

RENTS AND TENANCIES EMERGENCY PROVISIONS.

3° Elizabeth II., No. X.

No. 10 of 1954.

AN ACT to amend the Rents and Tenancies
Emergency Provisions Act, 1951-1953.

[Assented to 6th September, 1954.]

BE it enacted by the Queen'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:—

1. (1) This Act may be cited as the *Rents and Tenancies Emergency Provisions Act Amendment Act, 1954.*

Short title
and citation.

(2) In this Act the Rents and Tenancies Emergency Provisions Act, 1951-1953,

No. 10.] *Rents and Tenancies Emergency Provisions.* [1954.

Act No. 47 of 1951 as amended by Acts Nos. 8 and 63 of 1952, and 45 of 1953, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Rents and Tenancies Emergency Provisions Act, 1951-1954.

Coming into operation.

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

S. 4 amended.

3. Section four of the principal Act is amended by deleting the interpretations, "Court", "rates" and "repealed Act".

S. 5 amended.

4. Section five of the principal Act is amended—

(a) by inserting after paragraph (d) of subsection (1) the following paragraph:—

(da) premises which, whether for the first time or otherwise, are after the first day of August, one thousand nine hundred and fifty-four, leased for a fixed term of not less than three years; and

(b) by substituting for the words, "The Court may declare an arrangement relating to the use of premises" in lines one and two of subsection (2) the words, "A Court, having for determination a question arising under this Act, to which question consideration of an arrangement relating to the use of premises is relevant, may declare the arrangement".

S. 7 amended.

5. Section seven of the principal Act is amended—

(a) by adding before the word, "is" in line four the words, "and constituted by a Stipendiary, Police, or Resident Magistrate and held nearest the premises concerned"; and

- (b) by adding after the word, "Act" in line nine the words, "in respect of those premises, unless section seven A of this Act provides otherwise".

6. The principal Act is amended by adding after section seven the following sections:—

Ss. 7A and 7B added.
Local Courts to refer determination of rents to Fair Rents Courts in certain circumstances.

7A. (1) Notwithstanding that premises are situated in a district assigned to a Fair Rents Court constituted under section seven B of this Act, applications, not being applications to an inspector, and notices of appeals mentioned in section thirteen, fifteen or sixteen of this Act in respect of the premises are to be lodged with the Local Court held nearest the premises.

(2) Where an application or notice of appeal mentioned in section thirteen, fifteen or sixteen of this Act is lodged with a Local Court in respect of premises situated in a district assigned to a Fair Rents Court constituted under this Act, the Local Court shall not hear or determine the application or appeal, but the Clerk of the Local Court shall refer it to the Fair Rents Court for hearing and determination.

(3) A Fair Rents Court to which an application or appeal is referred under subsection (2) of this section by the Clerk of a Local Court, shall cause a copy of its determination of the application or appeal to be lodged with the Clerk of that Local Court, who shall file it as a record of that Local Court.

7B. (1) A Fair Rents Court is constituted by a Magistrate appointed by the Governor, who is hereby authorised to make the necessary appointments.

Constitution of Fair Rents Court.

(2) A Fair Rents Court so constituted has jurisdiction to hear and determine applications, not being applications to an inspector, and appeals mentioned in section thirteen, fifteen

or sixteen of this Act in respect of premises situated in the district or districts assigned to it by the Governor who is hereby authorised to make the necessary assignment.

(3) The provisions of the Rules of Court and regulations under this Act apply *mutatis mutandis* in respect of the hearing of an application or appeal by a Fair Rents Court as if the application or appeal were being heard and determined by a Local Court.

Cf. 50 Vict.
No. 17 and
Gazette
8th Nov.,
1940, pp. 1981
et. seq.

(4) The Governor shall constitute a Fair Rents Court to be known as the Metropolitan Fair Rents Court which by this Act has assigned to it the Magisterial Districts of Perth and Fremantle as declared under the Magisterial Districts Act, 1886.

(5) The Governor shall by proclamation constitute such other Fair Rents Courts to be known by such names, and assign to each such portion or portions of the State for its district or districts, as the Minister recommends.

(6) In the first month of each quarter of every year during the continuance of this Act, the Metropolitan Fair Rents Court shall report, in writing, to the Minister upon—

(a) the number of applications or appeals received and determined by the Court during the previous quarter; and

(b) in respect to each such application or appeal—

the nature and locality of the premises,

the amount of the rent appealed from,

the amount of the fair rent as determined by the Court, and

the net annual return of such fair rent expressed as a percentage on the capital value of the premises; and

- (c) such other information as the Court may consider necessary or desirable.

Such report shall be laid before both Houses of Parliament if Parliament is sitting, and if not, then immediately upon the reassembling of Parliament; but the Minister may, if he thinks fit, publish such reports forthwith upon his receiving them.

7. Section nine of the principal Act is amended— S. 9
amended.

- (a) by adding after the word, “otherwise—” in line two the following interpretation:—

“Court” means the Local Court established under the provisions of the Local Courts Act, 1904, constituted by a Stipendiary, Resident, or Police Magistrate, and held nearest the premises concerned, unless the premises are situated in a district assigned to a Fair Rents Court constituted under this Act, in which case, the expression “Court” means the Fair Rents Court; and

- (b) by deleting the interpretations, “increased outgoings” and “specified day.”

8. Section thirteen of the principal Act is S. 13
amended.
amended—

- (a) by adding at the end of paragraph (b) of subsection (1) the following proviso:—

Provided that where after the thirtieth day of April, one thousand nine hundred and fifty-four (and before the thirty-first day of August, one thousand nine hundred and fifty-five) a lessor gives a lessee notice to quit or terminate the tenancy

of any premises the rent of such premises on and after the date of such notice or the first day of August, one thousand nine hundred and fifty-four (whichever is the later) shall not, except by a determination of the inspector or the Court, as the case may be, exceed the amount of rent lawfully chargeable on the twenty-eighth day of April, one thousand nine hundred and fifty-four.

- (b) by adding after the word, "section" being the last word in paragraph (a) of subsection (2) the words, "For the purposes of this paragraph, the expression, 'part of premises which part is leased separately for residential purposes' does not include a self-contained flat which is completely closed off and which includes both cooking and bathing facilities"; and
- (c) by deleting the words, "exceeding twelve months" in the second last line of subsection (3) and substituting the words, "of two years or more".

S. 14
amended.

9. Section fourteen of the principal Act is amended by adding after the words, "Local Court" in line four of subsection (1), the words, "or Fair Rents Court."

S. 15
amended.

10. Section fifteen of the principal Act is amended—

- (a) by adding after the section designation, "15" the subsection designation, "(1)";
- (b) by substituting for the words, "or of the repealed Act" in line three, the words, "whether before or after the coming into operation of the Rents and Tenancies Emergency Provisions Act Amendment Act, 1954,";
- (c) by adding after the word, "premises;" in line three of paragraph (b), the word, "or";
- (d) by deleting paragraphs (d) and (e); and

(e) by adding the following subsection:—

(2) Subsection (1) of this section does not preclude a lessor or lessee of premises who under paragraph (b) of subsection (1) of section thirteen of this Act, has agreed the rent of the premises, from making application after the agreement for a determination of the rent, notwithstanding that the rent of the premises has been determined prior to the agreement and within six months of the application, but where the rental is determined after the agreement subsection (1) of this section operates in respect of further applications to determine the rent of the premises.

11. Section twenty B of the principal Act is repealed and re-enacted as follows:—

S. 20B
repealed and
re-enacted.
Cf. No. 45 of
1953, s. 10.

20B. (1) On and after the first day of May, one thousand nine hundred and fifty-four, the lessor of premises (other than premises in respect of which there subsists a lease entered into after the thirty-first day of December, one thousand nine hundred and fifty) shall not during the operation of this Act commence proceedings to recover possession of, or eject the lessee from, premises unless he has given to the lessee notice to quit of at least twenty-eight days or such longer period as that to which the lessee is entitled at law.

(2) Upon any application pursuant to the provisions of section thirteen of this Act being lodged by a lessee (other than a lessee under notice to quit or to terminate the tenancy of premises) with a Fair Rents Court or an inspector (as the case may be) for the amount of the rent of the premises to be determined, a notice to quit or terminate the tenancy shall not thereafter be issued in respect of those premises until the expiration of a period of three months from the date of the lodgment of such application.

Provided that where the amount of the rent determined by the Court is less than eighty per centum of the amount of the rent being charged

or requested by the lessor at the date of the application as aforesaid, a notice to quit or terminate the tenancy shall not be given to any such lessee until after the expiration of a period of twelve months from the date of that determination of the rent by the Court.

(3) Upon the hearing by the Supreme Court or a Local Court of any summons for the recovery of possession of premises (other than premises in respect of which there subsists a lease entered into after the thirty-first day of December, one thousand nine hundred and fifty) the Court hearing such summons may at its discretion, on account of any reason of severe hardship which may be proved by the lessee, suspend the operation of any judgment or order thereon for such period not exceeding three months from the date of the hearing as the Court may determine.

(4) The provisions of subsections (2) and (3) of this section shall continue in force until the thirty-first day of August, one thousand nine hundred and fifty-five and no longer.

S. 22
amended.

12. Section twenty-two of the principal Act is amended by adding before the interpretation, "premises" the following interpretation:—

"Court" means the Local Court established under the provisions of the Local Courts Act, 1904, constituted by a Stipendiary, Resident, or Police Magistrate, and held nearest the premises concerned.

S. 31
amended.

13. Section thirty-one of the principal Act is amended by adding after the words, "Local Court," in line three, the words, "a Fair Rents Court".

S. 33
amended.

14. Section thirty-three of the principal Act is amended by substituting for the words, "one thousand nine hundred and fifty-four" in lines two and three, the words, "one thousand nine hundred and fifty-five".