

**INCREASE OF RENT (WAR RESTRICTIONS)  
(No. 2).**

14° and 15° Geo. VI., No. LXII.

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No. 62 of 1950.

**AN ACT to amend and continue the operation of  
the Increase of Rent (War Restrictions) Act,  
1939-1949.**

[Assented to 18th December, 1950.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title

1. This Act may be cited as the *Increase of Rent (War Restrictions) Act Amendment Act (No. 2) 1950*, and shall be read as one with the *Increase of Rent (War Restrictions) Act, 1939-1949* (Act No. 45 of 1939 reprinted with amendments to and including Act No. 39 of 1949 incorporated pursuant to the provisions of the *Amendments Incorporation Act, 1938*, approved for reprint 9/12/1949), hereinafter called the principal Act.

Commence-  
ment.

2. This Act shall come into operation on a date to be fixed by proclamation.

Citation of  
principal  
Act as  
amended by  
this Act.

3. The principal Act as amended by this Act may be cited as the *Increase of Rent (War Restrictions) Act, 1939-1950*.

1950.]

*Increase of Rent (War  
Restrictions) (No. 2).* [No. 62.]

4. Section two of the principal Act is amended <sup>s. 2</sup> amended by inserting after the word "premises" where first occurring in line five of the definition of "shared accommodation" the words "including premises leased with a right or license to the use of other premises or conveniences in the same building, or used in connection with the enjoyment of the premises";

5. Section four of the principal Act is amended— <sup>Amendment of s. 4.</sup>
- (a) by inserting after the word "section" in line two of subsection (1) the words "and subject to the provisions of section four A";
  - (b) by inserting before the word "the" in line one of subsection (3) the words "subject to section eighteen M of this Act."

6. The following section is added to the principal Act— <sup>s. 4A added.</sup>

4A. The provisions of this Act shall not apply— <sup>Exclusion of licensed premises.</sup>

- (a) in respect of premises for which there subsists a publican's general license, an hotel license, a way-side house license, an Australian wine and beer license or an Australian wine license issued pursuant to the provisions of the Licensing Act, 1911-1949; or
- (b) in respect of premises the lessee whereof is the Crown or any Crown instrumentality.

7. Section five of the principal Act is amended <sup>s. 5</sup> amended by—

- (a) Adding the following paragraph:—
  - (iia) Where the charges for cleaning the premises are payable by the lessor and the standard rent is inclusive of such charge, the standard rent shall be increased by the amount of any increase of cleaning charges since the thirty-first day of August, one thousand nine hundred and thirty-nine;

- (b) adding after the word “thirty-nine” in line five of paragraph (iii) of subsection (1), the words “and where the land tax is payable by the lessor he may increase the rent by the amount of any increase of State land tax paid by him in respect of any period commencing on or after the commencement of the Increase of Rent (War Restrictions) Act Amendment Act, 1950”;
- (c) adding the following paragraphs:—
- (iia) After the commencement of the Increase of Rent (War Restrictions) Act Amendment Act, 1950, a lessor of premises, being premises other than a dwelling-house, may charge rent in excess of the standard rent by such sum not exceeding thirty per centum of the standard rent as may be agreed in writing signed by the lessor and the lessee, but failing such agreement, the lessor or the lessee may at any time make an application for the determination of a fair rent of the premises and the Court shall have jurisdiction to hear the application and to determine the fair rent.
- (iib) After the commencement of the Increase of Rent (War Restrictions) Act Amendment Act, 1950, and in respect of premises being a dwelling-house or used or occupied for the purposes of residence and first leased prior to the first day of January, 1948, any lessor may give to the lessee one month’s notice in writing that the rent of the premises shall as from the date of the expiration of such notice be increased by twenty per centum of the amount of the standard rent of the premises and unless prior to such date the lessee applies to the Court for a

determination of the fair rent the rent shall be increased in accordance with the notice. If the lessee applies to the Court for such determination the Court shall make the determination and the rent shall apply as determined by the Court as from the date of the lessee's application: Provided that in respect of premises first leased as aforesaid but for which an increase on the standard rent has been made prior to the commencement of the Increase of Rent (War Restrictions) Act Amendment Act, 1950, by order of the Court or otherwise the increase of rent provided for in this section shall be inclusive of and not additional to the increase already made.

- (iic) Any lessor who has not given a notice under the provisions of the last preceding paragraph may at any time make an application to the Court for a variation of the percentage increase fixed by the last preceding paragraph and the Court shall have jurisdiction to hear the application and to fix such other percentage increase being not more than fifty per centum of the standard rent as the Court thinks fit; or alternatively the Court may at its discretion determine the fair rent of the premises;
- (d) adding before the word "shall" in line one of paragraph (iv) of subsection (1), the words, "other than an increase authorised by the last three preceding paragraphs";
- (e) adding after the word "lessee" in line four of paragraph (iv) of subsection (1), the words, "unless—
  - a Judge of the Supreme Court, pursuant to the provisions of subsection (2) of section nine; or

a court, pursuant to the provisions of paragraph (c) of subsection (2) of section seven; or

a rent inspector, pursuant to the provisions of subsection (1) of section twelve A—

of this Act, orders otherwise”.

Repealing  
s. 10 and  
re-enacting

8. Section ten of the principal Act is repealed and re-enacted as follows:—

10. In any proceedings under this Act the Court may make such order as to costs as is thought fit.

s. 11 repealed  
and re-  
enacted.

9. Section eleven of the principal Act is repealed and re-enacted as follows:—

Relevant  
facts.

11. In determining the fair rent, the Court may take into consideration any factors which the Court considers relevant.

s. 12  
repealed.

10. Section twelve of the principal Act is repealed.

s. 12A  
amended.

11. Section twelve A of the principal Act is amended by adding the following subsection:—

(4) (a) In this and the next succeeding section—

“lessor” includes a person who lets lodgings;

“lessee” includes a lodger;

“shared accommodation” includes lodgings or any premises in respect of which leave or license is granted to any person (other than a boarder) for use or occupation for the purpose of residence.

(b) For the purposes of this and the next succeeding section premises may be regarded as lodgings if, in the opinion of the Court or rent inspector as the case may be, they are substantially used as such.

(c) The provisions of this subsection shall not preclude a person from exercising the right to accept, reject or discontinue the acceptance of a person as his lodger.

12. The following sections are added to the principal Act:—

ss. 12C, 12D,  
and 12E  
added.

12C. Where a rent inspector, purporting to act under the provisions of section twelve A of this Act, or a Court, purporting to act under the provisions of section twelve B of this Act, has determined the fair rent of purported shared accommodation or of purported shared accommodation together with goods leased therewith, and no Court of competent jurisdiction has, prior to the commencement of the Increase of Rent (War Restrictions) Act Amendment Act, 1950, finally held that the determination was not in respect of shared accommodation, the determination shall be deemed to have been in respect of shared accommodation, and always to have been valid and effectual notwithstanding that the determination may not have been in respect of shared accommodation; and all such determinations are hereby validated.

Validation  
of past  
determina-  
tions.

12D. A lessor or lessee of any premises may at any time and from time to time make application to the Court for a determination of a fair rent of such premises: Provided that where after the commencement of the Increase of Rent (War Restrictions) Act Amendment Act, 1950, a determination of the fair rent of premises, including lodgings, is made, no further proceedings under this Act for the determination of the fair rent of those premises shall be commenced until after a period of six months from the time when that determination was made, except on the ground that—

Variation of  
rents.

- (a) by an error or omission, an injustice has been occasioned by that determination;
- (b) since the determination, substantial alterations or additions have been made to the premises, or if the lease provides for the use of goods, to the goods; or

- (c) since the determination the accommodation provided in the premises has been materially increased or decreased, or if the lease provides for the use of goods, the goods have been substantially increased or decreased.

Fair rent of vacant premises.

12E. Any person who is entitled and intends to let premises including lodgings which are not let may make application for a determination of the fair rent of the premises, subject to the provisions of the last preceding section.

Increase of rates, etc., in relation to fair rent

12F. After the commencement of the Increase of Rent (War Restrictions) Act Amendment Act, 1950, a fair rent may be increased by any increase of rates and of State land tax paid by the lessor in respect of any period commencing on or after that commencement.

s. 15 amended.

13. Section fifteen of the principal Act is amended by—

- (a) repealing subsection (2) and substituting the following:—

(2) The lessor of shared accommodation who personally occupies portion of such accommodation may give to a lessee thereof—

- (a) where the lessee is unmarried two months' notice, or  
(b) where the lessee is married six months' notice,—

to terminate the lease and on the expiration of the period stated in the notice the provisions of this section shall cease to apply in respect of those premises;

- (b) adding after the word, "rent" in line five of subsection (3), the words, "or fair rent as the case may be.";
- (c) adding a subsection as follows:—

(4) The provisions of this section shall not apply to premises, a lease whereof is entered into after the thirty-first day of December, one thousand nine hundred and fifty.

(d) By adding a subsection as follows:—

(5) The provisions of this section shall not apply as between the principal lessor and his lessee in respect of premises where such lessee without the consent of the principal lessor has sublet the premises either wholly or in part to sub-lessees or lodgers or has granted leave or license to any person to use the same either wholly or in part.

14. A section is inserted after section fifteen of the principal Act as follows:—

15A. (1) Subject to subsection (5) of this section where the lessor has been or becomes the owner of premises and has resided in the Commonwealth for not less than two years and requires the premises for his own occupation or for the occupation of his married son or married daughter who has resided in the Commonwealth for a period of not less than two years, and after making a statutory declaration to that effect, he may serve on the lessee notice to quit and deliver up possession of the premises at the expiration of a period which—

New s. 15A  
inserted.

Lessor may  
recover  
possession  
of premises  
in certain  
circum-  
stances.

- (a) in the case of a lessor who, for not less than three years, has owned the premises being a dwelling-house or premises leased for the purpose of residence, shall be at least three months expiring on or after the thirtieth day of June, 1951;
- (b) in the case of a lessor who, for less than three years but for more than six months has owned the premises being a dwelling-house or premises leased for the purpose of residence shall be at least six months expiring on or after the thirtieth day of September, 1951;
- (c) in the case of a lessor who, for not less than three years, has owned the premises not being a dwelling-house or premises leased for the purpose of resi-



dence shall be at least three months expiring on or after the thirtieth day of September, 1951;

- (d) in the case of a lessor who, for less than three years but for more than one year, has owned the premises not being a dwelling-house or premises leased for the purpose of residence, shall be at least six months expiring on or after the thirty-first day of December, 1951.

And such notice shall, at its expiration, determine the rightful occupation of the lessee notwithstanding the Common Law condition requiring the notice to quit to expire on a periodical day of the tenancy.

(2) At any time after the expiration of the notice to quit the lessor may apply to the Court for an order for recovery of possession of the premises and for the ejection of the lessee and any other person, if any, therefrom, and on proof of the facts referred to in subsection (1) of this section the Court shall make the order and may award mesne profits or damages.

(3) At any time after the making of the order mentioned in the last preceding subsection, the clerk of the Court, whether the order is proved to have been served or not, shall, on the application of the lessor, issue a warrant authorising and requiring the bailiff of the Court to give possession of the premises to the lessor, and the warrant shall be executed accordingly.

(4) No lessor who recovers possession of premises under the provisions of this section shall, at any time during the period of twelve months next following the date of the recovery, lease or part with the possession of the premises except by leave of the Court granted upon application and good cause shown.

Penalty—Five hundred pounds.

- (5) Nothing in this section shall—
- (a) apply where the lessee is a protected person as defined in section eighteen M of this Act; save and except where the lessor is also a protected person as defined in such section;
  - (b) apply where the lease is for a fixed term, unless that term has expired;
  - (c) apply to any periodic lease under which the lessee is for the time being entitled to more than six months notice to quit;
  - (d) prejudice the rights of the lessor under any other provisions of this Act.

15. A section is inserted after section fifteen of the principal Act as follows:—

s. 15B  
added.

15B. (1) Notwithstanding anything in this Act to the contrary, where a lessor has leased or shall, after the commencement of the Increase of Rent (War Restrictions) Act Amendment Act, 1950, lease to a lessee any premises by reason of the lessee and lessor having entered into a contract of service (whether verbally or in writing and whether as part of the remuneration for such service or not) and the contract of service has been determined, then, and in every such case, the lease shall be deemed to have been terminated as at the date of the determination of the contract of service, and the lessee shall forthwith and without any further notice quit and deliver up the premises to the lessor or his nominee.

Lessor may  
recover  
possession  
of premises  
in certain  
circum-  
stances.

(2) If the lessee fails to quit and deliver up the premises within seven days of the termination of the contract of service, the lessor may apply to the Court for an order for the recovery of possession of the premises and for the ejection of the lessee and every other person (if any) therefrom, and, on proof of the circumstances, the Court, after hearing evidence from both the lessor and lessee shall make the order to operate forthwith.

15C. It shall be the obligation of the lessee to permit the lessor to enter and inspect the leased premises not more than once in any period of three months upon not less than forty-eight hours' notice given by the lessor to the lessee, provided that such notice is for an inspection to be made between the hours of 9 a.m. and 6 p.m., and failure to comply with this provision shall give the lessor ground to issue to the lessee notice to quit. Provided, however, that this section shall not affect any written contract between the parties.

s. 18  
amended.

16. Section eighteen of the principal Act is amended by—

- (a) adding after the word, "regulations" appearing firstly in line one and secondly in line four, the words, "and rules of court";
- (b) adding after the word, "applications" in line eight, the words, "and appeals";
- (c) adding after the word, "Act" in line eight, the words, "and the regulations and without limiting the generality of the powers conferred by this section the Governor may make regulations—

relating to the recovery of possession of and the eviction from premises or any class of premises of any persons or class of persons and to the protection of any persons or class of persons from such recovery and eviction.

s. 18B  
amended.

17. Section eighteen B of the principal Act is amended by—

- (a) adding after the word, "application" in line three of subsection (1), the words, "or appeal";
- (b) adding after subsection (1) the following subsection:—

(1a) Where at the commencement of the Increase of Rent (War Restrictions) Act Amendment Act, 1950, any application or appeal has been made or brought

pursuant to the provisions of this Act or the regulations and not determined it shall, if not withdrawn, be determined in accordance with this Act as amended by that Act subject to such order as to amendment or otherwise as the Judge of the Supreme Court, or the Court, as the case may be, having the determination of the matter thinks just but nothing contained in this paragraph shall preclude the making of rules of court for the determination of such applications or appeals and the determination of them in accordance with the rules;

- (c) adding after the word, "application" appearing firstly in line five of subsection (2) and secondly in line four of subsection (3), the words, "or brought an appeal".

18. Sections eighteen F to eighteen L of the principal Act are repealed.

Ss. 18F to  
18L repealed  
—having  
expired 30th  
September,  
1950.

19. The following section is added to the principal Act:—

s. 18M added.

18M. (1) In this section unless the context requires otherwise—

Protected  
persons

"premises" means premises leased for the purpose of residence;

"protected person" means—

- (a) a person receiving a pension pursuant to the provisions of the Australian Soldiers Repatriation Act, 1920-1949, for total and permanent incapacity;
- (b) the widow of a person whose death occurred during or as a result of his war service, if and while she has any child of his under the age of twenty-one years dependent upon and residing with her and while she remains his widow;

- (c) a person engaged on war service within any prescribed area outside the Commonwealth whilst so serving and for such further or other period as may be prescribed;

“war service” means service as a member of the armed forces of the Commonwealth under the Defence Act, 1903-1949, the Naval Defence Act, 1910-1949, or the Air Force Act, 1923-1941, during any war, or during any operation prescribed by regulation to be an operation of the nature of war, in which war or operation His Majesty became or becomes engaged on or after the third day of September one thousand nine hundred and thirty-nine.

(2) The provisions of this section do not preclude the making, pursuant to the provisions of section eighteen of this Act, of rules of court and regulations relating to the protection of protected persons from the making of orders for the recovery of possession of or eviction from premises or any class of premises in particular nor the making of rules of court and regulations pursuant thereto in general.

(3) On the hearing of any proceedings for an order for the recovery of possession of premises from a protected person or the ejection of a protected person from premises, the Court shall notify the State Housing Commission and the State Housing Commission shall make available to such protected person, a worker's home or a dwelling-house which is owned or controlled by the State Housing Commission for rental purposes, and until such house has been so made available to the protected person the Court shall not make an order against the protected person unless the Court is satisfied that refusal to make the order would cause substantially greater hardship to the lessor and his interests than to

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the protected person and his interests, or that the acts or omissions of the protected person are such as to render him undeserving of relief under this section.

20. Section twenty of the principal Act is <sup>s. 20</sup> amended. amended. amended by substituting for the word, "fifty" in line five, the word, "fifty-one".

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