



ANNO DECIMO QUINTO

## GEORGE VI REGIS.

A.D. 1951.

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### No. 51 of 1951.

An Act to amend the Landlord and Tenant (Control of Rents) Act, 1942-1950.

[Assented to 13th December, 1951.]

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, 1951 ". Short titles.

(2) The Landlord and Tenant (Control of Rents) Act, 1942-1950, as amended by this Act, may be cited as the " Landlord and Tenant (Control of Rents) Act, 1942-1951 ".

(3) The Landlord and Tenant (Control of Rents) Act, 1942-1950, is hereinafter referred to as " the principal Act ".

2. The definition of " shared accommodation " in section 4 of the principal Act is amended so as to read as follows :— Amendment of principal Act, s. 4—

" shared accommodation " means any premises to which this Act applies— Interpretation.

- (a) which form part of other premises ; and
- (b) which are leased for the purpose of residence ;  
and
- (c) the lessee of which, under the terms of the lease, uses any habitable room in common with the lessor or with another lessee :

Amendment of  
principal Act,  
s. 5—  
Premises to  
which the Act  
applies.

3. Section 5 of the principal Act is amended—

- (a) by inserting after the passage “(a)” in the fourth line of subsection (3) thereof the passage “(a1)”;
- (b) by striking out the passage “subsection (1)” in the fifth line of subsection (3) thereof and by inserting in lieu thereof the passage “subsection (1) or (1aa)”.

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

4. Section 6 of the principal Act is amended—

- (a) by inserting therein before subsection (1a) thereof the following subsection :—

(1aa) The provisions of this Act shall not apply—

- (a) with respect to any lease of premises (not being a dwellinghouse) entered into after the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1951, with a lessee who, at the time of the said passing, was not the lessee of those premises nor with respect to any subsequent lease of those premises (whether entered into with such a lessee or otherwise);
- (b) with respect to any lease in writing of premises (not being a dwellinghouse) the term of which is for two years or more and which is entered into after the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1951, with a lessee who, at the time of the said passing, was the lessee of those premises nor with respect to any subsequent lease of those premises (whether entered into with such a lessee or otherwise):

- (b) by inserting after subsection (1b) thereof the following subsection :—

(1c) If, after the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1951, the lessor and the lessee under any lease of any premises (not being a dwellinghouse) agree in writing as to the amount of the rent thereof, then (whether the rent of the premises has been determined under this Act or otherwise)

the provisions of this Act relating to the control of rents shall not apply with respect to the rent payable under that lease or under any subsequent lease of those premises (whether entered into by the parties aforesaid or otherwise).

5. Section 16 of the principal Act is amended by adding at the end thereof the words " If the premises in respect of which the rent is so determined are not premises which are part of other premises leased separately the trust shall, in the notice aforesaid, supply information indicating such part of the rent provisionally determined as has been fixed after having regard to the matters stated in paragraphs (h) and (h1) of subsection (1) of section 21 ".

Amendment of principal Act, s. 16—

Notice of provisional determination of rent.

6. Section 17 of the principal Act is amended—

Amendment of principal Act, s. 17—

(a) by striking out subsection (1) thereof and by inserting in lieu thereof the following subsection :—

Objections to determination.

(1) Within fourteen days after notice aforesaid is given to any lessor or lessee, the lessor or lessee, as the case may be, may by notice in writing given to the trust and to the other party to the lease, object to the amount of the rent so determined by the trust. Every such notice of objection shall contain particulars of the objection. After the receipt by the other party to the lease of the notice of objection that party may, at any time within twenty-one days after the notice aforesaid of the determination is given to him, by notice in writing given to the trust and to the party to the lease by whom the objection is made, make reply to the particulars stated in the objection. The trust may extend the time within which any such objection or reply may be given. In any case it thinks fit, the trust may hear any oral representations relating to any objection or reply made by the lessor or lessee or by some person on his behalf.

(b) by inserting after the word " objection " occurring in the first line of subsection (2) and in the first line of subsection (3) thereof in each case the words " or reply ".

7. Section 18 of the principal Act is amended—

Amendment of principal Act, s. 18—

(a) by adding at the end of subsection (3) thereof the words " If the rent fixed by the determination of the trust under this section is fixed in respect of premises which are not premises which are part of other

Notice of final fixation of rent.

premises leased separately, and the said rent differs from the rent provisionally determined under section 15, the trust, in the notice required to be given under this section, shall supply information indicating such part of the rent fixed under this section as has been fixed after having regard to the matters stated in paragraphs (h) and (h1) of subsection (1) of section 21 ”;

(b) by adding at the end thereof the following subsection :—

(5) Notwithstanding any of the foregoing provisions of this section, the trust may, in any case in which it is of opinion that it is just so to do, fix as the date from which any determination of the trust shall take effect, any date not earlier than one month after the day upon which the application was made to the trust for the determination of the rent.

Amendment of  
principal Act,  
s. 20—  
Power of local  
court on appeal.

8. Section 20 of the principal Act is amended by inserting after the word “ appeal ” in the penultimate line of subsection (1) thereof the words “ On the hearing of the appeal the local court shall not be bound by any rules of evidence or procedure but may inform itself in such manner as it thinks fit ”.

Amendment of  
principal Act,  
s. 21—  
Matters to be  
considered in  
fixing rent.

9. Section 21 of the principal Act is amended—

(a) by inserting therein after paragraph (c) of subsection (1) thereof the following paragraph :—

(c1) whether the premises or any part thereof is sublet by the lessee or is used by the lessee for the purpose of accommodating lodgers or boarders and the number of persons residing in the premises :

(b) by striking out paragraph (h) of subsection (1) thereof and by inserting in lieu thereof the following paragraphs :—

(h) any expenditure reasonably incurred by the lessor for rates, taxes, insurance and other costs in respect of the premises beyond the expenditure which would have been reasonably incurred for that purpose immediately prior to the first day of September, nineteen hundred and thirty-nine :

(h1) the difference between the reasonable value of any repairs or maintenance work carried out with respect to the premises and the reasonable expenditure which would have been incurred in carrying out those repairs or maintenance work immediately prior to the first day of September, nineteen hundred and thirty-nine :

(c) by striking out the word " written " in paragraph (i) of subsection (1) thereof and by inserting in lieu thereof the words " express or implied " :

(d) by inserting therein after subsection (1) thereof the following subsections :—

(1a) In fixing the rent under this Act of any dwellinghouse, the trust or, as the case may be, local court, shall take as the basis for fixing the rent, the amount of its rental value in accordance with the general level of rental values for comparable premises prevailing at the first day of September, nineteen hundred and thirty-nine, but for the said purpose the said general level shall be deemed to be increased by twenty-two and one-half per centum thereof and the rent shall be fixed in accordance with the said general level so deemed to be increased and after having regard to any other matters required by this section to be taken into regard.

(1b) In fixing the rent of any premises to which this Act applies (not being a dwellinghouse), the trust or, as the case may be, local court, in addition to having regard to any other matters required by this section to be taken into regard, shall have regard to the general level of rentals for comparable premises prevailing at the time of fixing the rent which is the result of agreement between the lessors and lessees thereof and the rent shall be fixed in accordance with that general level.

(1c) In fixing the rent of any premises to which this Act applies which is a shop or part of which is a shop (whether the shop or part is let separately as a shop or as a part of a dwellinghouse) and which (whether with or without the consent of the lessor) is used as a dwellinghouse or part of a dwellinghouse, the trust or, as the case may be, local court shall fix the rent of the shop or the part of the premises which is a shop according to its rental value as a shop.

Amendment of  
principal Act,  
s. 25—  
Variation of  
rents.

**10.** Section 25 of the principal Act is amended by inserting therein after subsection (1) thereof the following subsection :—

(1a) Notwithstanding the provisions of subsection (1), if the rent of any premises to which this Act applies is, before the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1951, fixed by the trust or a local court pursuant to this Act, further proceedings under this Act for the fixing of the rent of those premises may be commenced after a period of three months from the time the rent was fixed as aforesaid.

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

**11.** The definition of “‘rent’”, with respect to land” in section 26a of the principal Act is amended by inserting after the words “authorized to” in the fourth line of the said definition the words “use or”.

Amendment of  
principal Act,  
s. 26b—  
Rents of  
caravans.

**12.** Section 26b of the principal Act is amended—

- (a) by inserting after the word “that” in the third line thereof the words “, with respect to caravans situated within such part or parts of the State as are specified in the notice,”;
- (b) by striking out the words “caravans within such part or parts of the State as are specified in the notice” in the fourth and fifth lines thereof and by inserting in lieu thereof the words “such caravans”.

Amendment of  
principal Act,  
s. 26l—  
Exemption.

**13.** Section 26l of the principal Act is amended by adding at the end thereof the following subsection (the preceding portion of the said section being read as subsection (1) thereof):—

(2) If pursuant to subsection (1), this Part does not apply to any caravan then, during such time as this Part does not apply to that caravan, this Part shall not apply to the rent of any land payable in respect of that caravan.

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

**14.** Section 26n of the principal Act is amended—

- (a) by inserting therein after subsection (4) thereof the following subsection :—

(4a) Where for any sufficient cause the service of any notice to quit cannot be effected, a special magistrate may, upon an affidavit showing grounds, make such order for substituted or other service or substitution for service of notice by advertisement or otherwise as may be proper.

- (b) by inserting after the word "lessee" in the first line of paragraph (d) of subsection (5) thereof the words "or any person residing or lodging in the premises";
- (c) by striking out the word "required" wherever occurring in paragraphs (h), (i), (j), (k), (k1), and (m) of subsection (5) thereof and by inserting in lieu thereof in every case the word "needed";
- (d) by striking out the words "are reasonably required for the personal occupation in consequence of that employment of some other person employed by, or about to become employed by, the lessor" in paragraph (k) of subsection (5) thereof and by inserting in lieu thereof the words "that person has ceased to be employed by the lessor";
- (e) by inserting after the word "house" first occurring in paragraph (k1) of subsection (5) thereof the words "(which was owned by the lessor at the time of the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1951)";
- (f) by striking out the word "adjacent" in paragraph (k1) of subsection (5) thereof and by inserting in lieu thereof the word "contiguous";
- (g) by inserting therein after paragraph (m) of subsection (5) thereof the following paragraph:—
  - (m1) that the premises being a dwellinghouse, the lessee, by subletting the dwellinghouse or any part thereof, or by taking in boarders or lodgers, is making or during the period of six months immediately preceding the giving of the notice to quit was making, a profit from the premises which, having regard to the rent paid by the lessee, is unreasonable;

15. Section 26o of the principal Act is amended by adding at the end thereof the following subsection:—

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

(3) If any premises to which this Act applies are let upon a fortnightly lease or upon a lease for any less period, a notice to quit in respect of those premises shall not be ineffective by reason that the period of the notice to quit does not expire upon a day coinciding with the expiration of a period of the lease.

16. Section 26p of the principal Act is repealed and the following section is enacted and inserted in the principal Act in lieu thereof:—

Re-enactment of s. 26p of principal Act—

**Requirements of notice to quit.**

26p. (1) Every notice to quit shall on the face of the notice bear an indorsement to the effect that the lessee to whom the notice to quit is given is not legally obliged to comply with the notice unless ordered to do so by a local court.

(2) In any proceedings for the recovery of possession of any premises or for the ejectment of the lessee therefrom in which an appearance has been entered by the defendant, the validity of the notice to quit upon which those proceedings are founded shall not be affected by the fact only that the notice to quit does not bear an indorsement as required by subsection (1).

**Amendment of principal Act, s. 26r—  
Grounds in notice to quit.**

17. Section 26r of the principal Act is amended—

- (a) by striking out the words “ and shall give the particulars thereof ” ; and
- (b) by striking out the words “ shall not be entitled to rely upon any ground not so specified ” and by inserting in lieu thereof the words “ may rely upon any ground upon which notice to quit may be lawfully given whether specified in the notice to quit or not : ”.

**Consequential amendment of principal Act, s. 26s—  
Effect of notice to quit.**

18. Section 26s of the principal Act is amended by inserting after the passage “ section 26n ” in the second line thereof the passage “ section 26wa or section 26wb or section 26wc ”.

**Amendment of principal Act, s. 26u—  
Matters to be considered by court.**

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

- (a) by inserting after the words “ and may, in its discretion, make the order ” in subsection (1) thereof the words “ subject to such conditions (if any) as the court thinks fit ” ;
- (b) by striking out the words “ The court, in exercising its discretion on the ground of the respective hardships of the lessor and the lessee shall estimate the respective hardships one with another and shall not take into account as a factor of hardship that the lessor, as such, is being deprived of the possession of premises to which he would, but for this Act, have been entitled ” at the end of subsection (1) thereof ;
- (c) by inserting after the word “ lessee ” in the last line of paragraph (b) of subsection (2) thereof the words “ and that the business was commenced or is carried on with the express or implied consent of the lessor ” ;



- (d) by striking out the passage “ (c), (d), or (e) ” in the third line of subsection (4) thereof and by inserting in lieu thereof the passage “ or (c) ” ;
- (e) by inserting after the figure “ 26n ” in the fourth line of subsection (4) thereof the words “ or on a ground specified in paragraph (d) of subsection (5) of section 26n in respect of premises other than shared accommodation ” ;
- (f) by inserting after the word “ proved ” in the fifth line of subsection (4) thereof the words “ or if, on the hearing of any such proceedings, proof is given to the satisfaction of the court that, at the time of the giving of the notice to quit, the lessee was in arrears with respect to any rent payable under the lease (whether those arrears were paid before the hearing or not) ” ;
- (g) by inserting therein after subsection (4) thereof the following subsection :—
- (4a) If, on the hearing of any such proceedings where application is made on a ground specified in paragraph (e), (k), (k1), or (p) of subsection (5) of section 26n or on a ground specified in paragraph (d) of subsection (5) of section 26n in respect of premises being shared accommodation, the court is satisfied that the ground has been proved, the court shall not take into consideration any of the matters referred to in subsection (1) of this section.
- (h) by adding at the end of subsection (5) thereof the following passage :—
- “ In paragraph (a) of this subsection ‘ owner ’ includes a tenant for life and the survivor of two or more joint tenants or tenants in common ” .
- (i) by adding at the end thereof the following subsection :—
- (6) If in any such proceedings where application is made on the ground that a dwellinghouse is reasonably needed by the lessor for his occupation as a dwellinghouse or that the lessor being a trustee the dwellinghouse is reasonably needed by a beneficiary under the trust for his personal occupation as a dwellinghouse, proof is given to the satisfaction of the court—

- (a) that the lessor or, as the case may require, the beneficiary, is a protected person ; and
- (b) that at the time of the giving of the notice to quit, the lessor or, as the case may require, the beneficiary was not the owner of any other dwelling-house which was reasonably available to him for his occupation ; and
- (c) that the lessor or, as the case may require, the beneficiary 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 has since the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1951, 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 provisions 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 (d) inclusive of this subsection.

In this subsection "protected person" has the meaning given to that term by section 26am.

20. Section 26v of the principal Act is amended by inserting after the word "court" in the second line thereof the words "or a special magistrate".

Amendment of principal Act, s. 26v—  
Power to stay proceedings.

21. Section 26w of the principal Act is amended by striking out subsection (2) thereof and by inserting in lieu thereof the following subsection :—

Amendment of principal Act, s. 26w—  
Warrant.

(2) Notwithstanding anything in the Local Courts Act, 1926-1947, or any other Act, a warrant for delivery of possession of premises which pursuant to such Act would remain in force for any fixed period, shall remain in force for such further period or periods, if any, as the court shall, from time to time, direct whether before or after the expiration of such fixed period and whether the warrant has expired or not.

22. The following sections are enacted and inserted in the principal Act after section 26w thereof :—

Enactment of ss. 26wa and 26wb of principal Act—

26wa. (1) Notwithstanding section 26n but subject to this section, the lessor of premises to which this Act applies being shared accommodation in a dwellinghouse which premises were leased at the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1951, may give notice to quit to the lessee under the lease at the time of the said passing without specifying any ground therein.

Proceedings for recovery of possession of shared accommodation already leased.

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

- I. The lessor shall give notice to quit to the lessee for a period of not less than two months :
- II. At the time of the giving of the notice to quit and during the period of twelve months prior to the giving of the notice, the lessor shall not have let shared accommodation in the dwellinghouse to different lessees under two or more leases in existence at the same time :
- III. The lessor shall at the time of the giving of the notice to quit reside in the dwellinghouse and shall have resided in the dwellinghouse during the whole of the period of twelve months prior to the giving of the notice to quit :

- iv. During the period of six months prior to the giving of the notice to quit the lessor shall not have recovered as rent from the lessee in respect of the premises any amount which by virtue of this Act is irrecoverable.

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 II., III., and IV. of this subsection but if, in any proceedings by the lessor for an order for the recovery of possession of the premises or the ejectment 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 premises or for the ejectment 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 26u unless the court considers that special circumstances exist in which case the court may, in its discretion, take into consideration any of the said matters.

(4) Except as otherwise provided by this section, the provisions of this Part shall apply with respect to any such notice to quit or proceedings.

(5) Nothing in this section shall limit any right of the lessor under any other provisions of this Act.

Provisions for recovery of possession of shared accommodation to be leased in the future.

26wb. (1) Notwithstanding section 26n but subject to this section, the lessor of premises to which this Act applies being shared accommodation in a dwellinghouse, may give notice to quit to the lessee of those premises under any lease made after the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1951, without specifying any ground therein.

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

1. The lessor shall give notice to quit to the lessee for a period of not less than two months :

- II. At the time of the giving of the notice to quit and during the period of twelve months prior to the giving of the notice, the lessor shall not have let shared accommodation in the dwellinghouse to different lessees under two or more leases in existence at the same time :
- III. The lessor shall at the time of the giving of the notice to quit reside in the dwellinghouse and shall have resided in the dwellinghouse during the whole of the period of twelve months prior to the giving of the notice to quit :
- IV. The rent payable for the premises shall have been fixed by a determination of the trust or an order of a local court :
- V. During the period of six months prior to the giving of the notice to quit the lessor shall not have recovered as rent from the lessee in respect of the premises any amount which by virtue of this Act is irrecoverable.

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 II., III., IV., and V., of this subsection but if, in any proceedings by the lessor for an order for the recovery of possession of the premises or the ejectment 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 premises or for the ejectment 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 26u unless the court considers that special circumstances exist in which case the court may, in its discretion, take into consideration any of the said matters.

(4) Except as otherwise provided by this section, the provisions of this Part shall apply with respect to any such notice to quit or proceedings.

(5) Nothing in this section shall limit any right of the lessor under any other provision of this Act.

(6) In this section "shared accommodation" means any premises to which this Act applies—

- (a) which form part of other premises ; and
- (b) which are leased for the purpose of residence ; and
- (c) the lessee of which, under the terms of the lease, uses any habitable room, bathroom or privy in common with the lessor or with another lessee.

Provisions for recovery of dwellinghouse for occupation by employee.

26wc. (1) Notwithstanding section 26n but subject to this section, the lessor of any dwellinghouse may give notice to quit to the lessee of the dwellinghouse on the ground that the dwellinghouse is reasonably needed for the personal occupation in consequence of that employment of some person employed by, or about to be employed by, the lessor.

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

- I. The lessor shall have been the owner of the premises for at least five years before the giving of the notice to quit :
- II. The lessor shall be a British subject or a body corporate incorporated or registered in accordance with any law of the State :
- III. The lessor shall have, since the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1951, given notice to the lessee for a period of not less than twelve months.

(3) On the hearing of any proceedings by the lessor for an order for the recovery of possession of the dwellinghouse or the ejectment of the lessee therefrom, if proof is given (the onus of which proof shall be on the lessor) that the lessor was entitled under this section to give the notice to quit and that the lessor has not within the period of twelve months preceding the giving of the notice to quit given any other notice to quit under this section, the court shall make the order without taking into consideration any of the matters mentioned in subsection (1) of section 26u.

(4) Except as otherwise provided by this section, the provisions of this Part shall apply with respect to any such notice to quit or proceedings.

(5) Nothing in this section shall limit any right of the lessor under any other provision of this Act.

23. Section 26aa of the principal Act is repealed.

Repeal of  
s. 26aa of  
principal Act.

24. Section 26ab of the principal Act is amended by striking out the word "fifty" in the last line of subsection (1) thereof and by inserting in lieu thereof the words "five hundred".

Amendment of  
principal Act,  
s. 26ab—  
Sale or  
letting of  
premises after  
order for  
possession.

25. Section 26ad of the principal Act is amended by striking out the words "within six months" in the third line of paragraph (a) thereof.

Amendment of  
principal Act,  
s. 26ad—  
Acceptance of  
rent after  
notice to  
quit.

26. Section 26af of the principal Act is amended so as to read as follows :—

Amendment of  
principal Act,  
s. 26af—

26af. Where the lessee of any premises to which this Act applies dies and a person (not being a lodger or boarder) who resided with the lessee immediately prior to his death is in possession of the premises immediately after his death, that person shall have the like right to continue in possession of the premises as the lessee would have had if he had not died, but proceedings may be taken against that person for the recovery of the possession of the premises from that person or for his ejectment from the premises in accordance with the provisions of this Part as if he were a lessee of the premises.

Protection of  
certain persons  
in possession  
of premises.  
Cf. Vic. 5264,  
1948, s. 57.

27. Section 26ag of the principal Act is amended by inserting therein after subsection (1) thereof the following subsection :—

Amendment of  
principal Act,  
s. 26ag—  
Costs.

(1a) Notwithstanding subsection (1), if any such proceedings are taken upon a ground specified in paragraph (a), (b), (c), (d), (e), (f), (n), (o), or (p) of subsection (5) of section 26an the costs of the proceedings shall be in the discretion of the court.

28. Section 26ah of the principal Act is repealed.

Repeal of  
s. 26ah of  
principal Act.

29. Section 26ai of the principal Act is amended by adding at the end of subsection (4) thereof the words "and may at any time extend the period of any such certificate".

Amendment of  
principal Act,  
s. 26ai—  
Exclusion  
certificate  
for premises  
let for term.

Amendment of principal Act, s. 26aj—

Exclusion certificate for subdivided premises.

**30.** Section 26aj of the principal Act is amended—

- (a) by adding at the end of subsection (5) thereof the words “and may at any time extend the period of any such certificate”;
- (b) by striking out subsection (6) thereof;
- (c) by adding at the end of subsection (7) thereof the words “and ‘owner’ includes a tenant for life and the survivor of two or more joint tenants or tenants in common”.

Enactment of s. 26aja of principal Act—

Operation of exclusion certificate.

**31.** The following section is enacted and inserted in the principal Act after section 26aj thereof :—

26aja. If at the expiration of the period of any certificate issued or continued in force under section 26ai or section 26aj, the lessee continues in possession of the premises to which the certificate applies, then the following provisions shall apply :—

- I. At any time within one month after the expiration of the said period a notice to quit the premises may be given to the lessee by the lessor and the provisions of this Part shall not apply with reference to the notice to quit :
- II. After the expiration of the period of the notice to quit but within three months after the expiration of the period of the certificate, proceedings may be commenced by the lessor for the recovery of the possession of the premises from the lessee or for the ejectment of the lessee therefrom and the provisions of this Part shall not apply with respect to those proceedings nor, for the purpose of those proceedings, to the premises.

Amendment of principal Act, s. 26al—  
Regulations.

**32.** Section 26al of the principal Act is amended by adding at the end thereof the following subsection (the preceding portion of the said section being read as subsection (1) thereof) :—

(2) The Governor may make regulations prescribing forms of notices to quit which may be given by any lessor in pursuance of section 26n, and, without limitation of the right of a lessor to give a notice to quit in any other form, any notice to quit in a form prescribed by regulation shall be deemed to be sufficient notice of all matters referred to therein.



**33.** Section 26am of the principal Act is amended so as to read as follows :—

Amendment of  
principal Act,  
s. 26am—

26am. (1) In this Part, unless the context otherwise requires—

Interpretation.

“discharged member of the forces” means, subject to subsection (2) of this section, a person who, having been a member of the forces, has been discharged from the forces for a period not exceeding five years or has ceased to be engaged on war service for a period not exceeding five years :

“member of the forces” means a member of the Defence Force engaged on war service and includes any person on active service during any such war service with the naval, military, or air forces of the United Kingdom or of any other part of the King’s dominions (other than the Commonwealth of Australia) :

“pension” means a pension (other than a service pension) under the Australian Soldiers’ Repatriation Act, 1920-1949, and includes a pension payable under any law of the United Kingdom or of any other part of the King’s Dominions (other than the Commonwealth of Australia) providing for payment of pensions to members or former members of the naval, military, or air forces thereof :

“protected person” means, subject to subsections (2) and (3) of this section—

- (a) a discharged member of the forces :
- (b) a war pensioner :
- (c) the wife of a war pensioner who is residing with her husband :
- (d) the widow of any member of the forces who is wholly or partly dependent for her support upon a pension paid to her in consequence of the death of her husband whilst engaged on or as a result of war service :

“war pensioner” means, subject to subsection (3) of this section, a person who, having been a member of the forces and having been discharged from the forces or having ceased to be engaged on war service, is receiving a pension in respect of incapacity arising from war service of an amount of at least fifty per centum of the amount which would be payable as pension for total and permanent incapacity :

“war service” means—

- (a) the service during any 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, of a member of the citizen forces when called up for war service under the Defence Act, 1903-1949, or during continuous training under that Act, the Naval Defence Act, 1910-1949, or the Air Force Act, 1923-1941 ;
- (b) the continuous service under any of those Acts of any person who volunteers and is accepted for such service during any such war ;
- (c) the continuous service during any such war of a person called upon to serve in the defence force in pursuance of any Act or of any regulations under an Act of the Commonwealth of Australia ;
- (d) the service during any such war of a member of the permanent forces ;
- (e) the continuous service during any such war of a person called upon to serve in the naval, military, or air forces of the United Kingdom or of any other part of the King's Dominion (other than the Commonwealth of Australia).

(2) A person shall not be deemed to be a discharged member of the forces unless that person was—

- (a) immediately prior to his discharge ;
- (b) for a continuous period of not less than three months during the period of six months immediately prior to his discharge ; or

- (c) for a total period of not less than twelve months during his period of war service,

required, by reason of his war service, to live in premises other than premises occupied by him, or by a member of the household to which he belongs, as a home.

(3) A person shall not be deemed to be a war pensioner unless that person was—

- (a) immediately prior to his discharge ;  
(b) for a continuous period of not less than three months during the period of six months immediately prior to his discharge ; or  
(c) for a total period of not less than twelve months during his period of war service,

required, by reason of his war service, to live in premises other than premises occupied by him, or by a member of the household to which he belongs, as a home and unless that person—

- (d) resided within the Commonwealth at any time within three years before the commencement of his war service.

(4) Any reference in this section to any Act of the Commonwealth shall be deemed to include a reference to any amendment thereof.

**34. Section 26an of the principal Act is amended—**

Amendment of  
principal Act,  
s. 26an—  
Rights of  
protected  
persons.

- (a) by striking out the word “ since ” in the third line of paragraph (a) of subsection (4) thereof and by inserting in lieu thereof the words “ whether before or after ” ;  
(b) by striking out the words “ , and the offer has not been accepted by the protected person ” in the eighth, ninth and tenth lines of paragraph (b) of subsection (4) thereof and by inserting in lieu thereof the words “ subject to the lease of the lessee, and the protected person, without reasonable cause, has failed to accept the offer ” ;  
(c) by striking out the word “ since ” in the third line of paragraph (a) of subsection (5) thereof and by inserting in lieu thereof the words “ whether before or after ” ;

- (d) by striking out the words “, and the offer has not been accepted by the protected person” in the penultimate and last lines of paragraph (b) of subsection (5) thereof and by inserting in lieu thereof the words “ subject to the lease of the lessee, and the protected person, without reasonable cause, has failed to accept the offer ” ;
- (e) by striking out subsection (6) thereof ;
- (f) by striking out the passage “ (5), and (6) ” in the first line of subsection (7) thereof and by inserting in lieu the passage “ and (5) ” ;
- (g) by striking out the words “ or of which the lessor is a person who, during any war in which His Majesty was engaged, served outside the Commonwealth in any of His Majesty’s forces ” in subsection (7) thereof.

Amendment of  
principal Act,  
s. 26a—  
Right of  
protected  
persons  
as to vacant  
houses.

**35.** Section 26a of the principal Act is amended by striking out subsection (4) thereof.

Amendment of  
principal Act,  
s. 27—  
Demanding  
unlawful rent.

**36.** Section 27 of the principal Act is amended by striking out the word “ wilfully ” occurring in the third line thereof and twice occurring in the second line of subsection (2) thereof and by inserting in lieu thereof in every case the words “, without reasonable excuse,”.

Amendment of  
principal Act,  
s. 28—  
Record of  
rents.

**37.** Section 28 of the principal Act is amended by striking out the word “ wilfully ” twice occurring in the second line of subsection (2) thereof and by inserting in lieu thereof in each case the words “, without reasonable excuse,”.

Amendment of  
principal Act,  
s. 29—  
Threats, etc.

**38.** Section 29 of the principal Act is amended by striking out subsection (2) thereof.

Amendment of  
principal Act,  
s. 30—  
Demanding  
key money,  
etc.

**39.** Section 30 of the principal Act is amended by adding at the end thereof the following subsection :—

(3) 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.

Amendment of  
principal Act,  
s. 31—  
Refusal to let  
house to  
family with  
children.

**40.** Section 31 of the principal Act is amended by striking out the passage “ (other than premises such as are described in paragraphs (c), (d), or (e) of the said definition) ” in subsection (4) thereof.

41. Section 31a of the principal Act is amended by adding at the end of subsection (2) thereof the words "Any lessor against whom an order is made as aforesaid who fails or neglects to comply with the order shall be guilty of an offence and liable to a penalty not exceeding fifty pounds".

Amendment of  
principal Act,  
s. 31a—  
Interference  
with use or  
enjoyment.

42. Section 33 of the principal Act is amended—

Amendment of  
principal Act,  
s. 33—

(a) by inserting after the word "applies" in the second line of paragraph (a) of subsection (1) thereof the passage "(which or any part of which is leased)";

Powers of  
entry, etc.

(b) by adding at the end of paragraph (b) of subsection (1) thereof the words ", or as to use of the premises for the purpose of accommodating lodgers and the amounts paid for such use".

43. Section 35a of the principal Act is amended by adding at the end of subsection (7) thereof the words "The costs of any such proceedings shall be in the discretion of the court".

Amendment of  
principal Act,  
s. 35a—  
Inspection of  
premises on  
order of court.

44. The following section is enacted and inserted in the principal Act after section 35a thereof:—

Enactment of  
s. 35b of  
principal Act—

35b. (1) The lessor of any premises to which this Act applies may give at least forty-eight hours' notice to the lessee of the premises that it is the intention of the lessor to inspect the premises on a day specified in the notice and during such period as is specified in the notice being not more than one hour in the daytime between the hours of nine o'clock in the morning and six o'clock in the afternoon. After the expiration of forty-eight hours after the giving of the notice aforesaid the lessor may enter and inspect the premises on the day and during the period specified in the notice.

Right of  
lessor to  
inspect  
premises.

(2) The power given by subsection (1) may be exercised from time to time but, if any such inspection is made, this section shall not be deemed to authorize a further inspection until the expiration of six months from the time of the last preceding inspection.

(3) If the lessee to whom notice is given as aforesaid, without reasonable excuse, refuses to permit the lessor to enter or inspect the premises as required by this section or hinders the lessor during any such inspection, he shall be deemed to have failed to observe a condition of the lease of the premises.

(4) Nothing in this section shall limit the power of a local court to make an order under section 35a or diminish any right of the lessor to enter the premises under any term or condition of the lease of the premises.

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

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

Reprint of Act.

**46.** If the Landlord and Tenant (Control of Rents) Act, 1942-1951, is reprinted pursuant to the Amendments Incorporation Act, 1937, then, the following things, in addition to those set out in section 4 of the Amendments Incorporation Act, 1937, may be done :—

- I. The sections of the reprinted Act may be renumbered so that the numbers of the section shall be in arithmetical progression and any reference in any provision of the reprinted Act to any section so re-numbered shall be altered to conform with the altered number of that section :
- II. The Parts of the reprinted Act may be re-numbered so that the numbers of the Parts shall be in arithmetical progression and any reference in any provision of the reprinted Act to any Part so re-numbered shall be altered to conform with the altered number of that Part :
- III. Any subsections, paragraphs, subparagraphs or other subdivisions of any section in the reprinted Act may be re-numbered so that the numbers thereof shall be in arithmetical or alphabetical progression, as the case may require, and any reference in any provision of the reprinted Act to any subsection, paragraph, subparagraph or other subdivision so re-numbered shall be altered to conform with the altered number thereof.

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

C. W. M. NORRIE, Governor.