



# Government Gazette

OF

## WESTERN AUSTRALIA.

[Published by Authority at 3.30 p.m.]

[REGISTERED AT THE GENERAL POST OFFICE, PERTH, FOR TRANSMISSION BY POST AS A NEWSPAPER.]

No. 54.]

PERTH : MONDAY, NOVEMBER 1.

[1948.

### INCREASE OF RENT (WAR RESTRICTIONS) ACT, 1939-1948.

Chief Secretary's Department,  
Perth, 29th October, 1948.

HIS Excellency the Lieutenant-Governor in Executive Council, acting pursuant to the provisions of the Increase of Rent (War Restrictions) Act, 1939-1948, has been pleased to amend the Increase of Rent (War Restrictions) Act, Recovery of Possession and Restriction on Eviction Regulations, made under and for the purposes of the said Act and published in the *Government Gazette* on the 3rd day of September, 1948, in the manner mentioned in the Schedule hereunder.

H. T. STITFOLD,  
Under Secretary.

#### Schedule.

The abovementioned regulations are amended as follows:—

1. Insert a new paragraph (o) after paragraph (n) in subregulation (5) of regulation 3, as follows:—

(o) Any other ground which may be deemed satisfactory by the Court in which proceedings are commenced to recover possession or for ejection.

2. Insert a new regulation after regulation 8 to stand as regulation 8A as follows:—

8A. When a notice to quit heretofore given under the provisions of the Commonwealth Regulations or heretofore or hereafter given under these regulations operates so as to terminate the tenancy, then until such time as the lessee gives up possession either voluntarily or under an order of the Court he shall be deemed to have continued and to continue to hold the premises on the terms and conditions of his former tenancy (other than the original period thereof), so far as applicable.

3. Insert in their proper places new regulations to stand as regulations 10, 11, 12 and 15 as follows:—

#### Court to Consider Hardship.

Cf. C'wth Reg. 63, as amended by S.R. Nos. 31 of 1947, r. 25, and 22 of 1948, r. 9.

10. (1) On the hearing of any proceedings by a lessor for an order for the recovery of possession of any premises or for the ejection of the lessee therefrom (whether the proceedings were commenced before or after the commencement of this regulation), the Court shall take into consideration, in addition to all other relevant matters—

(a) any hardship which would be caused to the lessee or any other person by the making of the order;

(b) any hardship which would be caused to the lessor or any other person by the refusal of the Court to make the order; and

(c) where the application is made on any one or more of the grounds specified in paragraphs (g), (h), (i), (ia), (j), (k) and (l) of subregulation (5) of regulation three of these regulations—whether reasonably suitable alternative accommodation in lieu of the premises is, or has been since the date upon which notice to quit was given, available for the occupation of the person occupying the premises or for the occupation of the lessor or other person by whom the premises would be occupied if the order were made, and may, in its discretion, make the order or may, on such conditions (if any) as it thinks fit, refuse to make the order notwithstanding that one or more of the prescribed grounds has been established.

(2) The Court shall consider it a hardship if the lessor—

(a) is deprived of any benefits under the Social Services Consolidation Act, 1947, of the Commonwealth of Australia;

(b) is adversely affected by the incidence of the Income Tax Assessment Act, 1936-1947, of the Commonwealth of Australia.

(3) Where the application is made on either of the grounds specified in subparagraph (1) of paragraph (g) or, paragraphs (m) or (n) of subregulation (5) of regulation three of these regulations, the Court shall not refuse, in the exercise of the discretion vested in it by the last preceding subregulation, to make the order unless the Court is satisfied—

(a) that special circumstances exist by reason of which the order should not be made; or

(b) without limiting the generality of the last preceding paragraph, in a case where the ground specified in paragraph (n) applies, that the sub-letting was in the course of a business of sub-letting carried on by the lessee.

(4) On the hearing of an application specified in the last preceding subregulation, any assignee, sub-lessee or person in occupation of the premises or any part thereof shall be entitled to be heard.

#### Power to Stay Proceedings or Orders.

Cf. C'ith. Reg. 64.

11. In respect of any proceedings referred to in the last preceding regulation, the Court may—

(a) from time to time, subject to such conditions (if any), and for such period as it thinks fit—

(i) adjourn the proceedings;

(ii) stay or suspend the execution of any judgment or order which has been made or given in the proceedings; or

(iii) postpone the date for recovery of possession or for ejection specified in any such judgment or order; or

(iv) vary, discharge, or rescind any such judgment or order;

(b) where a warrant of execution has been issued, and whether the warrant has expired or not, from time to time extend the period stated in the warrant for the execution thereof—

(i) if the Court is satisfied that, because of the illness of the lessee or for other sufficient cause, it is or has been impracticable for the officer, to whom the warrant is directed to execute the warrant within the period stated therein—for such period as it thinks fit; or

(ii) if the Court is not so satisfied—for a period not exceeding seven days from the date on which the extension is granted.

#### Certain Applications to Operate as to Stay of Execution.

Cf. C'ith Reg. 64A.

12. (1) An application under regulation 11 shall, when filed with the proper officer of the Court, stay the execution of any warrant and operate to postpone the date for recovery of possession of the premises or for the ejection of the lessee until the Court has heard the application.

(2) Notwithstanding anything contained in paragraph (b) of the last preceding regulation, the Court may, on the hearing of any such application, extend for such period as it thinks fit the period stated in any warrant for the execution thereof (whether the warrant has expired or not).

(3) Where, in respect of any proceedings referred to in regulation ten of these regulations, the Court has refused to grant an application of any of the kinds referred to in subregulation (1) of this regulation, no further application of any of those kinds shall be made in respect of those proceedings, except with the leave of the Court.

#### Ejection Orders Not Enforceable unless made under these Regulations, or Commonwealth Regulations.

Cf. C'ith Reg. 66.

15. No order (except an order made under the provisions of these regulations or the corresponding provisions of the Commonwealth Regulations, or under those of the repealed regulations therein referred to) made by any Court for the recovery by the lessor of possession of any premises (or of any goods leased therewith) or for the ejection of the lessee, shall be enforceable.