

LANDLORD AND TENANT (No. 3).

No. 94 of 1952.

AN ACT to amend the *Landlord and Tenant Act* 1949. [19 December, 1952.]

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:—

1 —(1) This Act may be cited as the *Landlord and Tenant Act* (No. 3) 1952. Short title
and citation.

(2) The *Landlord and Tenant Act* 1949, as subsequently amended, is in this Act referred to as the Principal Act.

2 After section six of the Principal Act the following section is inserted:— Exclusion of
terms of not
less than
three years.

“6A. The provisions of this Act shall not apply in respect of any prescribed premises (not being a dwelling-house) which, after the commencement of the *Landlord and Tenant Act* (No. 3) 1952, are leased by deed for a term of not less than three years, being a lease— cf. No. 33 of
1942 (S.A.),
s. 6.

(a) to which the parties have thereby agreed that this Act shall not apply; and

(b) of which the lessor has given the Controller notice in accordance with the form in the second schedule.”

3 Section twelve A of the Principal Act is amended— Permitted
increases of
fixed rent.

(a) by omitting from paragraph (a) of subsection (3) the word “twenty” and substituting therefor the word “forty”;

(b) by omitting from paragraph (b) of that subsection the word “thirty-five” and substituting therefor the word “fifty”;

(c) by omitting from subsection (5) the word “fourteen” and substituting therefor the word “twenty-one”;

(d) by omitting subsection (8) and substituting therefor the following subsection:—

“(8) A lessor who makes or causes to be made a demand under this section shall send or cause to be sent by prepaid post to the Controller notice of the demand in accordance with

the form in the third schedule to reach the Controller within seven days after the service of the demand, and if the lessor fails to comply with this subsection the demand shall be void.”.

4 After section twelve A of the Principal Act the following section is inserted:—

Increase of
rent on
account of
increase in
rates.

“12B.—(1) Notwithstanding anything contained elsewhere in this Act, where the amount of any rates payable in respect of any prescribed premises (being rates payable by the lessor of those premises) is, or has been, increased at any time on or after the first day of July, 1952, the lessor may, subject to this section, obtain an increase of rent in accordance with the provisions of this section.

(2) An increase under this section shall be obtainable by service by the lessor on the lessee of a demand in writing for the increase, and the demand may only be given when, but for this Act, the lessor might obtain immediate possession of the premises or, by notice to quit, determine the lessee’s tenancy thereof, and shall take effect—

(a) if, but for this Act, the lessor might obtain immediate possession of the premises, seven days after the service thereof; or

(b) if, but for this Act, the lessor might determine the lessee’s tenancy by notice to quit, on the first day on which the notice to quit, if given, would determine the tenancy.

(3) An increase under this section shall not exceed—

(a) the fair rent of the premises; or

(b) if the rent of the premises exceeds the fair rent thereof by reason of any increase of rent obtained under section twelve A, the fair rent of the premises together with that increase,

by more than the amount by which the apportioned amount of the rates for any year (including the year which commenced on the first day of July, 1952) exceeds the apportioned amount of the rates for the base year.

(4) A lessor who makes or causes to be made a demand under this section shall send or cause to be sent by pre-paid post to the Controller notice of the demand in accordance with the form in the fourth schedule to reach the Controller within seven days after the service of the demand, and if the lessor fails to comply with this subsection the demand shall be void.

(5) Where, after a demand has been made under this section, the apportioned amount of any rates payable for any year in respect of the premises to which the demand relates is less than the apportioned amount of those rates for the year in which the demand was made, the Controller may, of his own motion or on the application of the lessee, order that the

rent of the premises be reduced by a sum equal to the difference between those two apportioned amounts, and thereupon, notwithstanding any covenant, term, or condition in the lease or any law or rule of law to the contrary, any sum by which the rent, but for the order, would exceed the rent as so ordered to be reduced shall, while the order continues in force, be irrecoverable by the lessor, and shall be deemed not to be part of the rent payable under the lease.

(6) An order under subsection (5) of this section shall take effect according to its tenor and shall continue in force until the date on which it is revoked by the Controller, or until the date on which the fair rent of the premises is next determined, whichever is the earlier date.

(7) Where the amount of any rates payable by a lessor who has made a demand under this section is decreased, the lessor shall, within fourteen days after receipt by him of the demand for payment of the rates for the then current year, serve on the lessee a notice in writing in accordance with the form in the fifth schedule and deliver or forward by pre-paid post to the Controller, so as to reach him within three days after the service thereof on the lessee, a copy of that notice.

(8) This section shall have effect in respect of any prescribed premises whether the premises were let on the prescribed date or not.

(9) Notwithstanding the foregoing provisions of this section, where on or after the first day of July, 1952, but before the commencement of the *Landlord and Tenant Act (No. 3) 1952*, the fair rent of any prescribed premises had been determined, no increase of rent shall be obtainable under this section in respect of any increase occurring during the year which commenced on the first day of July, 1952, in the amount of any rates payable in respect of those premises except with the prior approval in writing of the Controller.

(10) In this section—

- ‘apportioned amount’, used in relation to any rates, means the amount ascertained by dividing the amount of rates payable in any year by the number of rent periods under the lease in that year;
- ‘base year’ means the period which commenced on the first day of July, 1951, and ended on the thirtieth day of June, 1952;
- ‘year’ means the period commencing on the first day of July in any year and ending on the last day of June in the following year.”.

5 Section eighteen of the Principal Act is amended—

- (a) by omitting from sub-paragraph (i) of paragraph (a) of subsection (2) the word “twenty” and substituting therefor the word “forty”; and

Matters
to be
considered.

(b) by omitting from sub-paragraph (ii) of that paragraph the word "thirty-five" and substituting therefor the word "fifty".

Contracting
out
prohibited.

6 Section seventy-eight of the Principal Act is amended by omitting therefrom the word "No" and substituting therefor the words "Except as provided by section six A, no".

Expiry
of Act.

7 Section eighty-eight of the Principal Act is amended by omitting therefrom the numerals "1952" and substituting therefor the numerals "1953".

Schedules.

8 The Principal Act is amended by adding at the end thereof the following schedules:—

" THE SECOND SCHEDULE.

(Section 6A.)

Landlord and Tenant Act 1949.

TAKE NOTICE that I [*lessor's name in full*] of [*postal address and occupation*], on [*date of lease*] granted [*lessee's name, postal address and occupation*] a lease under seal of [*demised premises*] for a term of years commencing on at a rent of payable [*here state rent period*] AND that we therein agreed that the Landlord and Tenant Act 1949 should not apply in respect thereof.

Dated at this day of , 19 .

[*Signature of lessor or his agent expressed to be acting on his behalf.*]

To the Rent Controller.

" THE THIRD SCHEDULE.

(Section 12A.)

Landlord and Tenant Act 1949.

TAKE NOTICE that I [*lessor's name in full*] of [*postal address and occupation*], on the day of , 19 , served [*or caused to be served*] on [*lessee's name, postal address, and occupation*], my tenant in [*demised premises*] a demand for an increase of rent of [*amount of increase*] commencing on the day of 19 . The rent of these premises was on the 31st day of August, 1939, [*amount*] payable [*here state rent period*] and was on the day of the service of this demand [*amount*] payable [*here state rent period*].

Dated at this day of , 19 .

[*Signature of lessor or his agent expressed to be acting on his behalf.*]

To the Rent Controller.

" THE FOURTH SCHEDULE.

(Section 12B.)

Landlord and Tenant Act 1949.

TAKE NOTICE that I [*lessor's name in full*] of [*postal address and occupation*] on the day of , 19 , served [*or caused to be served*] on [*lessee's name, postal address, and occupation*] my tenant in [*demised premises*] a demand for an increase of rent commencing on the day of , 19 , under section 12B of the Landlord and Tenant Act 1949. The rent on the day of

service of the demand was [amount] payable [here state rent period] and the rent as increased by the demand is [amount] payable [here state rent period].

Dated at _____ this _____ day of _____, 19 _____
 [Signature of lessor or his agent
 expressed to be acting on his
 behalf.]

To the Rent Controller.

“ THE FIFTH SCHEDULE.

(Section 12B.)

Landlord and Tenant Act 1949.

TAKE NOTICE that I [lessor's name in full] of [postal address and occupation], being the lessor of [demised premises] to you, have had the rates thereon reduced and that you are entitled from and after the _____ day of _____, 19 _____, to reduce the rent payments by _____ each rent period.

Dated at _____ this _____ day of _____, 19 _____
 [Signature of lessor or his agent
 expressed to be acting on his
 behalf.]

To [lessee's name]
 [Postal address of lessee].”.

**CROWN LANDS (MURRAY STREET
 PROPERTY) DISPOSAL.**

No. 95 of 1952.

AN ACT to authorize the Commissioner of Crown Lands to sell by public auction certain land of the Crown situated in the city of Hobart.

[19 December, 1952.]

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:—

1 This Act may be cited as the *Crown Lands (Murray Street Property) Disposal Act 1952.* Short title.

2—(1) The Commissioner of Crown Lands may sell by public auction, in such manner and subject to such conditions (as to price and otherwise) as he may determine, the piece of land described in the schedule (in this Act referred to as “the said land”). Power of Commissioner to sell certain land by public auction.