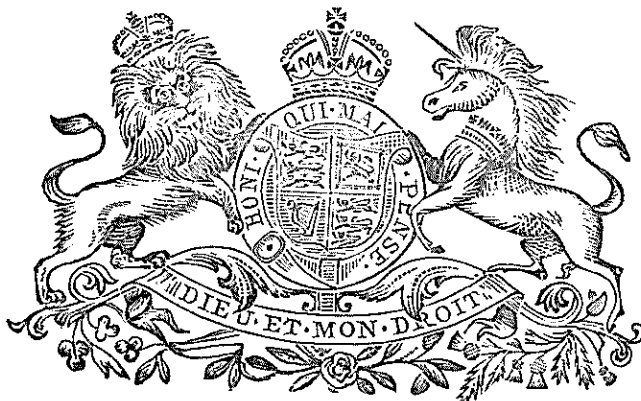


WESTERN AUSTRALIA.



ANNO TERTIO

GEORGII QUINTI REGIS,

XLIV.

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No. 63 of 1912.

AN ACT to amend the law relating to Landlord and Tenant.

[Assented to 24th December, 1912.]

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

1. This Act may be cited as the *Landlord and Tenant Act*, Short title 1912.

2. In this Act, if not inconsistent with the context,—
- “Bankruptcy” includes any act or proceeding in law having, under any Act for the time being in force, effects or results similar to those of bankruptcy; and “bankrupt” has a meaning corresponding with that of bankruptcy; but “bankruptcy” does not include the voluntary winding-up of any solvent company;
  - “Court” means the Supreme Court, or a Judge thereof;
  - “Lease” includes an original or derivative under-lease, a grant securing a rent by condition, and an agreement for a lease where the lessee has become entitled to have his lease granted;

Interpretation.  
See 44 and 45  
Vict., c. 41, ss. 2,  
14, 55, and 56  
Vict., c. 13, s. 5.

“Lessee” includes an original or derivative under-lessee, a grantee under any such grant as aforesaid, a person entitled under an agreement as aforesaid, and the executors, administrators, and assigns of a lessee;

“Lessor” includes an original or derivative under-lessor, a grantor as aforesaid, a person bound to grant a lease under an agreement as aforesaid, and the executors, administrators, and assigns of a lessor;

“Under-lease” includes an agreement for an under-lease where the under-lessee has become entitled to have his under-lease granted;

“Under-lessee” includes any person deriving title through or from an under-lessee.

Restrictions on and relief against forfeiture of leases.

See 44 and 45 Vict., c. 41, s. 14; 55 and 56 Vict., c. 13, s. 2.

3. (1.) A right of re-entry or forfeiture under any proviso or stipulation in the lease, for a breach of any covenant or condition in the lease, shall not be enforceable by action or otherwise unless and until the lessor serves on or sends by registered letter, to the lessee a notice specifying the particular breach complained of, and, if the breach is capable of remedy, requiring the lessee to remedy the breach, and in any case requiring the lessee to make compensation in money for the breach, and the lessee fails within a reasonable time thereafter to remedy the breach, if it is capable of remedy, and to make reasonable compensation therefor in money to the satisfaction of the lessor.

(2.) Where a lessor is proceeding by action or otherwise to enforce such a right of re-entry or forfeiture, or has re-entered without action, the lessee may, in the lessor’s action, if any, or in any action brought by himself, or on motion, apply to the Court for relief; and the Court, having regard to the proceedings and conduct of the parties under the foregoing provisions of this section, and to all the circumstances of the case, may grant or refuse relief, as it thinks fit; and in case of relief may grant the same on such terms, if any, as to costs, expenses, damages, compensation, penalty, or otherwise, including the granting of an injunction to restrain any like breach in the future, as the Court in the circumstances of each case thinks fit.

(3.) Where any such relief as aforesaid is granted, the Court shall direct a minute or record thereof to be made on the lease or otherwise.

(4.) This section applies although the proviso or stipulation under which the right of re-entry or forfeiture accrues is inserted in the lease in pursuance of the directions of any Act of Parliament.

(5.) For the purposes of this section a lease limited to continue so long as the lessee abstains from committing a breach

of covenant shall be and take effect as a lease to continue for any longer term for which it could subsist, but determinable by a proviso for re-entry on such a breach.

(6.) This section applies to any right or option to purchase any land where the purchaser is in possession of that land.

(7.) This section does not extend—

(a.) to a covenant or condition against the assigning, underletting, parting with the possession or disposing of the land leased or to a condition for forfeiture on the bankruptcy of the lessee, or on the taking in execution of the lessee's interest; or

(b.) In the case of a lease of any premises licensed under the Licensing Act, 1911, or any amendment thereof, to a covenant not to do or omit any act or thing whereby the license may be lost or forfeited.

(8.) This section shall not affect the law relating to re-entry or forfeiture in case of non-payment of rent.

(9.) This section applies to leases made either before or after the commencement of this Act, and shall have effect notwithstanding any stipulation to the contrary.

4. (1.) In all leases containing a covenant, condition, or agreement that the lessee shall not, without the license or consent of the lessor, assign, underlet, part with the possession, or dispose of the demised premises or any part thereof, such covenant, condition, or agreement shall, unless the lease contains an express provision to the contrary, be deemed to be subject to a proviso to the effect that such consent shall not be unreasonably withheld, and that no fine or sum of money in the nature of a fine shall be payable for or in respect of such license or consent; but this proviso shall not preclude the right to require the payment of a reasonable sum in respect of any legal or other expenses incurred in relation to such license or consent.

No fine for a license to assign. See 55 and 56 Vict., c. 13, s. 3.

(2.) Neither the assignment nor the underletting of any leasehold by the legal representative of a deceased person, or by the trustee of a bankrupt, or by the liquidator of a company, or by the sheriff or a bailiff of a local court or warden's court under an execution, nor the bequest of a leasehold, shall be deemed to be a breach of any such covenant, condition, or agreement, unless the contrary is expressly declared in the lease.

5. Where a lessor is proceeding, by action or otherwise, to enforce a right of re-entry or forfeiture under any covenant, proviso, or stipulation in a lease, the Court may, on application by any person claiming as under-lessee any estate or interest in the property comprised in the lease, or any part thereof, either in the lessor's action (if any) or in any action brought by such a person for that purpose, make an order vesting, for the whole

Power of Court to protect under-lessees on forfeiture of superior leases.

See 55 and 56 Vict., c. 13, s. 4.

term of the lease or any less term, the property comprised in the lease, or any part thereof, in any person entitled as under-lessee to any estate or interest in such property, upon such conditions as to execution of any deed or other document; payment of rent, costs, expenses, damages, compensation, giving security, or otherwise as the Court in the circumstances of each case shall think fit; but in no case shall any such under-lessee be entitled to require a lease to be granted to him for any longer term than he had under his original under-lease.