premises.

14. The following section is enacted and inserted in the principal Act after section 35 thereof ;

35a. (1) The lessor of any premises to which this Act applies may by summons make application to a local court for an order under this section. Notwithstanding that no other proceedings have been instituted or are pending, any such summons shall be issued in the same form and manner as an interlocutory summons and, subject to any direction of the court, the procedure with respect to such a summons shall, *mutatis mutandis*, be followed.

(2) If upon the hearing of any such application the local court is of opinion—

- (a) that the lessee of the premises or any person acting on his behalf has, without reasonable cause, refused to permit the lessor or any agent of the lessor or any person acting under the authority of the lessor to enter and inspect the premises ;
- (b) that the purpose of the proposed entry and inspection is reasonable ;
- (c) that, if the lease of the premises is in writing, such an order would not be contrary to the provisions of the lease,

the court may make an order under this section.

(3) If upon the hearing of any such application the local court is of opinion—

- (a) that the lessee of the premises or any person acting on his behalf has, without reasonable cause, refused to permit the lessor or any person acting under the authority of the lessor to enter the premises and to carry out therein any repairs, renovations or decoration work ;
- (b) that the carrying out of the repairs, renovations or decoration work is reasonably necessary ;
- (c) that, if the lease of the premises is in writing, such an order would not be contrary to the provisions of the lease,

the court may make an order under this section.

(4) Every such order made in pursuance of subsection (2) shall provide—

(a) that the persons named in the order or that persons of the class named therein, or both, shall have the right to enter and inspect the premises during such hours as are specified in the order ;

(b) that the right so given shall be exercised only during the period specified in the order,

and the order may also contain such conditions as to exercise of the rights thereby given as the court thinks proper.

If thought proper by the court, any such order may provide that the lessor or any person acting on his behalf may place upon the premises a notice stating that the premises are for sale and particulars relating to the sale.

(5) Every such order made in pursuance of subsection (3) shall provide—

(a) that the persons referred to in the order shall have the right to enter the premises during such hours as are specified in the order and that the said persons may carry out such repairs, renovations or decoration work as is specified in the order ;

(b) that the right so given shall be exercised only during the period specified in the order,

and the order may also contain such conditions as to the exercise of the rights thereby given as the court thinks proper.

(6) If the lessee of the premises, without reasonable cause, fails to comply with the order that failure shall be deemed to be a failure to observe a condition of the lease of the premises.

(7) Any proceedings under this section shall be conducted in such manner as the court from time to time thinks fit and in any such proceedings the court shall not be bound by the rules of evidence and may inform itself in such manner as it thinks fit.

(8) The power given by section 43 to make rules of court shall include power to make rules of court regulating the making and hearing of applications under this section and generally regulating proceedings under this section.

Amendment of
principal Act,
s. 45—
Facilitation of
proof.

15. Section 45 of the principal Act is amended by adding at the end thereof the following subsection :—

(3) In any prosecution under this Act the allegation in the complaint that a specified place is situated within any specified part of the State shall be *prima facie* evidence of the fact so alleged.

Amendment of
principal Act,
s. 49—
Duration of
Act.

16. Section 49 of the principal Act is amended by striking out the word " fifty " in the second line thereof and by inserting in lieu thereof the word " fifty-one ".

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

C. W. M. NORRIE, Governor.