

- (h) providing for and regulating the payment of travelling and other out of pocket expenses incurred by persons required to travel for the purpose of undergoing any examination or treatment under this Act; and
- (i) prescribing penalties (not exceeding fifty pounds and, in the case of continuing offences, daily penalties of five pounds) for offences against the regulations.

Expiry of Act.

16 This Act shall expire on the thirtieth day of June, 1950.

LANDLORD AND TENANT.

No. 21 of 1949.

AN ACT to make provision for the control of the rents of certain premises and for regulating the recovery of possession of certain premises, and with respect to matters incidental thereto; and to repeal the *Increase of Rent (War Restrictions) Act* 1939, the *Landlord and Tenant (Temporary Provisions) Act* 1948, and the *Landlord and Tenant (Temporary Provisions) Act (No. 2)* 1948. [4 May, 1949.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

Short title
and com-
mencement.

1—(1) This Act may be cited as the *Landlord and Tenant Act* 1949.

(2) This Act shall commence on a day to be fixed by proclamation (in this Act referred to as “the commencing day”).

2 The Acts enumerated in the schedule are repealed.

Repeal.
Interpre-
tation.

3—(1) In this Act, unless the contrary intention appears—

Cf. C'wealth
S.R. 1945
No. 97, r. 8;
N.S.W. Act,
s. 8; Vic.
Act, s. 2;
S.A. Act,
ss. 4 and 5;
Q'ld Act, s. 7.

“authorised officer” means any person appointed, in writing, by the Controller to be an authorised officer for the purposes of this Act;

“Commonwealth Regulations” means the National Security (Landlord and Tenant) Regulations of the Commonwealth, as in operation in this State by virtue of the provisions of the *Landlord and Tenant (Temporary Provisions) Act 1948**;

“dwelling-house” means any prescribed premises (including shared accommodation) leased for the purposes of residence, and includes—

- (a) any boarding-house or lodging-house; and
- (b) any part of any premises let separately for the purposes of residence,

but does not include any licensed premises;

“holiday premises” means any premises which—

- (a) during the period commencing on the thirty-first day of August, 1939, and ending on the commencing day have ordinarily been leased for holiday purposes only;
- (b) have not at any time during that period been leased to, or occupied by, any lessee for a continuous period exceeding three months; and
- (c) were not on the commencing day leased for purposes other than holiday purposes,

but does not include any such premises which, at any time after the commencing day—

- (i) are leased for purposes other than holiday purposes; or
- (ii) are leased to, or occupied by, any lessee for a continuous period exceeding three months;

“lease” includes every contract for the letting of any prescribed premises, whether the contract is express or implied, or is made orally or in writing or by deed, and also includes any contract for the letting of prescribed premises together with goods, but does not include any lease arising under an attornment clause in a mortgage or in an agreement for the sale and purchase of land;

“lessor” and “lessee” mean the parties to a lease, or their respective successors in title, and include respectively—

- (a) a mesne lessor and a mesne lessee;
- (b) a sub-lessor and sub-lessee; and
- (c) in respect of premises which are subject to a mortgage, a mortgagee who enters or has entered into possession of the premises under the mortgage and any person who was the lessee of the premises under the mortgagor immediately prior to the mortgagee entering into possession;

“licensed premises” means premises in respect of which any licence under the *Licensing Act 1932** is in force;

“prescribed premises” mean any premises other than—

- (a) premises which are for the time being used, or which are ordinarily used, as a grazing area, farm, orchard, market garden, dairy farm, poultry farm, pig farm, or bee farm;
- (b) holiday premises; and
- (c) licensed premises,

and includes any part of any premises and any land or appurtenances leased with any premises;

“rates” includes any rates or charges made or levied under the authority of any Act by any local authority;

“rent” means the actual rent payable under a lease, and includes—

- (a) the value to the lessor of any covenants, conditions, or other provisions of, or relating to, the lease, to be performed by the lessee, other than covenants, conditions, and provisions usually entered into by a lessee; and
- (b) any rates or taxes payable by a lessee in respect of any prescribed premises, other than rates or charges for excess water;

“shared accommodation” means any prescribed premises leased, or intended to be leased, for the purposes of residence and forming part of other prescribed premises, but does not include any prescribed premises forming a complete residence in themselves;

* 23 Geo. V. No. 55. For this Act, as amended to 1947, see Appendix A to the annual volume of the Statutes for 1948.

“tax” includes any tax, whether on land or on income derived from land, imposed by any law of the Commonwealth or of the State;

“the prescribed date” means the thirty-first day of August, 1939.

(2) Where in any lease—

(a) it is provided that a reduced amount, as rent, shall be accepted by the lessor upon any condition to be performed by the lessee, that reduced amount shall be deemed to be the rent payable under the lease; and

(b) any rebate, discount, allowance, or other reduction is provided for, the amount payable after each such rebate, discount, allowance, or reduction is made shall be deemed to be the rent payable under the lease.

(3) For the purposes of this Act, “lessee” includes a person who remains in possession of premises after the termination of his lease of the premises, and “lessor” has a corresponding meaning.

(4) Where the lessor of any prescribed premises supplies or provides any services in connection with the premises and a separate charge is made for those services, the amount charged shall, for the purposes of this Act, be deemed to form part of the rent payable under the lease.

4—(1) Subject to this Act, all determinations of fair rents and all orders, delegations, authorisations, requirements, notices (including notices to quit), rules, certificates, and summonses, and all other instruments whatsoever, made, given, or issued under the Commonwealth Regulations which were in force or subsisting thereunder immediately prior to the commencing day, shall continue in full force and effect, but may be revoked or amended in accordance with the provisions of this Act, and all acts and things whatsoever lawfully done by any person prior to the commencing day under or in pursuance of the Commonwealth Regulations shall be as valid and effectual for all purposes as if this Act had been in operation at the times when each of those acts and things respectively was done.

Saving and
transitory
provisions.
N.S.W., s. 4;
Vic., s. 6;
S.A., s. 26ak;
Q'ld, s. 6.

(2) All applications to, and other proceedings before, the Rent Controller appointed under section eight of the *Landlord and Tenant (Temporary Provisions) Act 1948** which were pending immediately prior to the commencing day, may be continued before, and may be determined by, the Controller in accordance with the provisions of this Act.

(3) All proceedings for the recovery of possession of any prescribed premises or for the ejection of the lessee therefrom which, immediately prior to the commencing day, were pending under the Commonwealth Regulations may be continued and determined under Part III. of this Act as if they had been commenced under this Act.

(4) All proceedings before a fair rents board under the Commonwealth Regulations which were pending immediately prior to the commencing day may be continued before, and determined by, a fair rents board constituted, or deemed to have been constituted, under this Act, and the provisions of this Act shall, so far as they are applicable, apply to such proceedings as if they were proceedings commenced under this Act.

(5) All appeals to the Supreme Court from judgments or orders under Part III. of the Commonwealth Regulations which were pending thereunder immediately prior to the commencing day may be continued before that Court as if they had been commenced under this Act.

Crown bound
except in
certain cases.

C., r. 6;
N.S.W., s. 5;
Vic., s. 5;
Q'ld, s. 4.

5 This Act shall bind the Crown, except in respect of premises which have been occupied or which are occupied in consequence of his employment by some person in the employ of the Crown and which are required for the personal occupation in consequence of his employment by some other person employed by or about to become employed by the Crown.

Holiday
premises.

C., r. 7A;
N.S.W., s. 7;
Vic., s. 4.

6—(1) Where any prescribed premises are not holiday premises by reason only of the fact that they have at some time subsequent to the thirty-first day of August, 1939, been leased to, or occupied by, a lessee for a continuous period exceeding three months, the owner or lessor of those prescribed premises may make application, in writing, to the Controller to exclude the premises from the operation of this Act.

(2) The applicant shall furnish such information in relation to the application as the Controller requires.

(3) The Controller, in his discretion, may, either unconditionally or subject to such conditions as he thinks fit, issue a certificate excluding the premises from the operation of this Act or of such of the provisions of this Act as are specified in the certificate, and for such period as is so specified, and the premises shall, so long as the certificate remains in force, but subject to any variation thereof, be excluded accordingly.

(4) Any certificate issued before the commencing day under sub-regulation (3) of regulation 7A of the Commonwealth Regulations and having force or effect in this State (by virtue of the provisions of the *Landlord and Tenant (Temporary Provisions) Act 1948**) immediately before that day shall continue to have force and effect in all respects as if this section had been in operation at the time when such certificate was issued and the certificate had been issued under this section.

(5) The Controller may at any time revoke or vary any certificate issued under subsection (3) of this section or continued in force under subsection (4) of this section.

PART II.

RENT CONTROL.

Division I.—Administration.

7—(1) The Minister may, for the purposes of this Act, constitute fair rents boards at such places as he thinks fit.

Constitution and abolition of fair rents boards.

(2) All fair rents boards constituted in this State before the commencing day under the Commonwealth Regulations and in existence immediately before that day shall be deemed to have been constituted under this section.

C., r. 9; N.S.W., s. 9; Q'ld, s. 8.

(3) The Minister may, at any time, abolish any fair rents board.

(4) Where a fair rents board is abolished, the Minister may, by order, make provision for the transfer of pending appeals before the board to some other fair rents board, and pending appeals so transferred may be heard and determined by the board to which they are transferred.

(5) There shall be a clerk to each fair rents board, who shall be a person appointed by the board.

(6) The powers and functions of a fair rents board may be exercised by any police magistrate.

8—(1) The Governor may make regulations prescribing and regulating the procedure of fair rents boards.

Procedure of fair rents boards.

(2) Until regulations are made under the authority of subsection (1) of this section, the procedure of fair rents boards shall be regulated by the provisions of the Fair Rents Boards Rules, 1945, made under the authority of the National Security (Landlord and Tenant) Regulations of the Commonwealth and published in the *Gazette* on the fifth day of September, 1945, as if those Rules were regulations made under that subsection.

9—(1) For the purposes of this Act there shall be a Rent Controller (in this Act referred to as "the Controller") who shall be appointed by the Governor.

Rent Controller.

C., r. 11; N.S.W., s. 11; Vic., s. 7.

(2) The Controller shall hold office for such time, on such conditions, and with such remuneration, as the Governor directs.

(3) The Controller shall not, as such, be subject to the provisions of the *Public Service Act 1923**, but if any officer of the Public Service is appointed as the Controller he shall retain all his existing and accruing rights as if his service as Controller were service as an officer of the Public Service.

* 13 Geo. V. No. 25. For this Act, as amended to 1947, see Appendix C to the annual volumn of the Statutes for 1948.

(4) The person holding office as Rent Controller immediately prior to the commencing day under section eight of the *Landlord and Tenant (Temporary Provisions) Act 1948** shall be deemed to have been appointed under this section.

Officers, &c.
N.S.W., s. 14;
Vic., s. 10;
S.A., s. 11.

10—(1) The Governor may appoint such officers, inspectors, and other employees as he considers necessary for the administration of this Act.

(2) No officer, inspector, or employee appointed under the authority of this section shall be subject to the provisions of the *Public Service Act 1923†*, but if any officer of the Public Service is appointed under this section he shall retain all his existing and accruing rights as if his service under this Act were service as an officer of the Public Service.

(3) All officers, inspectors, and employees appointed under section nine of the *Landlord and Tenant (Temporary Provisions) Act 1948** and holding office under that section immediately prior to the commencing day shall be deemed to have been appointed under this section.

Expenses of
adminis-
tration.

11 All expenses incurred in the administration of this Act shall be defrayed out of moneys to be provided by Parliament for the purpose.

Division II.—Pegging of Rents.

Rent of
prescribed
premises.
C., r. 15;
N.S.W., s. 15;
Vic., s. 12;
S.A., s. 13;
Q'ld, s. 13.

12—(1) Except in the case of premises which were not in existence or were not leased on the prescribed date, the rent payable by the lessee of any prescribed premises (or of prescribed premises which are leased together with goods) shall not, in respect of any period after the commencing day, notwithstanding any term, covenant, or condition in any lease in force at any time after the commencing day, exceed the rent payable in respect of the prescribed premises on the prescribed date (including the rent of any goods then leased therewith and the charge for any service then supplied or provided by the lessor in connection with the lease) or, where that rent has been increased or decreased by a determination made before the commencing day which is continued in full force and effect by section four of this Act, the rent as so increased or decreased.

(2) The rent payable by the lessee of any prescribed premises which were not in existence or were not leased on the prescribed date (or by the lessee of any such premises which are leased together with any goods), notwithstanding any term, covenant, or condition in any lease in force at any time after the commencing day, shall not exceed the rent payable in respect of those premises under the lease whereby the premises were first leased after the prescribed date (including the rent of any goods then leased therewith and the charge for any service then supplied or provided by the lessor in

* No. 28 of 1948.

† 13 Geo. V. No. 25. For this Act, as amended to 1947, see Appendix C to the annual volume of the Statutes for 1948.

connection with the lease) or, where that rent has been increased or decreased by a determination made before the commencing day which is continued in full force and effect by section four of this Act, the rent as so increased or decreased.

(3) Until any rent fixed by subsection (1) or subsection (2) of this section is increased or decreased by a determination made under this Act, the rent so fixed shall be the fair rent of the prescribed premises (or of the prescribed premises together with goods) in respect of which it is so fixed, notwithstanding any alterations or repairs of, or additions or renovations to, the prescribed premises (whether structural or otherwise) or any change of ownership or tenancy or in the nature or value of the services supplied or provided by the lessor or in the goods leased with the premises.

(4) Nothing in this section shall affect the operation of any determination.

13—(1) Where the rent of any prescribed premises (or of prescribed premises together with goods) is fixed by subsection (1) or subsection (2) of section twelve, the lessee may, if the lessor of the premises was the lessor on the prescribed date, by notice, require the lessor to furnish him with a statutory declaration as to the rent of the prescribed premises (or of the prescribed premises together with goods) on that date, and the lessor shall furnish a statutory declaration accordingly within seven days after the receipt by him of the notice.

Lessors may be required to furnish statutory declarations as to rent.
C., r. 15A;
N.S.W., s. 16;
Vic., s. 13.

(2) Where any lessor is a body (whether corporate or unincorporate), any declaration which that lessor is required to furnish under subsection (1) of this section shall be made by some officer or member of the body having knowledge of the facts.

Division III.—Rent of Prescribed Premises other than Shared Accommodation.

14 In this Division, the expression “prescribed premises” means prescribed premises other than shared accommodation.

Interpretation.

15 The lessor of any prescribed premises (not being prescribed premises in relation to which the Controller is not authorised to exercise the powers conferred by this Part), or the lessee of any such prescribed premises who has paid or has offered (either to the lessor personally or to the person to whom the rent is ordinarily paid) the money payable for all rent due and payable under the lease up to a date not earlier than twenty-eight days before the date of the application, or the owner of any such prescribed premises which are vacant, may apply in writing to the Controller to have the fair rent of the prescribed premises determined by the Controller.

Application to have fair rent fixed.
C., r. 16;
N.S.W., s. 18;
Vic., s. 14;
S.A., s. 14
(1); Qld.
s. 14.

Notice of
application.
C., r. 17;
N.S.W., s. 19.

16—(1) At least seven days prior to determining the fair rent of any prescribed premises, the Controller shall give notice of his intention to determine the fair rent of those premises to the lessor and lessee thereof and to any sub-lessee thereof and, in the case of prescribed premises which are vacant, to the owner of those premises.

(2) Where an application is made by a mesne lessor or mesne lessee, or by a sub-lessor or a sub-lessee, the Controller shall, at least seven days prior to determining the fair rent, give notice of his intention to determine the fair rent to the superior lessor of the person by whom the application is made, and the superior lessor shall be entitled to be a party to the application.

(3) Where a superior lessor to whom notice is given under subsection (2) of this section or under this subsection is himself a lessee, mesne lessee, or sub-lessee, the Controller shall, at least seven days prior to determining the fair rent, give notice of his intention to determine the fair rent to the superior lessor of that person, and the superior lessor shall be entitled to be a party to the application.

(4) Where any prescribed premises in respect of which an application under this section is made are the subject of a mortgage, the Controller shall, at least seven days prior to determining the fair rent, give notice to the mortgagee of his intention to determine the fair rent, and the mortgagee shall be entitled to be a party to the application.

Determina-
tion of
application.
C., r. 18;
N.S.W., s. 20;
Vic., s. 15;
S.A., s. 15.

17—(1) Where an application has been made for the determination of the fair rent of any prescribed premises, the Controller may, after making such inquiries and obtaining such reports (if any) as he considers necessary, and after considering any representations made by any person whose rights may be affected by the determination, determine the fair rent of those premises.

(2) Subject to subsections (3) and (4) of this section, a determination under this Division shall not increase the fair rent of any dwelling-house by such an amount that the annual rental thereof would be increased by more than ten per cent of the sum which the Controller is satisfied was necessarily expended by the lessor since the prescribed date or since the date of the last determination of the fair rent of the dwelling-house, whichever is the later, upon the improvement or structural alteration of the dwelling-house (but not including decoration, maintenance, or repairs).

(3) Where the Controller is of opinion, having regard to the matters specified in section eighteen, that the rent as at the prescribed date is insufficient, the determination may increase the fair rent (in addition to any other amount by which it is increased under this section) by an amount not exceeding the amount which, in the opinion of the Controller, is the amount of the insufficiency.

(4) A determination under this Division may increase the fair rent of any prescribed premises if the Controller is satisfied that, by reason of an error or omission, an injustice has been occasioned by the last determination of the fair rent of those premises.

18 Subject to section seventeen, in determining the fair rent of any prescribed premises, the Controller shall have regard to—

Matters to be considered.
C., r. 19;
N.S.W., s. 21;
Vic., s. 21;
S.A., s. 21;
Q'ld., s. 17.

- (a) the rents of comparable premises in the locality of the premises which are the subject of the application;
- (b) the capital value of the premises on the prescribed date, or, if the premises were not in existence on that date, on the date on which the erection of the premises was completed;
- (c) the annual rates, State land tax, and insurance premiums paid in respect of the premises;
- (d) the estimated annual cost of repairs, maintenance, and renewal of the premises and fixtures thereon;
- (e) the estimated amount of annual depreciation in the value of the premises and the estimated time per annum during which the premises may be vacant;
- (f) the rate of interest charged upon overdrafts by the Commonwealth Bank of Australia;
- (g) any services supplied or provided by the lessor or lessee in connection with the lease;
- (h) any obligation on the part of the lessee to effect any improvements, alterations, or repairs to the premises at his own expense;
- (i) the justice and merits of the case and the circumstances and conduct of the parties; and
- (j) any hardship which would be caused to the lessor or lessee or any other person by the making of a determination increasing or reducing the rent of the premises, including (but without limiting the generality of the word "hardship") any loss which might be imposed upon the lessor by an order fixing the rent of the premises at an amount less than the lessor's liability under a mortgage of, or contract of sale in respect of, the premises, or under a hire-purchase agreement or contract of sale in respect of any goods leased with the premises.

19—(1) Every determination of the fair rent of prescribed premises made by the Controller under this Division shall come into force on a date fixed by the Controller, but the date so fixed shall not be earlier than the date of the application.

Date of operation of determination.
C., r. 20;
N.S.W., s. 22;
Vic., s. 18;
S.A., s. 16;
Q'ld., s. 20.

(2) After making any such determination, the Controller shall give notice in writing thereof, and of the date fixed as the date on which the determination shall come into force, to the lessor and lessee and to any other persons to whom notices have been given by the Controller under section sixteen.

Effect of fixing fair rent.

C. r. 21;
N.S.W., s. 23;
Vic., s. 23;
S.A., s. 23;
Q'ld, s. 21.

20 Where the fair rent of any prescribed premises has been determined by the Controller under this Division the fair rent so determined shall, as from the date fixed under section nineteen and until varied in pursuance of this Part, be the rent of the premises, or, as the case may be, of the premises together with goods leased therewith, in respect of which it is determined.

Lease of prescribed premises together with goods.

C. r. 24;
N.S.W., s. 25;
Vic., s. 27.

21 The provisions of this Division shall apply to prescribed premises which are leased together with goods, and any reference in this Division to prescribed premises shall, so far as is applicable, include a reference to prescribed premises which are leased together with goods.

Inspection of prescribed premises.

C. r. 24A;
N.S.W., s. 26;
Vic., s. 14
(2); S.A.,
s. 14 (2);
Q'ld, s. 15 (2).

22 The Controller may, if he thinks fit, cause any prescribed premises to be inspected in connection with the determination of the fair rent of the premises.

Division IV.—Rent of Shared Accommodation.

Determination of rent of shared accommodation.

C. r. 25;
N.S.W., s. 27.

23—(1) The lessor of any shared accommodation (not being shared accommodation in relation to which the Controller is not authorised to exercise the powers conferred by this Part), or the lessee of any such shared accommodation who has paid or has offered (either to the lessor personally or to the person to whom the rent is ordinarily paid) the money payable for all rent due and payable under the lease up to a date not earlier than seven days before the date of the application, or the owner of any such shared accommodation which is vacant, may make application in writing to the Controller to determine the fair rent thereof.

(2) Upon receipt of an application under subsection (1) of this section, the Controller shall cause the shared accommodation to be inspected for the purpose of determining the fair rent thereof.

(3) At least seven days prior to determining the fair rent of any shared accommodation, the Controller shall give notice of his intention to determine the fair rent to the lessor and lessee of the shared accommodation, or, in the case of shared accommodation which is vacant, to the intending lessor of that shared accommodation.

(4) The Controller, after an inspection of any shared accommodation has been made under subsection (2) of this section, and after he has made such inquiries and obtained

such reports (if any) as he considers necessary and has considered any representations made by the lessor (or intending lessor) and any representations made by the lessee (if any), of the shared accommodation, may determine the fair rent of the shared accommodation.

(5) Every such determination shall come into force on a date fixed by the Controller, but the date so fixed shall not be earlier than the date upon which the application for a determination was received by the Controller.

(6) In determining the fair rent of any shared accommodation the Controller shall have regard to the matters specified in section eighteen.

(7) After making any such determination, the Controller shall give notice in writing thereof, and of the date fixed as the date on which the determination shall come into force, to the lessor and the lessee concerned.

(8) Where any fair rent has been determined in pursuance of this section, that fair rent shall, as from the date on which the determination comes into force and until varied in pursuance of this Part, be the rent of the shared accommodation, or of the shared accommodation together with the goods leased therewith, in respect of which it is fixed.

24 Where, after the fair rent of any shared accommodation has been determined—

(a) any part of the shared accommodation is leased separately;

(b) the whole or any part of the shared accommodation is leased as part of other shared accommodation;

(c) the shared accommodation is leased—

(i) without the use of any convenience or service which was available to the lessee at the time when the determination was made; or

(ii) with the use of any convenience or service which was not so available;

(d) any services, not supplied at the date of the determination, are supplied to any lessee; or

(e) the shared accommodation ceases to be occupied by a lessee and becomes occupied by a lodger,

the lessor shall, within seven days, notify the fact in writing to the Controller, giving full particulars of the new lease, including particulars of the rent and charges payable.

25 The provisions of this Division shall apply to shared accommodation which is leased together with goods, and any reference in this Division to shared accommodation shall, so far as is applicable, include a reference to shared accommodation which is leased together with goods.

Variation in arrangement of shared accommodation to be notified.
C., rr. 26, 31A;
N.S.W., s. 28;
Vic., s. 28.

Rent of shared accommodation and goods leased therewith.
C., r. 29;
N.S.W., s. 29.

Division V.—General.

Appeal from
determina-
tion.

C., r. 29A;
N.S.W., s. 30;
Vic., s. 19;
S.A., s. 19.

26—(1) The lessor or lessee of any prescribed premises (including shared accommodation) in respect of which a determination has been made under this Act may, within twenty-eight days after the giving of the notice referred to in subsection (2) of section nineteen or in subsection (7) of section twenty-three, as the case may be, by notice in writing lodged with the clerk of the fair rents board nearest to the premises appeal to that board from the determination of the Controller.

(2) The board shall, at least seven days prior to hearing the appeal, give notice in writing of the time, date, and place of the hearing of the appeal to the lessor and lessee of the premises and to any other persons to whom notices have been given by the Controller in pursuance of section sixteen.

(3) While any such appeal is pending, the determination of the Controller shall continue to have full force and effect.

Procedure
on appeal.

C., r. 29B;
N.S.W., s. 31;
S.A., ss. 19,
20.

27—(1) The board shall hear every appeal under section twenty-six and may, having regard to the matters specified in section eighteen, confirm the determination of the Controller and dismiss the appeal, or may determine the fair rent at such amount as, in the opinion of the board, is the correct fair rent of the prescribed premises.

(2) On the hearing of the appeal the board shall make a thorough investigation, without regard to legal forms or solemnities, and shall not be bound by any rules of evidence, but may inform itself in such manner as it thinks fit.

(3) The determination of the board shall have effect from and including the date fixed by the Controller under subsection (1) of section nineteen or under subsection (5) of section twenty-three, as the case may be.

(4) Where the fair rent of any prescribed premises has been determined in pursuance of this section it shall, until varied in pursuance of this Part, be the rent of the premises (or of the premises together with goods leased therewith) in respect of which it is determined.

(5) A board shall furnish to the Controller a copy of every determination made by the board under this section.

Variation of
determina-
tion.

C., r. 30;
N.S.W., s. 32;
Vic., s. 25;
S.A., s. 25.

28—(1) A determination made or continued in force under this Act may be varied—

(a) on application made in the same manner as an application to the Controller for the determination of the fair rent of any prescribed premises;

or

(b) by the Controller of his own motion,

and the provisions of this Part relating to determinations shall, so far as the same are applicable, apply to and in relation to variations of determinations.

(2) During such period as is specified in any determination made or continued in force under this Act, or, if no period is so specified, during the period commencing with the date of the determination and ending twelve months after that date, no application shall be made to vary the determination, or to determine the fair rent of the prescribed premises or of the prescribed premises together with goods leased therewith, in respect of which the determination has been made, and no variation of the determination shall be made by the Controller of his own motion, except on the ground that—

- (a) by an error or omission an injustice has been occasioned by the determination;
- (b) increased outgoings or losses have been, or will be, incurred by the lessor by reason of the use made by the lessee of the premises since the date of the determination;
- (c) the determination has been based on an incorrect estimate of the value of the premises, or of goods leased therewith, or of the services supplied or provided by the lessor, or of premises of which the premises form part, or on an incorrect calculation, and by reason thereof an injustice has been occasioned by the determination;
- (d) there has been a substantial alteration in the terms and conditions upon which the premises are leased;
- (e) substantial alterations of, or additions to, the premises, or the goods leased therewith, or the services supplied or provided by the lessor, as the case may be, have been made since the determination was made; or
- (f) the value of the premises, or of the goods leased therewith, or of the services supplied or provided by the lessor, as the case may be, has materially decreased or increased since the determination was made.

(3) For the purposes of this section, any reference in section sixteen or section twenty-three to a notice of intention to make a determination shall be read as a reference to a notice of intention to consider the making of a variation of a determination.

29—(1) Before making a determination, or a variation of a determination, the Controller shall make a thorough investigation, without regard to legal forms or solemnities, and may proceed to make the determination or variation without a formal or oral hearing of the persons interested or their representatives.

Controller
not bound
to conduct
oral hearing.
C., r. 39A;
N.S.W., s. 43.

(2) This section shall not affect the right of any person to make representations to the Controller in writing, or the duty of the Controller to consider any such representations.

Effect of
determina-
tion.

C., r. 31;
N.S.W., s. 33;
Vic., s. 23.

30—(1) A determination shall apply to any lease of the prescribed premises or, where a determination is made in respect of prescribed premises and of goods leased therewith, to any lease of those premises together with goods, for the time being subsisting, and to the lessor and lessee thereof, notwithstanding any alterations or repairs of, or additions or renovations to, the prescribed premises (whether structural or otherwise) or any change of ownership or tenancy or in the nature or value of the services supplied or provided by the lessor or in the goods leased with the premises.

(2) The rent payable by the lessee of any prescribed premises, or of any prescribed premises which are leased together with goods, shall not exceed the fair rent thereof determined under this Part, notwithstanding any term, covenant, or condition in any lease in force at the time of the application or at any time thereafter.

Premises
not to be
let at rent
exceeding
fair rent.

C., r. 32;
N.S.W., s. 35;
Vic., ss. 23
(2), 29, 55;
S.A., ss. 23,
24, 27 (2).

31—(1) No person shall—

- (a) let premises, or premises together with goods, at a rent exceeding the fair rent thereof; or
- (b) demand, receive, or pay any sum as rent exceeding the fair rent thereof.

(2) The legal remedies for the enforcement of any covenant or agreement—

- (a) to pay rent for premises, or for premises together with goods, exceeding the fair rent thereof; or
- (b) which, directly or indirectly, would secure to any person the payment of rent or of money in respect of the occupation of premises, or of the occupation of premises and the use of goods leased therewith, so that the amount received by the person would exceed the fair rent thereof,

shall be limited to the enforcement of payment of the fair rent thereof.

(3) Any sum paid as rent—

- (a) for or in respect of the occupation of premises; or
- (b) for or in respect of the occupation of premises and the use of goods leased therewith,

exceeding the fair rent thereof, shall, to the extent of the excess, be recoverable by the lessee from the lessor to whom it was paid by action in any court of competent jurisdiction.

Certain
payments
prohibit d.

C., r. 33;
N.S.W., s. 36;
Vic., s. 31;
S.A., s. 30;
Qld., s. 27.

32—(1) No person shall, whether as principal or agent, or in any other capacity—

- (a) require, give, or receive, or offer, promise, or agree to give or receive, any bonus, premium,

or sum of money (other than rent), or require the purchase or exchange of any goods or goodwill, in consideration of—

- (i) the grant, acceptance, assignment, or transfer of any lease of;
- (ii) the renewal or extension of a lease or the continuance of a letting of;
- (iii) any agreement for a lease or for the renewal, extension, assignment, or transfer of a lease of;
- (iv) his consenting to a sub-lease of; or
- (v) his vacating,

any prescribed premises (including any holiday premises), except with the consent of the Controller;

(b) pay, give, or receive, or offer, promise, or agree to pay, give, or receive, any sum of money or other consideration—

- (i) for obtaining or making available a key of any prescribed premises (including any holiday premises); or
- (ii) for information as to a tenancy, or as to the possibility or likelihood of obtaining a tenancy, of any prescribed premises (including any holiday premises); or

(c) make it a condition of the granting of any lease of a dwelling-house that the lessee shall effect any improvements, alterations, or repairs at his own expense.

(2) This section shall not apply to any transaction which requires the consent of the Minister under section three of the *Land Sales Control Act 1948*.

(3) Any sum paid in contravention of this section may be recovered by the person who paid it from the person to whom it was paid by action in any court of competent jurisdiction, or, if the person to whom it was paid is the lessor, may, without prejudice to any other method of recovery, be deducted by the lessee from any rent payable by him to the lessor within six months after the date of the payment.

(4) Where a person has, in contravention of this section, been required to purchase or exchange any goods or goodwill, he may recover, by action in any court of competent jurisdiction, from the person guilty of the contravention, so much of any amount paid in accordance with the requirement for the goods or goodwill purchased as exceeds the fair value thereof, or, as the case may be, an amount equal to the excess of the fair value of the goods which he has exchanged over the fair value of the goods which he has received in exchange.

Certain representations, &c., prohibited. C., r. 34; N.S.W., s. 37; Q'ld, s. 34.

33—(1) No person shall make any representation, or do any other act, whereby a person is informed, either expressly or by implication, that, upon the purchase or exchange of any goods or goodwill, he will or may receive or obtain, or be entitled to receive or obtain, the grant, transfer, assignment, renewal, or extension of a lease, or consent to a sub-lease, of any prescribed premises (including any holiday premises).

(2) In any prosecution for a contravention of this section, it shall be a defence if the defendant proves that—

- (a) at the time of the representation or act, he specified a price for the purchase, and that the price so specified was not unreasonable; or
- (b) that the proposed exchange was not unfair.

Refusal to let dwelling-house to applicant with family prohibited. C., rr. 35, 37A; N.S.W., s. 38; Vic., s. 32; S.A., s. 31; Q'ld, s. 33.

34—(1) No person shall refuse, or procure any person to refuse, to let a dwelling-house to any person on the ground that it is intended that any child or children shall live in the dwelling-house.

(2) In any prosecution for an offence arising under subsection (1) of this section, where all the facts and circumstances constituting the contravention, other than the ground of the refusal, are proved, it shall lie upon the defendant to prove that the ground of refusal was not the ground alleged in the charge.

(3) No person shall—

- (a) instruct any other person not to let; or
- (b) state his intention, whether by advertisement or otherwise, not to let,

a dwelling-house to any person if it is intended that any child or children shall live in the dwelling-house.

(4) No person shall, for the purpose of determining whether or not he will let a dwelling-house, inquire from any prospective tenant of the dwelling-house whether—

- (a) the prospective tenant has any children; or
- (b) it is intended that any child or children shall live in the dwelling-house if it is let to that prospective tenant.

(5) In any prosecution for an offence arising under subsection (4) of this section, where all the facts and circumstances constituting the contravention, other than the purpose of the inquiry, are proved, it shall lie upon the defendant to prove that the purpose of the inquiry was not the purpose alleged in the charge.

(6) For the purposes of this section, the expression "dwelling-house" shall be deemed to include holiday premises but not to include shared accommodation.

No appeal from order of board. C., r. 38; N.S.W., s. 41.

35 Every determination of a fair rents board or of the Controller shall, except as provided by this Part, be final and without appeal.

36 No costs shall be allowed in any proceedings under this Part, not being proceedings in respect of an offence arising under this Part.

Costs not to be allowed.
C., r. 39;
N.S.W., s. 42;
Q'd, s. 15
(4).

37—(1) The Controller, or the police magistrate constituting a fair rents board, may, by summons in writing under his hand, or under the hand of the clerk of the board, summon any person to attend the Controller or board at the time and place mentioned in the summons, and then and there to give evidence and to produce documents, books, or writings in his custody or control which he is required by the summons to produce.

Summoning of witnesses and production of documents.
C., r. 40;
N.S.W., s. 44.

(2) The Controller or a board may administer an oath or affirmation to any person appearing as a witness before the Controller or board, whether the witness has been summoned or appears without being summoned, and may examine the witness upon oath or affirmation.

38—(1) No person who has been served with a summons to attend the Controller or a fair rents board shall, without reasonable excuse, refuse or fail to attend the Controller or board or to produce any documents, books, or writings in his custody or control which he was required by the summons to produce.

Failure to attend or produce documents.
C., r. 41;
N.S.W., s. 45.

(2) It shall be a defence to a prosecution for failing, without reasonable excuse, to produce any documents, books, or writings if the defendant proves that the documents, books, or writings were not relevant to the subject-matter of the proceedings before the Controller or board.

39 No person appearing as a witness before the Controller or a fair rents board shall refuse to be sworn or make an affirmation or to answer any question relevant to any proceedings before the Controller or board put to him by the Controller or the board or by any counsel, solicitor, or agent appearing before the Controller or board.

Refusal to be sworn or give evidence.
C., r. 42;
N.S.W., s. 46.

40 No person appearing as a witness before the Controller or a fair rents board shall knowingly give false testimony in any evidence given by him to the Controller or board.

False testimony.
C., r. 43.

41 A witness before the Controller or a fair rents board shall have the same protection and immunities, and shall, in addition to the penalties provided by this Act, be subject to the same liabilities, in any civil or criminal proceedings, as a witness in any case tried in the Supreme Court.

Protection to and liability of witness.
C., r. 44;
N.S.W., s. 48.

42—(1) No person shall wilfully insult or disturb a fair rents board, or interrupt the proceedings of a board, or use any insulting language to a board, or by writing or speech use words which are false or defamatory of a board, or otherwise commit any wilful contempt of a board.

Contempt of board.
C., r. 46;
N.S.W., s. 50.

(2) The police magistrate constituting a fair rents board shall, in relation to any contravention of subsection (1) of this section committed in the face of the board, have all the powers of a court of summary jurisdiction sitting in open court in relation to a contempt committed in the face of the court.

Protection
of board.
C., r. 47;
N.S.W., s. 51.

43 The Controller and a fair rents board shall, in the exercise of his or its functions under this Part, have the same protection and immunity as a judge of the Supreme Court.

Protection of
reports and
proceedings.
C., r. 45;
N.S.W., s. 49.

44—(1) No action or proceeding, whether civil or criminal, shall lie against any person for publishing in good faith for the information of the public—

- (a) a copy of, or a fair extract from, or a fair abstract of, any determination made by the Controller or a fair rents board; or
- (b) a fair and accurate report of any proceedings before the Controller or a fair rents board.

(2) A publication shall be deemed to be made in good faith for the information of the public if the person by whom it is made was not actuated by ill-will against any party to the application or proceedings, or by any other improper motive.

Information
as to fair
rent.
C., r. 48;
N.S.W., s. 52;
Vic., s. 34;
S.A., s. 39;
Q'ld, s. 28.

45 The Controller may, on application, furnish to any person information as to the fair rent of any prescribed premises, or of any prescribed premises together with goods leased therewith, determined by a fair rents board or by the Controller.

Representa-
tion of
parties to
proceedings.
C., r. 50;
N.S.W., s. 54;
Q'ld, s. 12.

46 Any person who is a party to proceedings before a fair rents board under this Part, or who may be affected by the result of any such proceedings, may be represented by an agent or a legal practitioner.

Records
of rent.
C., r. 51;
N.S.W., s. 55;
Vic., s. 30;
S.A., s. 23;
Q'ld, s. 26.

47—(1) A lessor shall, by himself or his agent, keep or cause to be kept, a record showing the rent received in respect of prescribed premises (and of prescribed premises together with goods) leased by him.

(2) The person having the custody of the record referred to in subsection (1) of this section or of any previous like record, relating to a period not earlier than the prescribed date, in respect of the prescribed premises shall, when requested (whether orally or in writing) by any lessee of the prescribed premises or by an authorised officer so to do, make the record available, within fourteen days after such request, for inspection by that lessee or authorised officer, as the case may be.

(3) The lessor shall, by himself or his agent, produce any such record at the hearing of any proceedings under this Part in respect of the prescribed premises and such record shall, at the hearing, be evidence of the contents thereof.

(4) A lessor or agent shall not knowingly make, or allow to be retained, in any such record any entry which is false in any material particular.

48 The person receiving any payment of rent of any prescribed premises (or of any prescribed premises together with goods) shall, at the time of receiving the payment, give or cause to be given to the person making the payment a receipt for the payment, specifying the date of the payment, the amount paid, the period in respect of which the payment is made, and the premises in respect of which the payment is made.

Receipts to be given.
C., r. 52;
N.S.W., s. 56;
Q'ld, s. 38.

49—(1) It shall be the duty of the lessor of any prescribed premises (or of any prescribed premises together with goods) to take all reasonable steps to ascertain whether the fair rent thereof is fixed by or under this Part and, if so, the amount of the fair rent.

Lessor to ascertain fair rent.
C., r. 53;
N.S.W., s. 57.

(2) Where any prescribed premises (or prescribed premises together with goods) were leased on the prescribed date, the person who, on the prescribed date, was the lessor thereof shall, on demand in writing by the person who is the lessor at the time the demand is made, furnish to him, within twenty-eight days after receipt of the demand, a statutory declaration as to the rent of the premises (or of the premises together with goods) on the prescribed date.

(3) Where any prescribed premises were not in existence, or were not leased, on the prescribed date, the person who, on the date after the prescribed date when those premises were first leased, was then the lessor thereof shall, on demand in writing by the person who is the lessor at the time the demand is made, furnish to him, within twenty-eight days after the receipt of the demand, a statutory declaration as to the rent of the premises (or of the premises together with goods) on the date after the prescribed date when the same were first leased.

50—(1) In any proceedings before any court, a certificate by the Controller that, in respect of a period specified in the certificate, the fair rent of any prescribed premises was fixed by a determination (whether made by the Controller or a fair rents board), and specifying the amount thereof, shall be evidence of the matters specified in the certificate.

Certificate as to fair rent.
C., r. 54;
N.S.W., s. 58;
Vic., s. 36.

(2) Judicial notice shall be taken of the signature of the person signing any such certificate and of the fact that he is, or has been, the Controller.

51—(1) Upon conviction of any person for any offence arising under this Part the court may, in addition to any penalty, order that any amount which has been received by or paid to that person in contravention of this Part shall be refunded to the person by whom the payment was made.

Courts may order refund of amounts overpaid.
C., r. 57;
N.S.W., s. 61;
Q'ld, s. 71.

(2) Where a court proposes to make an order under this section against a convicted person, the court may hear evidence tending to show that the contravention of which the person has been convicted was part of a course of conduct in contravention of this Part, and evidence to the contrary, and may, if it thinks fit, include in the order any amounts which appear to the court to have been received by or paid to the person in contravention of this Part as part of that course of conduct.

(3) Where a court has made an order under this section, a certificate under the hand of the clerk or other appropriate officer of the court, specifying the amount ordered to be refunded and the person by whom and the person to whom the amount is payable, may be filed in any court having civil jurisdiction to the extent of that amount, and shall thereupon be enforceable in all respects as a judgment of that court.

PART III.

RECOVERY OF POSSESSION OF PRESCRIBED PREMISES.

Restriction
on eviction.

C. r. 58;
N.S.W., s. 62;
Vic., s. 37;
S.A., s. 26ⁿ;
Q'ld, s. 41.

52—(1) Except as provided by this Part, the lessor of any prescribed premises shall not give any notice to terminate the tenancy or take or continue any proceedings to recover possession of the premises from the lessee or for the ejection of the lessee therefrom.

(2) A notice to quit given in contravention of this section shall not operate so as to terminate the tenancy in respect of which the notice is given.

(3) Subject to this Part, a lessor may take proceedings in any court of competent jurisdiction for an order for the recovery by him of any prescribed premises (or of any goods leased therewith) or for the ejection of the lessee from such premises if the lessor, before taking the proceedings, has given to the lessee, upon one or more of the prescribed grounds but upon no other ground, notice to quit in writing for a period determined in accordance with section fifty-three, and that period of notice has expired.

(4) Service of a notice to quit may, without prejudice to any other mode of service, be effected by delivering the notice to—

- (a) some person apparently over the age of sixteen years and apparently residing in or in occupation of the premises; or
- (b) the person by whom the rent of the premises is customarily paid.

(5) The prescribed grounds shall be—

- (a) that the lessee has failed to pay the rent in respect of a period—
 - (i) where the lessee's period of occupation does not exceed six months, of not less than seven days;
 - (ii) where the lessee's period of occupation exceeds six months but does not exceed twelve months, of not less than fourteen days; and
 - (iii) in any other case, of not less than twenty-eight days;
- (b) that the lessee has failed to perform or observe some other term or condition of the lease and the performance or observance of that other term or condition has not been waived or excused by the lessor;
- (c) that the lessee has failed to take reasonable care of the premises, or of any goods leased therewith, or has committed waste;
- (d) that the lessee has been guilty of conduct which is a nuisance or annoyance to adjoining or neighbouring occupiers;
- (e) that the lessee or any other person has been convicted, during the currency of the lease, of any offence arising out of the use of the premises for any illegal purpose or that a court has found or declared that the premises have, during the currency of the lease, been used for some illegal purpose;
- (f) that the lessee has given notice of his intention to vacate the premises and, in consequence of that notice, the lessor has agreed to sell or let the premises or has taken any other steps as a result of which he would be seriously prejudiced if he could not obtain possession;
- (g) that the premises—
 - (i) being a dwelling-house—are reasonably required by the lessor for occupation by himself or by some person who ordinarily resides with, and is wholly or partly dependent upon, him; or
 - (ii) not being a dwelling-house—are reasonably required for occupation by the lessor or by a person associated or connected with the lessor in his trade, profession, calling or occupation;
- (h) that the premises are used as, or have been acquired for use as, a parsonage, vicarage, presbytery or other like premises and are reasonably required for the personal occupation of a minister of

religion (including a person who, although not ordained, is performing all the duties of a minister of religion);

- (i) that the lessor is a trustee and the premises are reasonably required by a beneficiary under the trust for his personal occupation or for the occupation of some person who ordinarily resides with, and is wholly or partly dependent upon, him;
- (j) that the lessor is a person carrying on a hospital, or a trustee for such a person, and the use of the premises is reasonably required for the purposes of the hospital (including the accommodation of the staff of the hospital);
- (k) that the premises have been occupied, or are occupied in consequence of his employment, by some person in the employ of the lessor and are reasonably required for the personal occupation in consequence of that employment of some other person employed by, or about to become employed by, the lessor;
- (l) that the lessor has agreed to sell the premises by an agreement which requires the purchaser to pay not less than one-fourth of the whole purchase money within twelve months from the date thereof and by which the purchaser is entitled to vacant possession of the premises and the premises—
 - (i) being a dwelling-house—are reasonably required by the purchaser for occupation by himself or by some person who ordinarily resides with, and is wholly or partly dependent upon, him; or
 - (ii) not being a dwelling-house—are reasonably required for occupation by the purchaser or by a person associated or connected with the purchaser in his trade, profession, calling or occupation;
- (m) that the premises are reasonably required by the lessor for reconstruction or demolition;
- (n) that the lessee has become the lessee of the premises by virtue of an assignment or transfer which the lessor has not consented to or approved; or
- (o) that the lessee has sub-let the premises or some part thereof by a sub-lease which has not been consented to or approved by the lessor.

(6) In subsection (5) of this section, unless the contrary intention appears, “lessor” includes, where there is more than one lessor, any one or more of the lessors, and “lessee” includes, where there is more than one lessee, any one or more of the lessees.

(7) Notice to quit on a ground specified in paragraph (n) or paragraph (o) of subsection (5) of this section—

(a) shall not be given—

- (i) where the lessee became the lessee by virtue of an assignment or transfer made before the fourteenth day of March, 1947, or the sub-lease was granted before that date;
- (ii) where the lease is for a fixed term, unless that term has expired; or
- (iii) in the case of a periodic lease, unless the period which was current at the date on which the assignment, transfer, or sub-lease took effect has expired; and

(b) may be given whether or not the assignment, transfer or sub-lease was in breach of any covenant or condition.

53—(1) The period for which notice to quit shall be given shall be not less than a period of seven days, together with an additional seven days for each completed period of six months of occupation.

Period of notice to quit.
C., r. 59;
N.S.W., s. 63;
Vic., s. 38;
S.A., s. 26o;
Q'ld, s. 42.

(2) Nothing in subsection (1) of this section shall—

(a) require the giving of notice to quit for—

- (i) a period exceeding fourteen days if the notice is given on any ground specified in paragraphs (c), (d), (e), or (f) of subsection (5) of section fifty-two, and not on any other ground;
- (ii) a period exceeding thirty days if the notice is given on any other ground; or
- (iii) in the case of shared accommodation, a period exceeding fourteen days; or

(b) allow the giving of notice to quit for a period shorter than the period which, but for this section, would be required.

54—(1) No lessor shall, after the lessee has made an application for the determination of the fair rent of any prescribed premises, or after he has received from the Controller notice of his intention to determine the fair rent thereof, except with the consent of the Controller, give to the lessee of such prescribed premises a notice to quit on any ground specified in paragraphs (f), (g), (h), (i), (j), (k), or (l) of subsection (5) of section fifty-two until after the expiration of six months after the making of a determination on the application or in pursuance of the notice so given by the Controller, but if a determination has not been made

Notice to quit not to be given within six months after determination.
C., r. 60;
N.S.W., s. 64;
Vic., s. 39;
S.A., s. 26p;
Q'ld, s. 43.

within a period of six months after the date of the application, or (if no application has been made) within a period of six months after receipt of the notice of intention, as the case may be, such a notice to quit may be given after the expiration of that period.

(2) Any reference in this section to an application for a determination, or to a notice by the Controller of his intention to determine the fair rent shall be construed as including a reference to any such application or notice made or given under the Commonwealth Regulations before the commencing day.

Notice to quit where dwelling-house sold.
C., r. 60A;
N.S.W., s. 65;
Vic., s. 40;
S.A., s. 26q;
Q'ld, s. 44.

55—(1) No person who has, either before or after the commencing day, become the lessor of prescribed premises (being a dwelling-house or part of a dwelling-house) by purchase thereof, shall, within a period of six months after the date of the agreement for the purchase, give a notice to quit on the ground specified in paragraph (g) of subsection (5) of section fifty-two to any person who was a lessee of the prescribed premises at the date of the agreement for the purchase.

(2) No lessor of prescribed premises (being a dwelling-house or part of a dwelling-house) shall give a notice to quit on the ground specified in paragraph (l) of subsection (5) of section fifty-two to any person who was a lessee of the prescribed premises at the date of the agreement referred to in that paragraph within a period of six months after the date of the agreement.

Notice to specify grounds.
C., r. 61;
N.S.W., s. 66;
Vic., s. 41;
S.A., s. 26r;
Q'ld, s. 45.

56 A notice to quit shall specify the ground relied upon and shall give the particulars thereof and, in the proceedings, the lessor shall not be entitled to rely upon any ground not so specified.

Notice to quit to terminate lease.
C., r. 62;
N.S.W., s. 67;
Vic., s. 42;
S.A., s. 26s;
Q'ld, s. 46.

57 A notice to quit given in accordance with the provisions of section fifty-two shall, if the tenancy in respect of which the notice was given has not otherwise terminated, operate so as to terminate the tenancy of the premises at the expiration of the period specified in the notice, but nothing in this section shall operate so as to determine any tenancy before the date on which it would have terminated if this section had not been enacted.

Notice to quit after failure of eviction proceedings.
C., r. 62A;
N.S.W., s. 68;
Vic., s. 43;
S.A., s. 26t;
Q'ld, s. 47.

58—(1) Where a lessor has taken proceedings in any court to recover possession of any prescribed premises from the lessee or for the ejection of the lessee therefrom and the court has (whether before or after the commencing day) refused to make an order in favour of the lessor, the lessor shall not give to the lessee any notice to quit (whether on the same ground as a previous notice to quit or on some other ground) within six months after the decision of the court, unless he has first obtained the leave of a court having jurisdiction under this Part so to do.

(2) Where a court refuses to make an order in favour of a lessor it may, at the same time, grant leave for the purposes of this section.

59 For the purposes of section fifty-two, courts of petty sessions (consisting of police magistrates sitting alone) and those courts only, shall be courts of competent jurisdiction.

Competent courts.
C. r. 62B;
N.S.W., s. 69;
Vic., s 44;
Q'ld, s 48

60—(1) On the hearing of any proceedings by a lessor for an order for the recovery of possession of any prescribed premises or for the ejection of the lessee therefrom, the court shall take into consideration, in addition to all other relevant matters—

Court to consider hardship.
C. r. 63;
N.S.W., s. 70;
Vic., s. 45;
S.A., s. 26a;
Q'ld, s. 49.

- (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), (j), (k), (l), and (m) of subsection (5) of section fifty-two, whether reasonably suitable alternative accommodation in lieu of the prescribed premises is, or has been since the date upon which notice to quit was given, available for the occupation of the person occupying the prescribed premises or for the occupation of the lessor or other person by whom the prescribed premises would be occupied if the order were made,

and may, in its discretion, make the order on such conditions (if any) as it thinks fit, or may refuse to make the order, notwithstanding that the prescribed grounds or any of them have or has been established.

(2) Where the application is made on either of the grounds specified in paragraphs (n) and (o) of subsection (5) of section fifty-two, the court shall not refuse, in the exercise of the discretion vested in it by subsection (1) of this section, to make the order unless the court is satisfied that special circumstances exist by reason of which the order should not be made.

(3) On the hearing of an application specified in subsection (2) of this section any assignee, sub-lessee or person in occupation of the prescribed premises or any part thereof shall be entitled to be heard.

(4) The provisions of subsection (1) of this section shall not apply to or in respect of any proceedings for the recovery of possession of any prescribed premises (being a dwelling-house) or for the ejection of the lessee therefrom taken by any lessor who is a member of the forces as defined in sub-

section (5) of this section, and was the owner of such premises on or immediately prior to the date on which he enlisted or was called-up for war service.

(5) In this section "member of the forces" means any person who, in the war which commenced on the third day of September, 1939, was—

(a) engaged on full-time service outside this State as a member of any of the following services:—

The Permanent Forces of the Commonwealth;
 The Royal Australian Navy;
 The Australian Imperial Force;
 The Royal Australian Air Force;
 The Citizen Forces;
 The Royal Australian Naval Nursing Service;
 The Women's Royal Australian Naval Service;
 The Australian Army Nursing Service;
 The Australian Women's Army Service;
 The Australian Army Medical Women's Service;
 The Royal Australian Air Force Nursing Service;
 The Women's Auxiliary Australian Air Force;
 or

(b) a member of the naval, military, or air forces raised in any part of the British Empire other than Australia and was engaged on active service outside that part.

61—(1) In respect of any proceedings referred to in section sixty 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 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 order;

(b) subject to such conditions (if any) as it thinks fit, vary, discharge, or rescind any such order; or

(c) 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

Power to stay proceedings or orders.

C., r. 64;
 N.S.W., s. 71;
 Vic., s. 46;
 S.A., s. 26v;
 Q'ld. s. 50.

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:

Provided that the powers conferred on the court by this subsection shall be exercisable only during the period of twelve months immediately succeeding the date on which the hearing of the proceedings was commenced.

(2) In this section—

- (a) a reference to an order shall include a reference to an order made before the commencing day under regulation 63 of the Commonwealth Regulations; and
- (b) a reference to a warrant shall include a reference to a warrant issued before the commencing day under the Commonwealth Regulations for the execution of an order made under regulation 63 of those Regulations.

62—(1) An application to stay or suspend the execution of, or to vary, discharge, or rescind, any order referred to in section sixty-one, or to postpone the date for recovery of possession or for ejection specified in any such order, 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 prescribed premises, until the court has heard the application.

Certain applications to operate as stay of execution.

C., r. 64A;
N.S.W., s. 72;
Vic., s. 47;
S.A., s. 26w;
Q'ld, s. 51.

(2) Notwithstanding anything contained in paragraph (c) of subsection (1) of section sixty-one, 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 section sixty, the court has refused to grant an application of any of the kinds referred to in subsection (1) of this section, no further application of any of those kinds shall be made in respect of those proceedings except with the leave of the court.

63 Proceedings for the recovery of possession of prescribed premises may, with the consent of all parties, be disposed of in chambers, but nothing in this section shall affect the power of any court to dispose of any such proceedings in chambers otherwise than under this section.

Hearing in chambers.

C., r. 65;
N.S.W., s. 73;
Vic., s. 48;
S.A., s. 26w;
Q'ld, s. 52.

64—(1) Except as provided in this section, there shall be no appeal in proceedings under this Part, from an order of a court of competent jurisdiction referred to in section fifty-nine.

Appeals.

C., r. 65A;
N.S.W., s. 74;
Vic., s. 49;
S.A., s. 26w;
Q'ld, s. 53.

(2) There shall be an appeal, as to questions of law only, to the Supreme Court from any order of a court in proceedings under this Part.

Court may order compensation for misrepresentation.

C., r. 67;

N.S.W., s. 76;

Vic., s. 51;

S.A., s. 26 *aa*;

Q'ld., s. 55.

65 Where a lessor has obtained an order for the recovery of possession of any prescribed premises and it is subsequently proved that the order was obtained by a fraudulent representation or the concealment of material facts, the court which made the order may order the lessor to pay to the former lessee such sum as appears to the court to be sufficient as compensation for damage or loss sustained by the lessee as the result of the order, and the provisions of subsection (3) of section fifty-one, shall apply, *mutatis mutandis*, to and in respect of any order for the payment of any sum under this section.

Premises not to be sold or re-let in certain cases.

C., r. 68;

N.S.W., s. 77;

Vic., s. 52;

S.A., s. 26 *ab*;

Q'ld., s. 56.

66—(1) If a notice to quit has been given on any of the grounds specified in paragraphs (*g*), (*h*), (*i*), (*j*), or (*k*) of subsection (5) of section fifty-two and the premises in respect of which the notice was given have been vacated in accordance with the notice or if an order for the recovery of possession of the premises or for the ejection therefrom of the lessee has been made on any such ground, the premises shall not, without the consent of the court, be again leased or sold, or agreed to be leased or sold, until after the expiration of the period of twelve months immediately succeeding the date on which the premises were vacated, or possession of the premises was recovered or the ejection was effected, as the case may be.

(2) Nothing in subsection (1) of this section shall prevent—

(a) the letting of any portion of the prescribed premises which is not reasonably required by the lessor or purchaser, as the case may be, provided that the total rent obtained is not greater than a reasonable rent for the whole of the premises less a reasonable deduction for the portion of the premises not so let; or

(b) where notice to quit has been given on any of the grounds specified in paragraphs (*h*), (*i*), and (*k*) of subsection (5) of section fifty-two, the letting of the premises—

- (i) to a minister of religion;
- (ii) to a beneficiary under the trust; or
- (iii) to some person in the employ of, or about to become an employee of, the lessor in consequence of his employment,

respectively.

(3) A transaction entered into in contravention of subsection (1) of this section shall not thereby be invalidated, but nothing in this subsection shall affect the liability of any person to any penalty in respect of any contravention of that subsection.

67 An order for the recovery of possession of any prescribed premises (or of any prescribed premises leased together with goods) or for the ejectment of a lessee therefrom made by a court under this Act may be enforced in the same manner as a like order made by that court, otherwise than under this Act, might be enforced.

Enforcement of orders.
C., r. 70;
N.S.W., s. 79;
Vic., s. 53;
S.A., s. 26ac;
Q'ld, s. 57.

68 Where notice to quit any prescribed premises has been given, whether before or after the commencing day—

Acceptance of rent not to waive notice to quit.

- (a) any demand by the lessor for payment of rent, or of any sum of money as rent, in respect of any period within six months after the giving of the notice;
- (b) the commencement of proceedings by the lessor to recover rent, or any sum of money as rent, in respect of any such period; or
- (c) the acceptance of rent, or of any sum of money as rent, by the lessor in respect of any such period,

C., r. 71;
N.S.W., s. 80;
Vic., s. 54;
S.A., s. 26ad;
Q'ld, s. 58.

shall not of itself constitute evidence of a new tenancy or operate as a waiver of the notice.

69—(1) No person shall, without the consent of the lessee of prescribed premises, or without reasonable cause (proof whereof shall lie upon such person), do, or cause to be done, any act, or omit, or cause to be omitted, any act, whereby the ordinary use or enjoyment by the lessee of the premises or of any goods leased therewith, or of any conveniences usually available to the lessee, or of any service supplied to, or provided in connection with, the premises, is interfered with or restricted.

Persons not to interfere with use or enjoyment of premises.
C., r. 72.
N.S.W., s. 81;
Vic., s. 55;
S.A., s. 31a;
Q'ld, s. 59.

(2) Where the lessor, or any agent or servant of the lessor, has been convicted of an offence arising under subsection (1) of this section, the court may order the lessor to do such things as are necessary to enable the lessee to resume the ordinary use or enjoyment of the premises, goods, conveniences, or service, and the lessor shall comply with the provisions of the order.

(3) For the purposes of this section, conveniences shall be deemed to be usually available to the lessee where, prior to the use of the conveniences having been interfered with or restricted without his consent, he has been allowed, at all times during the tenancy, to use those conveniences as he desired or he has been allowed to use those conveniences at times agreed to by the lessor and lessee or at times equivalent to those times.

70—(1) Where—

- (a) a lessor has either before or after the commencing day consented to or approved a sub-lease of any prescribed premises or any part thereof by the

Protection of sub-lessees.
C., r. 73;
N.S.W., s. 82;
Vic., s. 56;
S.A., s. 26ae;
Q'ld, s. 60.

lessee, or a lessee has either before or after that day sub-let any prescribed premises or any part thereof in the course of a business of sub-letting carried on by the lessee; and

(b) the lessee has ceased, either before or after that day, to be in possession of the premises, following upon—

(i) the obtaining of an order by the lessor for the recovery of possession of the premises from the lessee or for the ejectment of the lessee from the premises on any of the grounds specified in paragraphs (a) to (f) of subsection (5) of section fifty-two; or

(ii) the surrender of his lease by the lessee,

the sub-lessee shall (if he is in possession of the whole or portion of the prescribed premises sub-let to him) be deemed to have become the lessee thereof from the lessor upon the same terms and conditions as the terms and conditions of the sub-lease, as in force immediately prior to the date on which the lessor gave notice to quit to the lessee, or the date on which the lessee notified the lessor of his intention to surrender the lease (or, if he did not so notify the lessor, the date on which the lessee surrendered the lease), as the case may be.

(2) In a case to which subparagraph (i) of paragraph (b) of subsection (1) of this section applies, the order shall not be enforced against the sub-lessee.

(3) Where, prior to the lessor of any prescribed premises giving notice to quit to the lessee upon any of the grounds specified in subsection (5) of section fifty-two, the lessee of the prescribed premises has sub-let the whole or any part thereof—

(a) the lessee shall, upon service of the notice to quit, forthwith notify the lessor in writing of the name and address of each person to whom he has so sub-let and who is a sub-lessee of the prescribed premises or any part thereof at the date of service of the notice to quit;

(b) the lessor shall, upon taking proceedings for the recovery of possession of the prescribed premises or for the ejectment of the lessee therefrom, file the notice given to him under this section with the clerk of petty sessions of the court in which the proceedings are taken; and

(c) the clerk of petty sessions shall thereupon give notice by registered post to each person specified in the notice, at the address so specified, of the date of hearing of the proceedings by the court.

(4) On the hearing of any proceedings by a lessor for an order for the recovery of possession of any prescribed premises or for the ejection of the lessee therefrom, every person who is a sub-lessee of such premises or any part thereof shall be entitled to be heard.

71 Where—

- (a) the tenancy of any prescribed premises is terminated by virtue of the provisions of this Act;
- (b) the person who was the lessee immediately prior to the termination of the tenancy (in this section referred to as “the former lessee”) dies after the termination of the tenancy; and
- (c) a person (not being a lodger or boarder) resided with the former lessee immediately prior to his death and is actually in possession of the premises immediately after the death of the former lessee,

Protection of certain persons in possession of premises.
C., r. 74;
N.S.W., s. 83;
Vic., s. 57;
S.A., s. 26af;
Q'ld, s. 61.

that person shall have the like right to continue in possession of the premises as the former lessee would have if he had not died, but proceedings may be taken against that person for the recovery of possession of the premises from that person or for the ejection of that person from the premises in accordance with the provisions of this Act as if he were a lessee of the premises.

72 No costs shall be allowed in any proceedings in relation to which this Part applies, not being proceedings in respect of an offence arising under this Part.

Costs not to be allowed.
C., r. 75;
N.S.W., s. 84;
Vic., s. 58;
S.A., s. 26ag;
Q'ld, s. 62.

73—(1) The lessor or former lessor under a lease, or the proposed lessor under a proposed lease, of any prescribed premises for a period not exceeding twelve months may, at any time while the lessee or former lessee is in occupation of the premises, or prior to the commencement of the term of the proposed lease, make application in writing to the Controller to exclude the premises from the operation of this Part.

Exclusion of premises let for a short term from operation of Part III.
C., r. 78;
N.S.W., s. 86;
Vic., s. 59;
S.A., s. 26ai;
Q'ld, s. 63.

(2) The applicant shall furnish such information in relation to the application as the Controller requires.

(3) The Controller may, in his discretion, issue a certificate excluding the premises, for such period as is specified in the certificate, from the operation of the provisions of this Part, and thereupon the premises shall be excluded accordingly.

(4) The Controller may at any time revoke or vary any certificate issued under subsection (3) of this section.

Exclusion of certain subdivided premises, &c., from operation of Part III. C., r. 79; N.S.W., s. 87; Vic., s. 60; S.A., s. 26a; Q'ld., s. 64.

74—(1) The provisions of this Part shall not apply to or in relation to any prescribed premises in respect of which a certificate under this section is in force.

(2) Where the owner of any prescribed premises is desirous of making the whole or any part of those premises available for accommodation, he may apply to the Controller for a certificate that the premises are premises to which this Part does not apply.

(3) The Controller may—

- (a) grant the application and issue the certificate, either unconditionally or subject to such conditions as he thinks fit and for such period as he thinks fit; or
- (b) refuse the application.

(4) A certificate issued under this section in respect of prescribed premises (being any part of a dwelling-house or of a residential unit in any building) shall not have any force or effect in respect of any person who, immediately prior to the issue of the certificate, was the lessee of the dwelling-house or of any part of the dwelling-house or of the residential unit or of any other residential unit in the building.

(5) The Controller may revoke or vary any certificate issued under this section.

(6) This section shall apply only in relation to prescribed premises being—

- (a) a dwelling-house which is not in whole or in part leased to any person;
- (b) a dwelling-house which the owner or lessee has converted, or intends to convert, into two or three (but not more) residential units;
- (c) a dwelling-house or part of a dwelling-house which is leased to any person and which is about to become vacant;
- (d) a part of a dwelling-house which has been leased by the owner but is not for the time being leased to any person; or
- (e) a residential unit in a building which the owner of the building proposes to lease or to permit to be leased for residential purposes separately from the remainder of the building and which has not previously been so separately leased,

but shall not apply in relation to any building containing more than three residential units or in relation to any residential unit in any such building.

(7) In this section, “residential unit” means any part of a building which is or has been designed, whether originally or otherwise, for occupation as a residence independently of any other part of the building.

75—(1) The provisions of this Part shall have effect, in relation to all premises which are for the time being prescribed premises within the meaning of this Act, notwithstanding any provisions of any other Act or any rules of the common law to the contrary.

Provisions
of this
Part to be
paramount.
Cf. C., r. 68;
Vic., s. 50;
S.A., s. 26z.

(2) Notwithstanding any other Act or any rules of the common law to the contrary, no order, other than an order made under this Part or under the Commonwealth Regulations, made by any court for the recovery by a lessor of possession of any prescribed premises (or of any goods leased therewith) or for the ejectment of a lessee therefrom, shall be enforceable.

PART IV.

MISCELLANEOUS.

76—(1) No person shall, by any threat, or in any other manner, endeavour to dissuade or prevent a lessor or lessee from making or prosecuting any application under this Act, or taking or continuing any proceedings in relation to which this Act applies.

Threats and
boycotts
prohibited.
C., r. 80;
N.S.W., s. 88;
Vic., s. 62;
S.A., s. 29;
Q'ld, ss. 31,
32.

(2) No owner of any prescribed premises, and no agent of any such owner, shall refuse, or procure any person to refuse, to lease the premises to any other person who desires to lease the same, if the reason for that refusal was the fact that such other person had made an application to a board or the Controller under this Act or the Commonwealth Regulations.

(3) In any prosecution for an offence arising under subsection (2) of this section, where all the facts and circumstances constituting the contravention, other than the reason for the refusal, are proved, it shall lie upon the defendant to prove that the reason for the refusal was not the reason alleged in the charge.

(4) No person shall do, or procure to be done, any act or thing for the purpose of imposing any detriment or disadvantage upon a lessor or lessee because the lessor or lessee has made an application under this Act or the Commonwealth Regulations or has taken any proceedings in relation to which this Act applies or the Commonwealth Regulations applied.

Suspension
of right to
distrain
for rent.

C., r. 37;
Vic., s. 61;
S.A., s. 31b;
Q'ld., s. 36.

77 During the continuance of this Act, no person shall levy or make any distress for rent of a dwelling-house.

Contracting
out pro-
hibited.

C., r. 81;
N.S.W., s. 89.

78 No covenant or agreement (whether entered into before or after the commencing day) shall have any force or effect to deprive any lessee of any right, power, privilege, or benefit provided for by this Act.

Contracts to
vade Act
prohibited.

C., r. 82;
N.S.W., s. 90;
Vic., s. 63;
S.A., s. 35;
Q'ld., s. 65.

79 No person shall enter into or make any contract or arrangement, whether orally or in writing, for the purpose of, or which has the effect of, in any way (whether directly or indirectly), defeating, evading, or preventing the operation of, this Act in any respect.

Transac-
tions not
invalidated.

C., r. 82A;
N.S.W., s. 91.

80—(1) Where any transaction is entered into in contravention of this Act, the transaction shall not thereby be invalidated, and the rights, powers, and remedies of any person thereunder shall, except where otherwise expressly provided in this Act, be the same as if this Act had not been enacted.

(2) Nothing in this section shall affect the operation of section seventy-eight or the liability of any person to any penalty in respect of any contravention of this Act.

Information
to be
furnished
on request.

C., r. 83;
N.S.W., s. 92.

81—(1) The Controller or an authorised officer may require any person—

- (a) to furnish to the person making the requirement such information as that person requires;
- (b) to answer any question put to him by that person;
- or
- (c) to produce any books, documents, or writings, in his custody or control,

in relation to any matter arising under this Act.

(2) No person shall, when so required—

- (a) refuse or fail to furnish the information or to answer the question or to produce the books, documents, or writings; or
- (b) give any information or make any answer which is false in any particular.

(3) No person shall be obliged to furnish any information or to answer any question or to produce any books, documents, or writings under this section unless he has first been informed by the person making the requirement that he is required and is obliged, by virtue of this section, to furnish the information or to answer the question or to produce the books, documents, or writings.

(4) A person shall be deemed to have failed to furnish information, or to produce books, documents, or writings, required of him under this section if he does not furnish the information or produce the books, documents, or writings—

- (a) in the case of a requirement in writing, within fourteen days after receipt by him of the requirement; or

(b) in the case of an oral requirement, within fourteen days after the day upon which the requirement is made.

(5) A requirement under this section may be served by post on the person on whom it is made at his last-known place of abode or business.

82 The Controller or an authorised officer may, for the purposes of this Act, enter on and inspect any land or premises the subject of an application for a determination of fair rent.

Powers of entry and inspection.
C., r. 84;
N.S.W., s. 93;
Vic., s. 64;
S.A., s. 33.

83—(1) Any notice or other document required or permitted by this Act to be given to, or served upon, any person, may be given or served—

Service of notices.
C., r. 55;
N.S.W., s. 59;
Vic., ss. 65, 67; S.A., ss. 36, 38; Q'ld. s. 67.

(a) by delivering the notice or other document to him personally; or

(b) by forwarding the same by post in a prepaid letter addressed to him at his usual or last-known place of abode or business or at any address notified to the board or the Controller as the address at which notices may be given to or served upon him.

(2) Any notice or other document required or permitted by this Act to be given to, or served upon, the Controller may be given or served by leaving the same at the office of the Controller with some person apparently employed thereat or by sending the same by post in a prepaid letter addressed to the Controller.

(3) Where any notice or other document is required or permitted by this Act to be given to, or served upon, a person whose address is unknown, it may be given or served by publishing it in the *Gazette* and in a daily newspaper circulating in the district in which the prescribed premises concerned are situated.

(4) Any notice required by this Act to be given to or served upon any lessor or lessee shall, if the notice has once been duly given to or served upon such lessor or lessee, be binding upon all persons claiming by, from, or under such lessor or lessee and upon all subsequent lessors and lessees to the same extent as if given to or served upon the persons so claiming or the subsequent lessors or lessees respectively.

84—(1) Any notice or other document required or permitted by this Act to be given to, or served upon, a lessor under the lease of any prescribed premises shall be deemed to have been duly given or served if it is given to, or served upon, the person to whom the rent payable under the lease is customarily paid.

Service upon agent sufficient.
C., r. 56;
N.S.W., s. 60;
Vic., s. 66;
Q'ld., s. 68.

(2) Any notice or other document required or permitted by this Act to be given to, or served upon, a lessee under the lease of any prescribed premises shall be deemed to have been duly given or served if it is given to, or served upon, the person by whom the rent payable under the lease is customarily paid.

(3) If two or more persons are lessors or lessees under any lease of any prescribed premises, it shall be a sufficient compliance with any provision of this Act requiring or permitting any notice or other document to be given to, or served upon, the lessors or lessees if the notice is given to, or served upon, any one of the lessors or lessees.

Proof of
instruments.

C., r. 85;
N.S.W., s. 94;
Q'ld. s. 30.

85 Every document purporting to be a certificate or other instrument made or issued by the Controller in pursuance, or for the purposes, of any provision of this Act and to be signed by the Controller, shall be received in evidence and shall, until the contrary is proved, be deemed to be a certificate or other instrument (as the case may be) made or issued by the Controller.

Offences and
penalties.

N.S.W., s. 95;
Q'ld. s. 70.

86—(1) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence against this Act.

(2) No prosecution for an offence against this Act shall be instituted without the written consent of the Minister.

(3) Any person who is guilty of an offence against this Act, or of any regulation made under this Act, shall be liable to a penalty of one hundred pounds, or to imprisonment for six months, or both.

(4) Where a person convicted of an offence against this Act is a body corporate, every person who, at the time of the commission of the offence, was a director or officer of the body corporate shall be deemed to have committed the like offence, and be liable accordingly to the pecuniary penalty or imprisonment (or both) prescribed by subsection (1) of this section, unless he proves that the offence was committed without his knowledge, or that he used all due diligence to prevent the commission of the offence.

Regulations.

N.S.W., s. 96;
S.A., s. 26*ol*,
42; Q'ld.
s. 73.

87 The Governor may make regulations prescribing all matters which are required or permitted by this Act to be prescribed or which are necessary or convenient to be prescribed for the purpose of carrying out or giving effect to the provisions of this Act.

Expiry of Act.
S.A., s. 49.

88 This Act shall expire on the thirtieth day of June, 1950.

THE SCHEDULE.

Section 2.

ACTS REPEALED.

Year and Number of Act.	Short title of Act.
3 & 4 Geo. VI. No. 39	<i>Increase of Rent (War Restrictions) Act 1939</i>
No. 28 of 1948	<i>Landlord and Tenant (Temporary Provisions) Act 1948</i>
No. 58 of 1948	<i>Landlord and Tenant (Temporary Provisions) Act (No. 2) 1948</i>

PUBLIC AUTHORITIES' LAND ACQUISITION.

No. 22 of 1949.

AN ACT to make better Provision for the Acquisition of Land required by Public and Local Authorities.
[4 May, 1949.]

WHEREAS it is expedient to comprise in one general Act PREAMBLE. sundry provisions usually introduced into Acts of Parliament relative to the acquisition of lands required for undertakings or works of a public nature and to the compensation to be made for the same and that as well for the purpose of avoiding the necessity of repeating provisions in each of the several Acts relating to such undertakings as for ensuring greater uniformity in the provisions themselves:

And whereas the *Lands Clauses Act 1857* was enacted for these purposes:

And whereas it is expedient to provide for the use of public and local authorities a better method of taking land and of determining the compensation payable in respect thereof and to provide for the taking of estates and interests less than a fee simple absolute:

Be it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

1 This Act may be cited as the *Public Authorities' Land Acquisition Act 1949.* Short title.