

*Hon. Mr. McLagan*

## FAIR RENTS AMENDMENT

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### A BILL INTITULED

AN ACT to amend the Fair Rents Act, 1936. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Fair Rents Amendment Act, 1947, and shall be read together with and deemed part of the Fair Rents Act, 1936 (hereinafter referred to as the principal Act). Short Title. 1936, No. 14

## PART I

## GENERAL AMENDMENTS

Basic rent not affected by variations in tenancies as to furniture, &c., or by subletting.

1942, No. 19

Tenancy registers to be kept by landlords.

2. (1) For the purpose of defining the basic rent a house or part of a house let as a separate dwelling shall be deemed to be and always to have been the same dwellinghouse, whether or not any furniture is let therewith, and whether or not the tenant has the right to the use in common with any other person of any other part of the house or building or premises. 5

(2) Where immediately before the passing of this Act any dwellinghouse had a basic rent that is different from its first basic rent determined in accordance with section four of the Fair Rents Amendment Act, 1942, that first basic rent shall be deemed to be restored, and the basic rent in force on the passing of this Act shall cease to be the basic rent, but shall, subject to section eight of the principal Act, be deemed to be the fair rent of the dwellinghouse as if it had been fixed for a period of one year from the passing of this Act by order of a Magistrate under section seven of the principal Act. 10 15 20

(3) The basic rent of any dwellinghouse as determined in accordance with section four of the Fair Rents Amendment Act, 1942, and this section shall be the basic rent for the purposes of every subletting of the dwellinghouse. 25

(4) Where on the passing of this Act any dwellinghouse is sublet at a rent in excess of the basic rent, that rent shall, subject to section eight of the principal Act, be deemed to be the fair rent of the dwellinghouse for the purposes of the subletting as if it had been fixed for a period of one year from the passing of this Act by order of a Magistrate under section seven of the principal Act. 30

3. (1) Where any dwellinghouse was let on the first day of September, nineteen hundred and forty-two, or at any time between that date and the passing of this Act, or is let at any time after the passing of this Act, the landlord shall keep or cause to be kept in accordance with this section a register (hereinafter 35

referred to as a tenancy register) showing in respect of each tenancy of the dwellinghouse the following particulars:—

- (a) The description of the premises:
- 5 (b) The name of each tenant, with the dates of the commencement and the termination of his tenancy:
- (c) The rent payable by each tenant and the date and particulars of any alteration thereof:
- 10 (d) The basic rent of the dwellinghouse:
- (e) Any rent deemed to be the fair rent under section *two* of this Act:
- (f) Every fair rent fixed for the dwellinghouse in respect of any period wholly or partly after  
15 the first day of September, nineteen hundred and forty-two, and the dates on which it takes effect and ceases to have effect.

(2) Every tenancy register shall be completed as far as possible forthwith after the passing of this Act or the commencement of the tenancy, whichever is the  
20 later, and any further entry required by this section to be made therein shall be made as soon as possible after the occurrence to which it relates.

(3) Every entry in any tenancy register shall be  
25 admissible in evidence.

(4) Every landlord shall, upon demand, produce every tenancy register required to be kept by him to a Magistrate or to an Inspector of Factories, or allow it to be inspected by any tenant of the dwellinghouse or  
30 his solicitor.

(5) Where any person purchases or acquires or otherwise becomes entitled to the estate or interest of the landlord of any dwellinghouse that has been let as mentioned in subsection *one* of this section, it shall be  
35 the duty of the old landlord or his personal representative, or the person transferring the estate or interest, to transfer the tenancy register to the new landlord, and it shall be the duty of the new landlord to acquire the register accordingly and to comply with  
40 the provisions of this section in respect thereof as from the date from which he becomes entitled to that estate or interest.

(6) Where any dwellinghouse that has been let as mentioned in subsection *one* of this section ceases to be

let, the provisions of this section shall continue to apply to the landlord or his successor in title for the time being as if he were still a landlord.

(7) Every person who fails to comply in any respect with the provisions of this section, or makes or causes to be made in any tenancy register any false entry, commits an offence against the principal Act. 5

Serial number  
1944/36  
(Reprint).

(8) Every register kept under Regulation twenty-five of the Economic Stabilization Emergency Regulations 1942 in respect of any dwellinghouse shall enure for the purposes of this section as if it had originated under this section, and accordingly shall, where necessary, be deemed to have so originated. 10

(9) It shall not be necessary for a tenancy register to be kept in respect of any dwellinghouse let by or on behalf of the Crown, but in every such case a memorandum showing the particulars specified in subsection one of this section shall be prepared on application by the tenant, and subsections three and four of this section shall apply to every such memorandum as if it were a tenancy register. 15 20

Inspector of  
Factories may  
appear on  
applications to  
fix fair rent.

4. (1) Any Inspector of Factories may appear and be heard and adduce evidence on the hearing of any application to a Magistrate to fix the fair rent of any dwellinghouse. 25

(2) Where any such application is made after the passing of this Act the applicant shall, at least seven clear days before the day fixed for the hearing, post or deliver notice thereof to the office of the Inspector of Factories nearest to the Court in which the application is made. 30

Offence to  
demand or  
accept rent  
irrecoverable  
under principal  
Act.

5. Every person commits an offence against the principal Act who stipulates for or demands or accepts for himself or for any other person on account of the rent of any dwellinghouse any sum that is irrecoverable by virtue of the principal Act. 35

No fine or  
premium to be  
chargeable  
for tenancy or  
renewal or  
transfer.

6. (1) Every person commits an offence against this section who—

(a) In consideration of the grant, renewal, transfer, termination, or continuance of a tenancy of any dwellinghouse, requires or accepts, whether from the tenant or from any outgoing tenant or incoming tenant, any fine, premium, or other sum in addition to the rent: 40

5 (b) Stipulates for or demands or accepts, for himself or for any other person, any bonus, fine, premium, or other like sum in consideration of obtaining or offering to obtain or doing anything for the purpose of obtaining any dwellinghouse for the occupation of any other person:

10 (c) In consideration of the transfer of a tenancy of any dwellinghouse (whether directly, or by means of the creation of a new tenancy, or otherwise), in a case to which Part III of the Servicemen's Settlement and Land Sales Act, 1943, No. 16 does not apply, requires or accepts from the new tenant any sum other than the rent, except such sum (if any) as may be previously approved for the purposes of this section by an Inspector of Factories:

20 (d) Stipulates for or demands or accepts, as a condition of the tenancy or the transfer of the tenancy of any dwellinghouse, payment for the furniture or fixtures or other effects of the dwellinghouse, or for any other chattels, of any sum in excess of the fair selling value thereof.

25 (2) All moneys received by any person in contravention of this section may at any time within twelve months after the date of payment be recovered by or on behalf of the person by whom they were paid as a debt due to him by the person who received the payment, and may, without prejudice to any other mode of recovery, be deducted from any rent that may be payable by the creditor to the debtor within that period of twelve months.

35 (3) This section is in substitution for section eleven of the principal Act, and that section is hereby accordingly repealed. Repeal.

7. Section thirteen of the principal Act is hereby amended as follows:—

40 (a) By omitting from paragraph (d) of subsection one the words "for his", and substituting the words "or by one or more of several joint landlords for his or their": Recovery of possession for occupation by one or more of several joint landlords.

(b) By omitting from paragraph (f) of subsection one the words "for his", and substituting the words "or by one or more of several joint purchasers for his or their".

Recovery of possession of dwellinghouse for serviceman who vacated it to become a serviceman.  
1939, No. 43

8. (1) Section thirteen of the principal Act (as amended by subsection one of section seven of the Fair Rents Amendment Act, 1939), is hereby further amended by adding to subsection one the following paragraph:—

"(j) That the premises are reasonably required for occupation as a dwellinghouse by a serviceman as defined for the purposes of this Act, and that that serviceman has occupied the premises as a dwellinghouse until he vacated them for the purpose of serving as a serviceman, whether or not his wife or any of his dependants has continued to occupy the premises for any period thereafter."

(2) Section fifteen of the principal Act is hereby amended by inserting, after subsection three, the following subsection:—

"(3A) Where an order for possession is made upon the ground defined in paragraph (j) of subsection one of section thirteen hereof, or where possession is obtained by a representation to the effect that possession is required on that ground, neither the landlord nor the serviceman shall let the dwellinghouse, or permit any person other than the serviceman, his wife, family, and domestic servants to occupy the dwellinghouse, or sell or make any agreement for the sale of the dwellinghouse, for a period of six months after the date when possession is obtained, unless he shall have first obtained an authorizing order of a Magistrate under subsection five hereof:

"Provided that if the dwellinghouse contains more rooms than are reasonably required for the occupation of the serviceman and his wife, family, and domestic servants, the letting of any rooms that are not so required shall not be deemed to be in contravention of this subsection."

(3) Section fifteen of the principal Act is hereby further amended as follows:—

- (a) By inserting in subsection four, after the words “ or subsection three ”, the words “ or subsection three <sup>A</sup> ”:
- (b) By inserting in subsection five, after the words “ or subsection three ”, the words “ or subsection three <sup>A</sup> ”.

9. (1) Section seven of the Fair Rents Amendment Act, 1942, is hereby amended by repealing paragraphs (a), (b), and (c) of subsection two, and substituting the following paragraphs:—

Cases in which subletting deemed to be consented to by landlord. 1942, No. 19

- “(a) Where the dwellinghouse forms part of premises held by the tenant at the commencement of the sub-tenancy and those premises were originally designed and constructed for the purpose of being let as two or more separate flats or apartments:
- “(b) Where the dwellinghouse forms part of premises held by the tenant at the commencement of the sub-tenancy, and those premises at the commencement of his tenancy were let as two or more separate flats or apartments or had been adapted for the purpose of being so let:
- “(c) Where the dwellinghouse forms part of premises held by the tenant at the commencement of the subtenancy, and those premises had during his tenancy been adapted by the landlord or with his consent for the purpose of being let as two or more separate flats or apartments:”.

(2) The said section seven is hereby further amended by inserting, after subsection two, the following subsection:—

- “(2A) For the purposes of subsection two of this section, where the tenant at the commencement of the sub-tenancy holds two or more parts of any premises under separate tenancies he shall be deemed to hold them under one tenancy commencing on the date on which the earliest of those tenancies commenced.”

Application of principal Act to occupation of premises by one or more persons for residential purposes, &c.

10. (1) Notwithstanding anything in the principal Act, where any person is granted or two or more persons are jointly or severally granted the right to occupy for residential purposes any premises that form part of a house or building, then for the purposes of the principal Act the premises shall be deemed to be a dwellinghouse, and that person or those persons shall be deemed to occupy the premises as tenant or tenants under a tenancy subject in all respects to the principal Act, and where several amounts are payable by two or more persons the total of those amounts shall be deemed to be the rent of the premises. 5 10

(2) No person who occupies any premises by virtue of his being employed by the person from whom he holds the premises, and no person claiming through or under any such employed person, shall be deemed by virtue of this section to be a tenant of the premises. 15

Repeal.

1946, No. 40

(3) This section is in substitution for section twenty-seven of the Statutes Amendment Act, 1946, and that section is hereby accordingly repealed. 20

Application of principal Act where meals or food provided.

11. (1) Notwithstanding anything in the principal Act, where any premises that form part of any house or building are let to a tenant for residential purposes, or are deemed by virtue of the *last preceding* section to be occupied under a tenancy, and the landlord provides for the tenant any meals or food, the application of the principal Act to the premises as a dwellinghouse shall be excluded if the value of the meals or food or the cost thereof to the landlord (whichever is the less) forms a substantial proportion of the total amount payable by the tenant to the landlord as rent or otherwise in respect of the tenancy, but shall not in any other case be excluded by reason of the provision of the meals or food. 25 30

Repeal.

1946, No. 40

(2) This section is in substitution for section twenty-eight of the Statutes Amendment Act, 1946, and that section is hereby accordingly repealed. 35

As to hardship caused to other persons by ejection of tenant.

12. Section sixty-three of the Finance Act, 1937, is hereby amended by inserting in paragraph (b) of subsection one, after the word "tenant", the words "or any other person". 40



PART II

LETTING OF UNOCCUPIED HOUSES

13. In this Part of this Act, unless the context otherwise requires,— Interpretation.

5 “ Board ” means the Board of Management of the State Advances Corporation of New Zealand:

“ House ” means any building or any part of a building that is constructed or adapted for use as a separate dwelling; but does not include—

(a) Any dwelling in which the owner or tenant thereof ordinarily resides and which is his permanent home; or

(b) Any dwelling that by reason of its construction or location is not suitable for permanent occupation:

20 “ Local authority ” means a City Council, a Borough Council, the Board of a town district not forming part of a county, a County Council, or the Board of a road district in a county in which the Counties Act, 1920, is suspended or is not in force:

See Reprint of Statutes, Vol. V, p. 180

25 “ Owner ”, in relation to any house, means the person who for the time being is entitled to the rack-rent thereof or would be so entitled if the house were let to a tenant at a rack-rent.

14. Where any local authority is satisfied that any house within the district of the local authority is unoccupied and has for a period of twenty-eight days or more been unoccupied or only occasionally occupied, the local authority, if it deems it necessary having regard to the need for housing accommodation and other relevant considerations, shall cause to be served on the owner of the house a notice in writing requiring 35 him to let the house for immediate occupation as a dwelling, either furnished or unfurnished at the option of the owner.

Local authorities to require owners of unoccupied houses to let them.

15. (1) Within fourteen days after any notice under the last preceding section is served on the owner of any 40 house, the owner or any other person having an estate or interest in the land on which the house is situated may give to the local authority notice of appeal.

Appeals from notices.

(2) Every such appeal shall be heard and determined in the Magistrate's Court nearest to the public office of the local authority before a Magistrate alone, and the Court, for the purposes of hearing and determining the appeal, shall have all the powers vested in it in its ordinary jurisdiction. 5

(3) The procedure for the institution, hearing, and determination of the appeal shall be in accordance with regulations to be made under the principal Act, and, subject to those regulations or so far as they do not extend, shall be in accordance with the ordinary procedure of the Court. 10

(4) On any such appeal the Court may award such costs as it deems just either in favour of or against the appellant. 15

(5) On any such appeal the Court may cancel the notice or may confirm it, and the decision of the Court shall be final.

On default by owner, house may be let by State Advances Corporation.

16. (1) Where a notice is served on the owner of any house under section *fifteen* of this Act and is not cancelled on appeal, and the owner fails or refuses to comply with the requirements of the notice within fourteen days after the service of the notice or, in the case of an appeal, within fourteen days after the determination of the appeal, the local authority shall forthwith notify the Board of Management of the State Advances Corporation of New Zealand in writing, giving such particulars as may be prescribed by regulations or required by the Board. 20 25

See Reprint of Statutes, Vol. III, p. 798

(2) The house shall thereupon become subject to Part I of the Housing Act, 1919, as if it had been acquired on behalf of His Majesty and set apart for the purposes of Part I of that Act, and, subject to the provisions of this Part of this Act, all enactments relating to the powers, functions, duties, and obligations of the State Advances Corporation of New Zealand and of the Board shall, as far as they are applicable and with any necessary modifications, apply accordingly. 30 35

(3) Nothing in this Part of this Act shall be deemed to authorize the Board to dispose of any such house by way of sale. 40

(4) The letting of any house by the Board under this Part of this Act shall be deemed to be a letting by the owner of the house, and shall take effect notwithstanding any other lease or letting or agreement to  
5 lease or let, and any such other lease, letting, or agreement shall, in so far as it is inconsistent with the letting by the Board, be of no force or effect from the date of commencement of the letting of the house under this Part of this Act.

10 (5) Unless the owner notifies the Board to the contrary, the letting of any house by the Board under this Part of this Act may include any furniture for the time being in the house.

(6) If the owner of any such house fails to remove  
15 therefrom any furniture or other chattels that are not to be let with the house within such time as the Board may allow in that behalf, the Board may remove the chattels and store them at the risk and expense of the owner of the house in such place as the Board thinks  
20 fit.

17. (1) The Board shall pay to the owner of any such house rent for the period during which it is subject to Part I of the Housing Act, 1919, less such commission thereon as is fixed by the Board (not exceeding five per  
25 centum) and less any moneys lawfully expended by the Board in respect of the house or any chattels found therein, whether for rates, insurance, rent, or repairs or otherwise.

Rent to be paid to owner, less commission and expenses.

(2) The rent so to be paid to the owner of any such  
30 house for any period shall be equal to the basic rent of the house under the principal Act, or, if a fair rent for the house has been fixed under that Act, shall be equal to the fair rent or, as the case may be, the latest fair rent so fixed.

35 (3) Subject to the foregoing provisions of this section, all rent received by the Board for any such house while it is subject to Part I of the Housing Act, 1919, shall be the property of His Majesty, and shall be paid into the Housing Account.

40 18. (1) Subject to the provisions of this section, the Board may at any time, by notice in writing served on the owner, declare that any such house shall cease to be subject to Part I of the Housing Act, 1919, on a date to be specified in that behalf in the notice, and every  
45 such notice shall have effect according to its tenor.

House may be handed back to owner.

(2) A notice shall not be given under this section unless the Board is satisfied that the house will be occupied as a dwelling, or that the house is not suitable or adaptable for letting or is otherwise unlettable.

(3) Except by arrangement with the owner, a notice shall not be given under this section at any time during the continuance of a tenancy created by the Board under this Part of this Act. 5

Service of  
notices.

19. (1) Any notice required to be served on any person for the purposes of this Part of this Act may be served by delivering it to that person or by posting it by registered letter addressed to that person at his last known place of abode or business in New Zealand. A notice so posted shall be deemed to have been served at the time when the registered letter would in the ordinary course of post be delivered. 10 15

(2) If the person is absent from New Zealand, the notice may be delivered as aforesaid to his agent in New Zealand. If he is deceased, the notice or document may be delivered as aforesaid to his personal representatives. 20

(3) If the person is not known, or is absent from New Zealand and has no known agent in New Zealand, or is deceased and has no personal representatives, the notice shall be delivered in such manner as may be directed by a Magistrate. 25