

LANDLORD AND TENANT (AMENDMENT) BILL.

*Schedule of Amendments referred to in Legislative Council's Message of
5th August, 1948.*

No. 1.—Page 4, clause 7, lines 7 to 11. After “that” on line 7 omit all words down to and including “months” on line 11 insert **“such premises are not ordinarily regularly and primarily leased for holiday purposes only”**.

No. 2.—Pages 5 and 6, clause 8. Omit all words on line 31, page 5, down to and including the word “months”, line 15, page 6 insert **“are ordinarily regularly and primarily leased for holiday purposes only”**.

No. 3.—Page 37, clause 62. At end of line 20 insert—

“or

(p) that the lessee has parted with the possession of the premises being a dwelling-house without the consent or approval of the lessor.”

No. 4.—Page 37, clause 62, line 29. Omit “(n) and (o)” insert **“(n), (o) and (p)”**.

No. 5.—Page 38, clause 62. After line 13 insert—

“(8) Notice to quit on the ground specified in paragraph (p) of subsection five of this section shall not be given—

(a) where the lessee parted with the possession of the premises before the twenty-first day of July, one thousand nine hundred and forty-eight;

(b) where the lease is for a fixed term—unless that term has expired;

(c) in the case of a periodic lease—unless the period which was current at the date on which the parting with possession took place has expired; or

(d) where the lease contains any covenant against assigning, transferring or sub-letting by the lessee.”

No. 6.—Page 39, clause 65, line 36. Omit “two years” insert **“six months”**.

No. 7.—Page 40, clause 65, lines 1 to 3. After “purchase” on line 1 omit all words to end of line 3.

No. 8.—Page 40, clause 66, line 13. After “not” insert **“Except by leave of court.”**

No. 9.—Page 40, clause 66, line 14. After “specified” insert **“or upon any matter particulars of which have not been given.”**

No. 10.—Page 42, clause 70, lines 1 to 4 inclusive. Omit all words on these lines, insert **“that suitable accommodation provided by the lessor in lieu of the prescribed premises, is immediately available for the occupation of the person occupying the prescribed premises.”**

No. 11.—Page 42, clause 70, line 12. After “meaning” insert **“of Regulation thirty”**.

No. 12.—Page 42, clause 70, line 19. At end of line *insert*—

“or

(c) the court is satisfied that the lessee has sub-let or has parted with the possession of the dwelling-house, and that he was not, at the date of service of the notice to quit, a bona fide occupant of the dwelling-house or any part thereof.”

No. 13.—Page 42, clause 70. After line 24 *insert* **“Provided further that this subsection shall not apply in the case of proceedings for the recovery of possession of prescribed premises, being a dwelling-house, where the proceedings are taken on any of the grounds specified in paragraph (g) or paragraph (i) of subsection five of section sixty-two of this Act and the lessor was the owner of the dwelling-house on the twenty-first day of July one thousand nine hundred and forty-eight, or has since that date become the owner thereof pursuant to a contract of purchase entered into on or before that date.”**

No. 14.—Page 45, clause 77, lines 29 and 30. Omit “three years” *insert* **“twelve months”**.

No. 15.—Page 46, clause 77, line 26. Omit (j) *insert* **“(k)”**.

No. 16.—Page 57. After clause 98, *insert* new clause 99—

“99. (1) This Act with the exception of section two shall expire on the thirty-first day of December, one thousand nine hundred and forty-nine.

“(2) The expiry of this Act shall not affect the previous operation thereof or the validity of any action taken thereunder or any penalty incurred in respect of any contravention of or failure to comply with this Act or any proceeding or remedy in respect of any such penalty or punishment.”

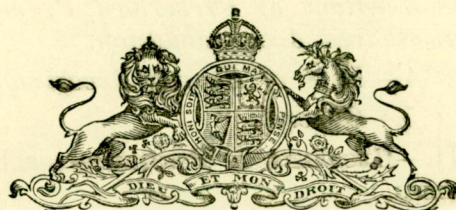
This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

H. ROBBINS,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 29 July, 1948.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

W. K. CHARLTON,
Clerk of the Parliaments.
Legislative Council Chamber,
Sydney, 5th August, 1948.

New South Wales.



ANNO DUODECIMO

GEORGII VI REGIS.

Act No. , 1948.

An Act relating to the control of rents of certain premises and the recovery of possession of certain premises; to repeal the Fair Rents Act, 1939; to amend the Landlord and Tenant Act of 1899, and certain other Acts; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Landlord and Tenant (Amendment) Act, 1948."

Short title
and com-
mencement.

81467

266—A

(2)

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

Landlord and Tenant (Amendment).

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Fair Rents Act, 1939, is hereby repealed.

Repeal of
Act No. 37,
1939.
Division
into Parts.

5 3. This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—FAIR RENTS—

DIVISION 1.—*Administration.*

DIVISION 2.—*Rent of Prescribed Premises.*

10 DIVISION 3.—*Rent of Prescribed Premises other than Shared Accommodation.*

DIVISION 4.—*Rent of Shared Accommodation.*

DIVISION 5.—*General.*

15 PART III.—RECOVERY OF POSSESSION OF PRESCRIBED PREMISES.

PART IV.—MISCELLANEOUS.

4. (1) All determinations of fair rents made before the commencement of this Act under the Commonwealth Regulations and having force or effect in this State immediately before such commencement shall be deemed to have been made under this Act and, subject to this Act, shall continue to have force and effect accordingly. Savings.

(2) All applications to, and other proceedings before, the Commonwealth Rent Controller under the Commonwealth Regulations which are pending immediately before the commencement of this Act may be continued before, and may be determined by, the Controller under this Act, and any pending application shall be deemed to be an application to the Controller under this Act, and the provisions of this Act shall apply to those applications and proceedings as if they were applications to, or proceedings before, the Controller under this Act.

(3) All proceedings before a Fair Rents Board in this State under the Commonwealth Regulations which are pending immediately before the commencement of this

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this Act, may be continued before and determined by a Fair Rents Board under this Act, and the provisions of this Act shall apply to those proceedings as if they were proceedings before a Fair Rents Board under this Act.

- 5 (4) All proceedings under Part III of the Commonwealth Regulations which are pending immediately before the commencement of this Act may be continued and determined under Part III of this Act as if they had been commenced thereunder.
- 10 (5) The generality of this section shall not be affected by any saving in any other section of this Act nor shall this section limit any saving in the Interpretation Act of 1897, as amended by subsequent Acts.
- 15 **5.** This Act shall not bind—
 (a) the Crown in right of the Commonwealth or of the State; or
 (b) The Housing Commission of New South Wales.
- 20 **6.** (1) The Governor may, by order published in the Gazette, declare that the application of this Act shall extend to premises, or the premises included in any class of premises, specified in the order, and thereupon the application of this Act shall, notwithstanding anything contained in paragraph (b) of subsection one of section
 25 twelve, section seventeen or section seventy-eight of this Act, extend to those premises (including goods leased with those premises) or to the premises included in that class of premises (including goods leased with those premises).
- 30 (2) The Governor may, by order published in the Gazette, declare that any premises, or the premises included in any class of premises, shall be excluded from the operation of this Act or of such of the provisions of this Act as are specified in the order, and thereupon those
 35 premises, or premises of that class, shall be excluded accordingly.
- (3) Any declaration made before the commencement of this Act under sub-regulation four or sub-regulation five of Regulation seven of the Commonwealth
 40 Regulations and having force or effect in this State immediately

Crown not bound.

Declarations as to application of Act.

Landlord and Tenant (Amendment).

immediately before such commencement shall continue to have force and effect in all respects as if this section had been in force at the time when such declaration was made, and the declaration had been made thereunder by
5 the Governor.

7. (1) Where any prescribed premises are not holiday ^{Holiday} premises by reason only of the fact that ~~they have at~~ ^{some time subsequent to the first day of March, one} ~~some time subsequent to the first day of March, one~~ ^{thousand nine hundred and forty-five, been leased to or} ~~occupied by a lessee for a continuous period exceeding~~ ^{three months, such premises are not ordinarily regularly} ~~three months, such premises are not ordinarily regularly~~ ^{and primarily leased for holiday purposes only, the} ~~and primarily leased for holiday purposes only, the~~ ^{owner or lessor of those prescribed premises may make} ~~owner or lessor of those prescribed premises may make~~ ^{application in writing to the Controller to exclude the} ~~application in writing to the Controller to exclude the~~ ^{premises from the operation of this Act.} ~~premises from the operation of this Act.~~
10
15

(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
20 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, for such period as is so specified and the premises shall, so long as the certificate remains in force, but subject to any variation
25 thereof, be excluded accordingly.

(4) Any certificate issued before the commencement of this Act under sub-regulation three of Regulation 7A of the Commonwealth Regulations and having force or effect in this State immediately before such commencement shall continue to have force and effect in all respects
30 as if this section had been in force 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
35 any certificate issued under subsection three of this section or continued in force under subsection four of this section.

8. (1) In this Act, unless the contrary intention ^{Definitions.} appears—

40 “appeal” means appeal to a Fair Rents Board from a determination of the Controller;

“application”

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“application” means an application to the Controller under this Act;

5 “authorized officer” means any person appointed by the Controller in writing to be an authorized officer for the purpose of this Act;

10 “Commonwealth Regulations” means the Regulations having the title of the National Security (Landlord and Tenant) Regulations as in force immediately before the commencement of this Act under the Defence (Transitional Provisions) Act, 1946-1947, of the Parliament of the Commonwealth;

15 “determination” means determination of the fair rent of any premises, or of any premises together with goods leased therewith, made or continued in force under this Act;

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

20 (a) the premises of any lodging-house or boarding house;

(b) any part of premises which is leased separately for the purposes of residence,

25 but does not include premises licensed for the sale of spirituous or fermented liquors;

“Fair Rents Board” or “Board” means a Fair Rents Board constituted or deemed to have been constituted under this Act;

30 “holiday premises” means any premises which—

(a) during the period commencing on the first day of March, one thousand nine hundred and forty-five, and ending on the sixteenth day of December, one thousand nine hundred and forty-six, have ordinarily been leased for holiday purposes only;

(b)

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- (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
- 5 (c) were not, on the sixteenth day of December, one thousand nine hundred and forty-six, leased for purposes other than holiday purposes,
- 10 but does not include any such premises which at any time after that date—
- (d) are or were leased for purposes other than holiday purposes; or
- (e) are or were leased to or occupied by any lessee for a continuous period
- 15 exceeding three months;
- are ordinarily regularly and primarily leased for holiday purposes only;
- 20 “lease” includes every contract for the letting of any prescribed premises, whether the contract is express or implied or is made orally, in writing or by deed, and includes a contract for the letting of prescribed premises together with goods, and also includes any tenancy the existence of which is presumed by operation of
- 25 section 22A of the Landlord and Tenant Act of 1899 as amended by subsequent Acts, 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;
- 30 “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;
- 35 (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 a person who was the lessee of the premises

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- premises under the mortgagor immediately prior to the mortgagee entering into possession; and
- 5 (d) the persons who, by operation of section 22A of the Landlord and Tenant Act of 1899 as amended by subsequent Acts are presumed to be the landlord and tenant respectively;
- “Part” means Part of this Act;
- 10 “prescribed” means prescribed by this Act or the regulations;
- “prescribed premises” means any premises, other than—
- 15 (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
- 20 (c) any premises, or the premises included in any class of premises, declared by the Governor, by order published in the Gazette, to be excluded from the operation of this Act,
- 25 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 by any local authority or other local governing body, including any municipal, shire or county council and water or sewerage authority;
- 30 “regulations” means regulations made under this Act;
- “rent” means the actual rent payable under a lease, and includes—
- 35 (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

Landlord and Tenant (Amendment).

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 excess water rates,

5

and where, in any lease—

- (c) 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

10

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

15

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

20

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

25

“the Controller” means the Rent Controller appointed under this Act, and includes any person exercising any powers or functions delegated to him by the Controller;

30

“the prescribed date,” in relation to any prescribed premises, means the thirty-first day of August, one thousand nine hundred and thirty-nine.

- (2) 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.

35

(3)

Landlord and Tenant (Amendment).

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

(4) Any declarations made before the commencement of this Act under paragraph (b) of the definition of "prescribed premises" in sub-regulation one of
10 Regulation eight of the Commonwealth Regulations and in force in this State immediately before such commencement shall continue in force in all respects as if they had been made by the Governor under paragraph (c) of the definition of "prescribed premises" in subsection one of
15 this section.

PART II.—FAIR RENTS.

Division 1.—Administration.

9. (1) The Minister may, for the purposes of this Act, constitute Fair Rents Boards at such places as he
20 thinks fit.

Constitution
and aboli-
tion of Fair
Rents
Boards.

All Fair Rents Boards constituted in this State before the commencement of this Act under Regulation nine of the Commonwealth Regulations and in existence immediately before such commencement shall be deemed
25 to have been constituted under this subsection.

(2)

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(2) The Minister may abolish any Fair Rents Board.

(3) 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.

10. (1) The Governor may by regulations regulate the procedure of Fair Rents Boards.

Procedure
of Fair
Rents
Boards.

(2) All rules made by the Governor before the commencement of this Act under Regulation ten of the Commonwealth Regulations, and in force in this State immediately before such commencement shall continue in force in all respects as if they were regulations made by the Governor under subsection one of this section.

11. (1) For the purposes of this Act, there shall be a Rent Controller, who shall be appointed under and in accordance with the provisions of the Public Service Act, 1902, as amended by subsequent Acts:

Rent
Controller.

Provided that pending the appointment of the first Rent Controller under this section, a person may be appointed under and in accordance with the provisions of the Public Service Act, 1902, as amended by subsequent Acts, to act temporarily as Rent Controller, for a period specified in the instrument of his appointment, and a person so appointed shall have and may exercise and discharge during the term of his appointment all the powers, authorities, duties and functions conferred and imposed on the Rent Controller by this Act and shall, during such term, be deemed to be the Rent Controller for all purposes of this Act.

(2) The Controller may, by writing under his hand, delegate all or any of his powers and functions under this Act or under any order made thereunder (except this power of delegation) so that the delegated powers and functions may be exercised by the delegate.

(3)

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(3) Any delegation by the Controller under this section shall be revocable in writing at will and no such delegation shall prevent the exercise of any power or function by the Controller.

5 **12.** (1) The Controller and each Fair Rents Board shall have and may exercise such powers and functions as are conferred upon him or it respectively by this Act, and may exercise those powers and functions—

Powers of
Controller
and Fair
Rents
Boards.

10 (a) in relation to all prescribed premises (including goods leased therewith); or

15 (b) where the Governor, by order published in the Gazette, declares that it is desirable that the powers and functions of the Controller and of Boards shall be exercisable with respect to certain prescribed premises only, or with respect to a limited class of prescribed premises only—
in relation to those prescribed premises (including goods leased therewith) only or to that limited class of prescribed premises (including goods leased therewith) only.

20 (2) The powers and functions of a Fair Rents Board may be exercised by any Stipendiary Magistrate.

13. There shall be a clerk of each Fair Rents Board. The clerk shall be appointed under and in accordance with
25 the provisions of the Public Service Act, 1902, as amended by subsequent Acts.

Clerks of
Fair Rents
Boards.

14. Such officers and employees as may be necessary for the administration of this Act may be appointed under and in accordance with the provisions of the
30 Public Service Act, 1902, as amended by subsequent Acts.

Officers and
employees.

DIVISION 2.—Rent of Prescribed Premises.

15. (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
35 premises (or of prescribed premises together with goods) shall not, in respect of any period after the commencement of this Act and notwithstanding any term or covenant in any lease in force at any time after the commencement of this Act, exceed the rent payable in
respect

Rent of
prescribed
premises.

Landlord and Tenant (Amendment).

respect of the prescribed premises at the prescribed date (including the rent of any goods then leased therewith and the charge for any service then provided in connection with the lease), or where that rent has been
5 increased or decreased by a determination made before the commencement of this Act under the Commonwealth Regulations and in force immediately before such commencement the rent as so increased or decreased.

(2) The rent payable by the lessee of any pre-
10 scribed premises which were not in existence, or were not leased, on the prescribed date but were leased on the first day of March, one thousand nine hundred and forty-five, or by the lessee of any such premises together with goods leased therewith, shall not, in respect of any period
15 after the commencement of this Act, and notwithstanding any term or covenant in any lease in force at any time after the commencement of this Act, exceed the rent payable in respect of the prescribed premises at the first day of March, one thousand nine hundred and forty-five
20 (including the rent of any goods then leased therewith and the charge for any service then provided in connection with the lease), or where that rent has been increased or decreased by a determination made before the commencement of this Act under the Commonwealth
25 Regulations and in force immediately before such commencement the rent as so increased or decreased.

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

(4) Until any rent fixed by subsection one or
30 subsection two of this section is increased or decreased by a determination, 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, additions,
35 repairs 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 by the lessor or in the goods leased with the premises.

Landlord and Tenant (Amendment).

16. (1) Where the rent of any prescribed premises (or of prescribed premises together with goods) is fixed by subsection one or subsection two of section fifteen of this Act, the lessee may, if the lessor of the premises was the lessor on the prescribed date, or on the first day of March, one thousand nine hundred and forty-five, as the case may be, 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.

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

17. Where the powers conferred by this Act on the Controlrier or a Fair Rents Board may be exercised in relation to certain prescribed premises (including goods leased therewith) only, or to a limited class of prescribed premises (including goods leased therewith) only, the provisions of this Division shall apply to those prescribed premises (including goods leased therewith) only, or to that limited class of prescribed premises (including goods leased therewith) only.

Application of Division.

DIVISION 3.—Rent of Prescribed Premises other than Shared Accommodation.

18. The lessor, or a lessee 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, of any prescribed premises other than shared accommodation (not being prescribed premises in relation to which the Controller is not authorized to exercise the powers conferred by this Part), or the owner of any such premises which are vacant, may apply in writing to

Application to have fair rent fixed.

Landlord and Tenant (Amendment).

to the Controller to have the fair rent of the prescribed premises determined by the Controller.

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

(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 two 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 other than shared accommodation in respect of which an application is made are the subject of a mortgage, 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 mortgagee, who shall be entitled to be a party to the application.

20. (1) Where an application has been made for the determination of the fair rent of any prescribed premises other than shared accommodation, 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 the prescribed premises. Determination of application.

(2)

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(2) Subject to subsections three and four of this section, the determination 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
 5 six per centum 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
 10 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 twenty-one of this Act, that the rent as at the prescribed date is insufficient, the determination may increase the fair rent (in
 15 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) The determination may increase the fair rent if the Controller is satisfied that, by reason of an error or omission, an injustice has been occasioned by the last determination.

21. Subject to section twenty of this Act, in determining the fair rent the Controller shall have regard to—
 25

Matters to be considered.

- (a) the capital value of the premises at 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;
- 30 (b) the annual rates and insurance premiums paid in respect of the premises;
- (c) the estimated annual cost of repairs, maintenance and renewals of the premises and fixtures thereon;
- 35 (d) 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;
- (e) the rents of comparable premises in the locality
 40 of the premises the subject of the application;
- (f)

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- (f) the rate of interest charged upon overdrafts by the Commonwealth Bank of Australia;
- (g) any services provided by the lessor or lessee in connection with the lease;
- 5 (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
- 10 (j) any hardship which would be caused to the lessor or lessee or any other person by the making of an order increasing or reducing the rent of the premises including (but without limiting the generality of the word "hardship") any loss
- 15 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 agree-
- 20 ment or contract of sale in respect of any goods leased with the premises.

22. (1) Every determination of the fair rent of prescribed premises other than shared accommodation made by the Controller shall come into force on a date fixed
 25 by the Controller, but the date so fixed shall not be earlier than the date of the application.

Date of operation of determination.

(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
 30 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 nineteen or section twenty-four of this Act.

23. Where any fair rent has been determined by the
 35 Controller it shall, as from the date fixed under section twenty-two of this Act and 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 fixed.

Effect of determination.

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24. (1) The Controller may, of his own motion, after inquiry, determine the fair rent of any prescribed premises other than shared accommodation.

Controller may determine fair rent of his own motion.

(2) The Controller shall give to the lessor and lessee of the prescribed premises and to the other persons referred to in section nineteen of this Act notice of his intention to determine the fair rent of the premises, and the notice so given to the lessor shall, for the purposes of this Division, be deemed to be an application.

(3) In determining the fair rent of prescribed premises under this section, the Controller shall have the same powers as he has in connection with an application, and any determination made by the Controller shall have the same effect for all purposes as a determination made upon an application.

25. (1) This Division shall extend in relation to prescribed premises together with goods leased therewith, and any reference in this Division to prescribed premises shall, so far as applicable, include a reference to prescribed premises together with goods leased therewith.

Lease of prescribed premises together with goods.

(2) In the case of prescribed premises which are leased together with goods, the Controller may fix the fair rent of the prescribed premises irrespective of the goods or may, in his discretion, fix the fair rent of the prescribed premises together with goods leased therewith.

26. 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.

Inspection of prescribed premises.

DIVISION 4.—Rent of Shared Accommodation.

27. (1) The lessor, or the lessee 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, under a lease of shared accommodation (not being shared accommodation in relation to

Determination of rent of shared accommodation.

Landlord and Tenant (Amendment).

which the Controller is not authorised to exercise the powers conferred by this Part), or the owner of any such shared accommodation which is vacant, may make application in writing to the Controller to determine the
5 fair rent thereof.

(2) The Controller shall thereupon cause the shared accommodation to be inspected for the purpose of determining the fair rent thereof.

(3) The Controller may of his own motion, from
10 time to time, cause any shared accommodation to be inspected for the purpose of determining the fair rent thereof.

(4) At least seven days prior to determining the fair rent of any shared accommodation, the Controller
15 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.

(5) After an inspection of any shared accommodation has been made under subsection two or subsection three of this section, after making such inquiries and obtaining such reports (if any) as the Controller considers necessary, and after considering any representations
20 made by the lessor (or intending lessor), and any representations made by the lessee (if any), of the shared accommodation, the Controller may determine the fair
25 rent of the shared accommodation.

(6) Every such determination shall come into
30 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 or, in any case in which the Controller causes any shared accommodation to be inspected pursuant to sub-
35 section three of this section, not earlier than the date of such inspection.

(7) In determining the fair rent of any shared accommodation the Controller shall have regard to the matters specified in section twenty-one of this Act.

(8).

Landlord and Tenant (Amendment).

(8) 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.

- 5 (9) Where any fair rent has been determined in pursuance of this section, it 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
10 together with the goods leased therewith, in respect of which it is fixed.

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

Variation in arrangement of shared accommodation to be notified.

- 15 (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; or
(c) the shared accommodation is leased—

- 20 (i) without the use of any convenience or service which was available to the tenant at the time when the determination was made; or
25 (ii) with the use of any convenience or service which was not so available,

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.

- 30 29. (1) This Division shall extend in relation to shared accommodation together with goods leased therewith, and any reference in this Division to shared accommodation shall, so far as applicable, include a reference to shared accommodation together with goods
35 leased therewith.

Rent of shared accommodation and goods leased therewith.

Landlord and Tenant (Amendment).

(2) In the case of shared accommodation which is leased together with goods, the Controller may determine the fair rent of the shared accommodation irrespective of the goods or may, in his discretion, determine
5 the fair rent of the shared accommodation together with goods leased therewith.

DIVISION 5.—General.

30. (1) The lessor or lessee of any prescribed premises, including shared accommodation, in respect of
10 which a determination has been made under this Act may, within twenty-one days after the giving of the notice referred to in subsection two of section twenty-two or in subsection eight of section twenty-seven of this Act, as the case may be, by a notice in writing lodged with
15 the clerk of the Fair Rents Board nearest to the premises (or of any other Fair Rents Board if that other Board is satisfied that hardship will not be occasioned thereby to any party to the appeal), appeal to that Board from the determination of the Controller.

Appeal from
determina-
tion.

20 (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 pur-
25 suance of section nineteen or section twenty-four of this Act, as the case may be.

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

30 31. (1) The Board shall hear the appeal and may, having regard to the matters specified in section twenty-one of this Act, 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,
35 is the correct fair rent of the prescribed premises.

Procedure
on appeal.

(2)

Landlord and Tenant (Amendment).

(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
5 thinks fit.

(3) The determination of the Board shall have effect from and including the date fixed by the Controller under subsection one of section twenty-two or under subsection six of section twenty-seven of this Act, as
10 the case may be.

(4) Where any fair rent 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
15 respect of which it is determined.

(5) The Board shall furnish a copy of its determination to the Controller.

32. (1) A determination may be varied—

(a) on application made in the same manner as an application to the Controller for a determination;
20 or

(b) by the Controller of his own motion,

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

(2) During such period as is specified in the determination, or, if no period is so specified, during the period commencing with the date of the determination and ending twelve months after that date, an application
30 shall not be made to vary a determination, or to determine the fair rent of prescribed premises, or of prescribed premises together with goods leased therewith, in respect of which a determination has been made, nor shall the Controller vary a determination of his own
35 motion, except on the ground that—

(a) by an error or omission an injustice has been occasioned by the determination;

(b)

Variation of
determina-
tion.

Landlord and Tenant (Amendment).

- (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;
- 5 (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 by the lessor, or of premises of which the premises form part, or on an incorrect calculation, and
- 10 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;
- 15 (e) substantial alterations or additions have been made to the premises, to the goods leased therewith, or to the services supplied by the lessor, since the determination was made; or
- 20 (f) the value of the premises, of the goods leased therewith or of the services supplied by the lessor has materially decreased or increased since the determination was made.

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

33. (1) A determination shall apply to any lease of
 30 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,
 35 additions, repairs 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 by the lessor or in the goods leased with the premises.

Effect of
determina-
tion.

(2)

Landlord and Tenant (Amendment).

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

34. (1) Where the fair rent of any prescribed premises or shared accommodation has been determined, the lessor shall give notice in writing to the Controller of—

Lessor to notify change in services supplied or in nature of occupancy.

- (a) the nature and extent of any services, not supplied at the date of the determination, which he commences to supply to any lessee; and
- (b) the fact that the prescribed premises cease or the shared accommodation ceases to be occupied by a lessee and become or becomes occupied by a lodger.

(2) A notice under this section shall be given within seven days after the matter required to be notified arises.

35. (1) A person shall not—

Premises not to be let at rent exceeding fair rent.

- (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.

Landlord and Tenant (Amendment).

- (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
5 and the use of goods leased therewith,
exceeding the fair rent thereof, shall, to the extent of the
excess, be recoverable in an action for debt in any court
of competent jurisdiction by the lessee from the lessor
to whom it was paid.
- 10 (4) In any prosecution for an offence arising
under this section, the averment of the prosecutor—
(a) that the prescribed premises were let to a
specified person on the prescribed date; and
(b) as to the rent payable in respect of the
15 prescribed premises at the prescribed date,
shall be prima facie evidence of the matter or matters
averred.
- (5) Any evidence given by a witness in support
or rebuttal of a matter so averred shall be considered on
20 its merits and the credibility and probative value of the
evidence shall not be increased or diminished by reason
of this section.
- (6) An averment shall not be made under this
section unless the Crown Solicitor, or an Assistant Crown
25 Solicitor is satisfied that the averment is reasonably
necessary for the due administration of justice and will
not impose hardship upon, or occasion injustice to, the
defendant and certifies in writing accordingly on the
paper containing the averment.
- 30 (7) An averment shall not be evidence for the
purposes of this section unless a copy of the paper
containing the averment has been served on the defend-
ant in the same manner as the process requiring his
attendance before the court.
- 35 (8) Service of the copy of the paper containing
the averment may be proved in the same manner as
service of the process requiring the defendant's attend-
ance before the court may be proved.
- (9) Upon the hearing of an information for an
40 offence arising under this section, the court may, if the
amendments

Landlord and Tenant (Amendment).

amendments can be made without hardship or injustice to the defendant, allow such amendments to be made in the writing containing an averment as appear to it to be desirable or to be necessary to enable the real question
5 in the dispute to be determined.

(10) If in any such case the court considers the defendant has been misled by the form of the averment, it may refuse to allow the amendments, or may, as a condition of allowing the amendments, adjourn the hear-
10 ing of the case for such period as it thinks fit and may make such order as to the costs of the adjournment as it thinks proper.

36. (1) A person shall not, whether as principal or agent, or in any other capacity—

Certain
payments
prohibited.

15 (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 good-
will, in consideration of, or in association with—

20 (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;

25 (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,

30 any prescribed premises (including any dwelling house), 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—

35 (i) for obtaining or making available a key of any prescribed premises (including any dwelling house); or

40 (ii) for information as to a tenancy, or as to the possibility or likelihood of obtaining a tenancy, of any prescribed premises

Landlord and Tenant (Amendment).

premises (including any dwelling-house); or

- 5 (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) 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 in an action for debt in any
10 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.

15 (3) Where a person has, in contravention of this section, been required to purchase or exchange any goods or goodwill, he may recover in any court of competent jurisdiction, from the person guilty of the contravention, so much of any amount paid, in accordance with the
20 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.

25 **37.** (1) A person shall not 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,
30 transfer, assignment, renewal or extension of a lease, or consent to a sub-lease, of any prescribed premises (including any dwelling-house).

Certain representations, etc., prohibited.

(2) In any prosecution for a contravention of this section, it shall be a defence if the defendant proves
35 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.

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38. (1) A person shall not refuse, or procure any person to refuse, to let a dwelling-house to any person on the ground that it is intended that a child shall live in the dwelling-house.

Refusal to let dwelling-house to applicant with family prohibited.

5 (2) In any prosecution for an offence arising under subsection one 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
10 was not the ground alleged in the charge.

(3) A person shall not—

(a) instruct any other person not to let; or

(b) state his intention, whether by advertisement or otherwise, not to let,

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

(4) A person shall not, for the purpose of determining whether or not he will let a dwelling-house, inquire from any prospective tenant of the dwelling-
20 house whether—

(a) the prospective tenant has any children; or

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

25 (5) In any prosecution for an offence arising under subsection four 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
30 inquiry was not the purpose alleged in the charge.

39. A person shall not let a dwelling-house which to his knowledge is, at the date of the letting, not in fair and tenantable repair.

Dwelling-house not to be let unless in good repair.

40. Notwithstanding anything contained in this Act
35 or in any declaration issued in pursuance of this Act, a dwelling-house shall, for the purposes of sections thirty-six, thirty-seven, thirty-eight and thirty-nine of this Act, be deemed to include holiday premises.

Premises leased for holiday purposes only.

41.

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41. Every determination of a Fair Rents Board or of the Controller shall, except as provided by this Part, be final and without appeal, and no writ of prohibition or certiorari shall lie in respect thereof.

No appeal
from order
of Board.

42. 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.

43. (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.

(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.

44. (1) The Controller, or the Stipendiary 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 books, documents or writings in his custody or control which he is required by the summons to produce.

Summoning
of witnesses
and produc-
tion of
documents.

(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.

45. (1) A person who has been served with a summons to attend the Controller or a Fair Rents Board shall not, 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.

(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

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that the documents, books or writings were not relevant to the subject-matter of the proceedings before the Controller or Board.

46. A person appearing as a witness before the
5 Controller or a Fair Rents Board shall not 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
10 Controller or Board.

Refusal to
be sworn or
give
evidence.

47. A witness before the Controller or a Fair Rents
Board shall not knowingly give false testimony in any
evidence given by him to the Controller or Board.

False
testimony.

48. A witness before the Controller or a Fair Rents
15 Board shall have the same protection and shall, in addi-
tion 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.

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

Protection
of reports
and proceed-
ings.

(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

25 (b) a fair and accurate report of any proceedings
before the Controller or a 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
30 the person defamed or by any other improper motive.

50. (1) A person shall not 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
35 contempt of a Board.

Contempt
of Board.

(2)

Landlord and Tenant (Amendment).

(2) The Stipendiary Magistrate constituting a Fair Rents Board shall, in relation to any contravention of subsection one 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.

51. 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 Justice of the Peace.

Protection
of Board.

52. The Controller shall, 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, fixed by the Board or by the Controller.

Information
as to fair
rent.

53. The Minister may, at any stage of any proceedings under this Part before a Fair Rents Board, intervene by counsel, solicitor or agent and may examine witnesses and address the Board.

Intervention
by Minister.

54. (1) Any person who is a party to proceedings under this Part or who may be affected by the result of any such proceedings, may appear in person or may be represented by counsel or a solicitor or by an agent authorised in writing in that behalf, who may examine witnesses and address the Board or Controller on that person's behalf.

Representa-
tion by
agent.

(2) No counsel, solicitor or agent representing a person in proceedings under this Part shall demand or take by way of fees for work done by him in relation to such proceedings any sum in excess of the sum prescribed by the regulations and applicable to him.

55. (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.

Records
of rent.

(2) The person having the custody of the record or of any previous like record, relating to a period not earlier than the prescribed date, in respect of the prescribed

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prescribed premises shall, when requested by any tenant 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 tenant or
5 authorised officer, as the case may be.

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

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

(5) A request under this section may be made
15 orally or in writing.

56. The person receiving any payment of rent of 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
20 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.

57. (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.

(2) Where any prescribed premises (or prescribed premises together with goods) were leased at the prescribed date, the lessor at the prescribed date shall, on demand in writing by the lessor at the time the demand is made, furnish to him, within twenty-eight days after receipt of the demand, a statutory declaration
30 as to the rent of the premises (or of the premises together with goods) at the prescribed date.
35

(3)

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(3) Where any prescribed premises were not in existence, or were not leased, on the prescribed date, but were leased on the first day of March, one thousand nine hundred and forty-five, the lessor at the first day
5 of March, one thousand nine hundred and forty-five, shall, on demand in writing by 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
10 with goods) at the first day of March, one thousand nine hundred and forty-five.

58. (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
15 premises was fixed by a determination (whether by the Controller or a Fair Rents Board), and specifying the amount thereof, shall be evidence of the matters certified to.

Certificate
as to fair
rent.

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

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

Service of
notices.

25 (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
30 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 Part to be given to, or served upon,
35 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)

Landlord and Tenant (Amendment).

(3) Where any notice or other document is required or permitted by this Part 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
5 a daily newspaper circulating in the district in which the prescribed premises concerned are situated.

60. (1) Any notice or other document required or permitted by this Part to be given to, or served upon, a
lessor under the lease of any prescribed premises shall
10 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.

(2) Any notice or other document required or permitted by this Part to be given to, or served upon, a
15 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
20 under any lease of any prescribed premises, it shall be a sufficient compliance with any provision of this Part 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
25 or lessees.

61. (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
30 be refunded to the person by whom the payment was made.

Courts may
order refund
of amounts
overpaid.

(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
35 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 sees fit, include

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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
5 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
10 any court having civil jurisdiction to the extent of that amount, and shall thereupon be enforceable in all respects as a final judgment of that court.

PART III.

RECOVERY OF POSSESSION OF PRESCRIBED PREMISES.

62. (1) Except as provided by this Part, the lessor of
15 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 ejectment of the lessee therefrom. Restriction
on eviction.

(2) A notice to quit given in contravention of
20 this section shall not operate so as to terminate the tenancy in respect of which the notice was 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
25 (or of any goods leased therewith) 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 sixty-three of this Act, and
30 that period of notice has expired.

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

35 (a) some person apparently over the age of sixteen years and apparently residing in or in occupation of the premises; or

(b).

Landlord and Tenant (Amendment).

- (b) the person by whom the rent of the premises is customarily paid.
- (5) The prescribed grounds shall be—
- 5 (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 twelve months—of not less than fourteen days; and
- 10 (ii) 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;
- 15 (c) that the lessee has failed to take reasonable care of the premises, or of any goods leased therein, or has committed waste;
- 20 (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;
- 25 (f) that the lessee has given notice in writing 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;
- 30 (g) that the premises—
- 35 (i) being a dwelling-house—are reasonably required by the lessor for occupation by himself or by some person who ordinarily

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- 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;
- 5
- (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);
- 10
- (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;
- 15
- (j) that the lessor is a person, body or authority carrying on a hospital, or a trustee for such a person, body or authority, and the use of the premises is reasonably required for the purposes of the hospital (including the accommodation of the staff of the hospital);
- 20
- (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;
- 25
- (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—
- 30
- 35
- 40

(i).

Landlord and Tenant (Amendment).

- 5 (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;
- 10 (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 being a dwelling-house by virtue of an assignment or transfer which the lessor has not consented to or approved;
- 15 (o) that the lessee has sub-let the premises being a dwelling-house or some part of the dwelling-house by a sub-lease which has not been consented to or approved by the lessor; or
- 20 (p) that the lessee has parted with the possession of the premises being a dwelling-house without the consent or approval of the lessor.
- (6) (a) In subsection five of this section, unless
- 25 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.
- (b) In paragraphs ~~(n)~~ and ~~(o)~~ (n), (o) and
- 30 (p) of subsection five of this section, “dwelling-house” does not include the premises of any lodging-house or boarding-house.
- (7) Notice to quit on a ground specified in paragraph (n) or paragraph (o) of subsection five of this
- 35 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

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March, one thousand nine hundred and forty-seven, or the sub-lease was granted before that date;

5 (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;
10 and

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

(8) Notice to quit on the ground specified in
15 paragraph (p) of subsection five of this section shall not
be given—

(a) where the lessee parted with the possession of
the premises before the twenty-first day of July,
one thousand nine hundred and forty-eight;

20 (b) where the lease is for a fixed term—unless that
term has expired;

(c) in the case of a periodic lease—unless the period
which was current at the date on which the
parting with possession took place has expired;
25 or

(d) where the lease contains any covenant against
assigning, transferring or sub-letting by the
lessee.

30 **63.** (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.

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

35 (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 paragraph (c), (d), (e) or (f) of
subsection

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- subsection five of section sixty-two of this Act and not on any other ground;
- (ii) a period exceeding thirty days if the notice is given on any other ground;
- 5 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
- 10 section, would be required.

- 64.** A lessor shall not, after the lessee has made an application for a determination, or after he has received from the Controller notice of his intention to determine the fair rent, except with the consent of the Controller,
- 15 give a notice to quit on any ground specified in paragraph (f), (g), (h), (i), (j), (k) or (l) of subsection five of section sixty-two of this Act until after the expiration of six months after the making of a determination on the application or in pursuance of the notice, but if a deter-
- 20 mination has not been made 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
- 25 period.

Notice to quit not to be given within six months after determination.

- A 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
- 30 made or given under the Commonwealth Regulations before the commencement of this Act.

- 65.** (1) A person who has, either before or after the commencement of this Act, become the lessor of prescribed premises being a dwelling-house or part of a
- 35 dwelling-house, by purchase thereof, shall not, within a period of ~~two years~~ **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 five of section sixty-two of this Act to any person who was a lessee of
- 40 the prescribed premises at the date of the agreement
- for

Notice to quit where dwelling-house sold.

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for the purchase ~~unless, after the date of such agreement,~~
~~he has given the lessee at least eighteen months notice~~
~~in writing of his intention to give such notice to quit.~~

(2) A lessor of prescribed premises, being a
5 dwelling-house or part thereof, shall not give a notice to
quit on the ground specified in paragraph (1) of subsec-
tion five of section sixty-two of this Act to any person
who was a lessee of the prescribed premises at the date
of the agreement referred to in that paragraph within
10 a period of six months after the date of the agreement.

66. A notice to quit shall specify the ground relied
upon and shall give the particulars thereof and, in the
proceedings, the lessor shall not **except by leave of court**
be entitled to rely upon any ground not so specified or
15 upon any matter particulars of which have not been given.

Notice to
specify
grounds.

67. A notice to quit given in accordance with the
provisions of section sixty-two of this Act shall, if the
tenancy in respect of which the notice was given has not
otherwise terminated, operate so as to terminate the
20 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 to
terminate
lease.

68. (1) Where a lessor has taken proceedings in any
court to recover possession of any prescribed premises
from the lessee and the court has (whether before or
after the commencement of this Act) refused to make an
order in favour of the lessor, the lessor shall not give
30 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.

Notice to
quit after
failure
of eviction
proceedings.

35 (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.

69. (1) For the purposes of section sixty-two of this
Act courts of petty sessions, and those courts only, shall
40 be courts of competent jurisdiction.

Competent
courts.

(2)

Landlord and Tenant (Amendment).

(2) The jurisdiction of a court of petty sessions under this section shall not be exercised except by a Stipendiary Magistrate.

(3) The provisions of sections twenty-six and 5 twenty-seven of the Landlord and Tenant Act of 1899, shall not apply in any case where an order for the recovery of possession of any prescribed premises has been made under this Part.

70. (1) On the hearing of any proceedings by a lessor 10 for an order for the recovery of possession of any prescribed premises, the court shall take into consideration, in addition to all other relevant matters—

Court to consider hardship.

- (a) any hardship which would be caused to the lessee or any other person by the making of the order;
- 15 (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
- 20 (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 five of section sixty-two of this Act—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,
- 25 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,

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

(2) Notwithstanding anything contained in this 35 section, an order for the recovery of possession of any prescribed premises, being a dwelling-house, from any person on any of the grounds specified in paragraphs (g), (i), (l) or (m) of subsection five of section sixty-two of this Act shall not be made unless the court is satisfied

that

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that the lessor had provided at the date of expiry of the notice to quit, and has immediately available for the occupation of the persons occupying such dwelling-house, reasonably suitable alternative accommodation: that
5 suitable accommodation provided by the lessor in lieu of the prescribed premises, is immediately available for the occupation of the person occupying the prescribed premises.

Provided that this subsection shall not apply in any
10 case where—

- (a) the lessor is a protected person within the meaning of **Regulation thirty** of the National Security (War Service Moratorium) Regulations and the lessee is not a protected person within
15 the meaning of those Regulations; or
- (b) the court is satisfied that the lessor is required by law to reconstruct or demolish the dwelling-house and possession thereof is sought by him for that purpose; or
- 20 (c) the court is satisfied that the lessee has sub-let or has parted with the possession of the dwelling-house, and that he was not, at the date of service of the notice to quit, a bona fide occupant of the dwelling-house or any part thereof.

25 Provided further that this subsection shall not apply in the case of proceedings for the recovery of possession of prescribed premises, being a dwelling-house, where the proceedings are taken on any of the grounds specified in paragraph (g) or paragraph (i) of subsection five of
30 section sixty-two of this Act and the lessor was the owner of the dwelling-house on the twenty-first day of July one thousand nine hundred and forty-eight, or has since that date become the owner thereof pursuant to a contract of purchase entered into on or before that date.

35 In this subsection “National Security (War Service Moratorium) Regulations” means the Regulations having that title as in force for the time being under the Defence (Transitional Provisions) Act, 1946-1947, of the Parliament of the Commonwealth.

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

(4)

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(4) On the hearing of an application specified in subsection three 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.

5 **71.** (1) In respect of any proceedings referred to in section seventy of this Act, the court may—

Power to
stay
proceedings
or orders.

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

(i) adjourn the proceedings;

10 (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 specified in any such order; or

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

20 (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—

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

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

35 (2) In this section—

(a) a reference to an order shall include a reference to an order made before the commencement of this Act under Regulation sixty-three of the Commonwealth Regulations;

40 (b) a reference to a warrant shall include a reference to a warrant issued before the commencement of this Act under the Commonwealth Regulations for the execution of an order made under Regulation sixty-three of those Regulations.

Landlord and Tenant (Amendment).

- 72.** (1) An application to stay or suspend the execution of, or to vary, discharge or rescind, any order referred to in section seventy-one of this Act, or to postpone the date for recovery of possession specified
5 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.
- 10 (2) Notwithstanding anything contained in paragraph (c) of section seventy-one of this Act, 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
15 has expired or not).
- (3) Where, in respect of any proceedings referred to in section seventy of this Act, the court has refused to grant an application of any of the kinds referred to in subsection one of this section, no further application
20 of any of those kinds shall be made in respect of those proceedings except with the leave of the court.
- 73.** 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
25 shall affect the power of any court to dispose of any such proceedings in chambers otherwise than under this section.
- 74.** (1) Except as provided in this section, there shall
30 be no appeal in proceedings under this Part, from an order of a court of competent jurisdiction referred to in section sixty-nine of this Act.
- (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.
- 35 **75.** No order (other than an order made under this Part or under the Commonwealth Regulations) made by any court for the recovery by the lessor of possession of any prescribed premises (or of any goods leased therewith) or for the ejectment of the lessee shall be
40 enforceable.
- 76.** 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

Certain applications to operate as stay of execution.

Hearing in chambers.

Appeals.

Ejectment orders not enforceable unless made under this Act.

Court may order compensation for misrepresentation.

Landlord and Tenant (Amendment).

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
5 of the order, and the provisions of subsection three of section sixty-one of this Act, shall apply, mutatis mutandis, to and in respect of any order for the payment of any sum under this section.

- 77.** (1) (a) If a notice to quit has been given on the
10 ground specified in paragraph (h), (i), (j) or (k) of subsection five of section sixty-two of this Act 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
15 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,
20 or possession of the premises was recovered.

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

- (b) If a notice to quit has been given on the ground specified in paragraph (g) of subsection five of section sixty-two of this Act, and the premises in respect of which the notice was given have been vacated in
25 accordance with the notice, or if an order for the recovery of possession of the premises has been made on 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 ~~three~~
30 ~~years~~ **twelve months** immediately succeeding the date on which the premises were vacated or possession of the premises was recovered.

- (c) If a notice to quit has been given on the ground specified in paragraph (m) of subsection five of
35 section sixty-two of this Act, and the premises in respect of which the notice was given have been vacated in accordance with the notice, or if an order for recovery of possession of the premises has been made on such ground, the premises shall not, without the consent of

the

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the court, be again leased or sold or agreed to be leased or sold, until the reconstruction or demolition referred to in the said paragraph (m) has been carried out.

(d) In this subsection—

- 5 (i) a reference to a notice to quit shall include a reference to a notice to quit given before the commencement of this Act;
- (ii) a reference to a vacation of premises shall include a reference to a vacation of premises before the commencement of this Act; and
- 10 (iii) a reference to an order for the recovery of possession of premises shall include a reference to any such order made under the Commonwealth Regulations before the commencement of this Act.
- 15

(2) Nothing in subsection one 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
- 20
- 25 (b) where notice to quit has been given on the ground specified in paragraph (h), (i) or ~~(j)~~ (k), the letting of the premises—
- (i) to a minister of religion;
- (ii) to a beneficiary under the trust; or
- 30 (iii) to some person in the employ of, or about to become an employee of, the lessor in consequence of his employment,

respectively.

- 35 (3) A transaction entered into in contravention of subsection one 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.

Landlord and Tenant (Amendment).

78. Where an order is in force declaring that it is desirable that the powers and functions of the Controller and of Fair Rents Boards shall be exercisable with respect to certain prescribed premises only, or with respect to
 5 a limited class of prescribed premises only, the provisions of this Part shall apply only with respect to the prescribed premises, or limited class of prescribed premises, referred to in the order.

Application
to limited
class of
premises.

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

Enforce-
ment of
orders.

15 80. Where notice to quit any prescribed premises has been given, whether before or after the commencement of this Act—

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
 20 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

25 (c) the acceptance of rent, or of any sum of money as rent, by the lessor in respect of any such period;

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

30 81. (1) A person shall not, without the consent of the lessee of prescribed premises, or without reasonable cause (proof whereof shall lie upon the defendant), do, or cause to be done, any act, or omit, or cause to be omitted, any act whereby the ordinary use or enjoyment
 35 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.

Landlord and Tenant (Amendment).

(2) Where the lessor, or any agent or servant of the lessor, has been convicted of an offence arising under subsection one of this section, the court may order the lessor to do such things as are necessary to enable the
5 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
10 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
15 and lessee or at times equivalent to those times.

82. (1) Where—Protection
of sub-
lessees.

(a) a lessor has either before or after the commencement of this Act consented to or approved a sub-lease of any prescribed premises or any part thereof by the lessee, or a lessee has either before
20 or after such commencement sub-let any prescribed premises or any part thereof in the course of a business of sub-letting carried on by the lessee; and

25 (b) the lessee has ceased, either before or after such commencement, 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 on any of the
30 grounds specified in paragraphs (a) to (f) of subsection five of section sixty-two of this Act; or

(ii) the surrender of his lease by the lessee,
35 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

Landlord and Tenant (Amendment).

upon the same terms and conditions as the terms and conditions of the sub-lease, as in force immediately prior to—

- 5 (c) the date on which the lessor gave notice to quit to the lessee; or
- (d) 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),

10 as the case may be.

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

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

- 20 (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;
- 25 (b) the lessor shall, upon taking proceedings for the recovery of possession of the prescribed premises, 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
- 30 (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
35 for an order for the recovery of possession of any prescribed premises, every person who is a sub-lessee of such premises or any part thereof shall be entitled to be heard.

*Landlord and Tenant (Amendment).***83. Where—**

- (a) the tenancy of any prescribed premises is terminated by virtue of the provisions of this Act or of the Commonwealth Regulations;
- 5 (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
- 10 (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.

that person shall have the like right to continue in
15 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 in accordance with the provisions of this Act as if he were a lessee of the
20 premises.

84. 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.

85. The Minister may, at any stage of any proceed-
25 ings in relation to which this Part applies, intervene by counsel, solicitor or agent and may examine witnesses and address the court.

Intervention
of Minister.

86. (1) The lessor or former lessor under a lease, or the proposed lessor under a proposed lease, of any
30 prescribed premises for a fixed term not exceeding six 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
35 premises from the operation of this Part.

Exclusion of
premises
let for a
short term
from opera-
tion of Part
III.

(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

Landlord and Tenant (Amendment).

is specified in the certificate, from the operation of the provisions of this Part and the premises shall be excluded accordingly.

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

(b) Any certificate issued under sub-regulation three of Regulation seventy-eight of the Commonwealth Regulations shall be deemed to have been issued
10 under subsection three of this section.

87. (1) (a) 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.

Exclusion of certain subdivided premises, &c., from operation of Part III.

15 (b) Any certificate issued under Regulation seventy-nine of the Commonwealth Regulations shall be deemed to have been issued under this section.

(2) Where the owner of any prescribed premises is desirous of making the whole or any part of those
20 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,
25 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
30 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
35 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.

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(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;
- 5 (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
10 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
- 15 (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
20 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
25 independently of any other part of the building.

PART IV.—MISCELLANEOUS.

88. (1) A person shall not, by any threat, or in any other manner, endeavour to dissuade or prevent a lessor or lessee from making or prosecuting any application
30 under this Act, or taking or continuing any proceedings in relation to which this Act applies.

Threats and
boycotts
prohibited.

(2) The owner of any prescribed premises, and the agent of any such owner, shall not refuse, or procure any person to refuse, to lease the premises to any other
person

Landlord and Tenant (Amendment).

person who desires to lease the same if the reason for that refusal was the fact that that other person had made an application to a Board or the Controller under this Act or the Commonwealth Regulations.

5 (3) In any prosecution for an offence arising under subsection two 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
10 refusal was not the reason alleged in the charge.

(4) A person shall not 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
15 under this Act or the Commonwealth Regulations or has taken any proceedings in relation to which this Act applies or the Commonwealth Regulations applied.

89. No covenant or agreement (whether entered into before or after the commencement of this Act) shall have
20 any force or effect to deprive any lessee of any right, power, privilege or benefit provided for by this Act. Contracting out prohibited.

90. A person shall not 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, and
25 whether directly or indirectly, defeating, evading, or preventing the operation of, this Act in any respect. Contracts to evade Act prohibited.

91. (1) Where any transaction is entered into in contravention of this Act, the transaction shall not thereby be invalidated, and the rights, powers and
30 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. Transactions not invalidated.

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

Landlord and Tenant (Amendment).

92. (1) The Controller or an authorised officer may require a person—

Information
to be
furnished
on request.

- (a) to furnish to the person making the requirement such information as that person requires;
 - 5 (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.

10 (2) A person shall not, 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
- 15 (b) give any information or make any answer which is false in any particular.

(3) A person shall not 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
20 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
25 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—

- 30 (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.

35 (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.

93. The Controller or an authorised officer may, for the purposes of this Act, enter on and inspect any land
40 or premises.

Powers of
entry and
inspection.

Landlord and Tenant (Amendment).

94. 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 Proof of instruments.
 5 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.

95. (1) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence against this Act. Offences and penalties.
 10

(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 shall be liable—
 15

(a) if a body corporate—to a penalty not exceeding two hundred pounds;

(b) if any other person—to a penalty not exceeding one hundred pounds, or to imprisonment for a term not exceeding six months, or to both such penalty and imprisonment.
 20

(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 to the pecuniary penalty or imprisonment or both provided by this section in the case of such an offence by a person other than a body corporate accordingly, 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.
 25
 30

96. (1) The Governor may make regulations not inconsistent with this Act 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 this Act. Regulations.
 35

(2) The regulations may impose a penalty not exceeding one hundred pounds for any breach thereof.

(3)

Landlord and Tenant (Amendment).

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified therein;
- 5 (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

10 If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have
15 effect.

97. (1) In addition to the powers conferred by section ninety-six of this Act, the Governor may from time to time by regulations, declare that on a date specified in the regulations, the powers authorities duties and
20 functions conferred and imposed on the Controller by this Act shall be transferred to and shall thereafter be exercised and discharged by Fair Rents Boards as prescribed in the regulations.

Regulations
may
transfer
powers of
Controller to
Fair Rents
Boards.

- (2) Regulations made under this section may—
- 25 (a) apply generally to all powers authorities duties and functions of the Controller, or particularly to such powers authorities duties and functions of the Controller as are prescribed in the regulations;
- 30 (b) apply generally to all premises in respect of which he is authorised by this Act to exercise and discharge any of his powers authorities duties and functions, or particularly to any class of such premises as may be specified in the regulations;
- 35 (c) apply generally throughout the State, or particularly within such parts of the State as are specified in the regulations.

(3)

Landlord and Tenant (Amendment).

(3) Regulations made under this section may include provisions for modifying and adapting the provisions of this Act in such manner and to such extent as may be necessary or convenient to give effect to any
5 transfer to Fair Rents Boards of the powers authorities duties and functions of the Controller effected by the regulations and to enable Fair Rents Boards to exercise and discharge the same.

(4) Every determination made by a Fair Rents
10 Board in the exercise of powers transferred to it by regulations made under this section shall be final and without appeal, and no writ of prohibition or certiorari shall lie in respect thereof.

(5) The provisions of subsection three of section
15 ninety-six of this Act shall apply to and in respect of regulations made under this section.

98. All proceedings for offences against this Act or
the regulations shall be disposed of in a summary
manner before a court of petty sessions holden before a
20 Stipendiary Magistrate sitting alone. Proceedings
for offences.

99. (1) This Act with the exception of section two shall expire on the thirty-first day of December, one thousand nine hundred and forty-nine.

(2) The expiry of this Act shall not affect the
25 previous operation thereof or the validity of any action taken thereunder or any penalty incurred in respect of any contravention of or failure to comply with this Act or any proceeding or remedy in respect of any such penalty or punishment.

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY,
and, having this day passed, is now ready for presentation to the
LEGISLATIVE COUNCIL for its concurrence.*

H. ROBBINS,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 29 July, 1948.

New South Wales.



ANNO DUODECIMO

GEORGII VI REGIS.

Act No. , 1948.

An Act relating to the control of rents of certain premises and the recovery of possession of certain premises; to repeal the Fair Rents Act, 1939; to amend the Landlord and Tenant Act of 1899, and certain other Acts; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of
5 the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Landlord and Tenant (Amendment) Act, 1948."

Short title
and com-
mencement.

81467 266—A

(2)

Landlord and Tenant (Amendment).

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Fair Rents Act, 1939, is hereby repealed.

Repeal of
Act No. 37,
1939.

5 3. This Act is divided into Parts as follows:—

Division
into Parts.

PART I.—PRELIMINARY.

PART II.—FAIR RENTS—

DIVISION 1.—*Administration.*

DIVISION 2.—*Rent of Prescribed Premises.*

10 DIVISION 3.—*Rent of Prescribed Premises other than Shared Accommodation.*

DIVISION 4.—*Rent of Shared Accommodation.*

DIVISION 5.—*General.*

15 PART III.—RECOVERY OF POSSESSION OF PRESCRIBED PREMISES.

PART IV.—MISCELLANEOUS.

4. (1) All determinations of fair rents made before the commencement of this Act under the Commonwealth Regulations and having force or effect in this State Savings.
20 immediately before such commencement shall be deemed to have been made under this Act and, subject to this Act, shall continue to have force and effect accordingly.

(2) All applications to, and other proceedings before, the Commonwealth Rent Controller under
25 the Commonwealth Regulations which are pending immediately before the commencement of this Act may be continued before, and may be determined by, the Controller under this Act, and any pending application shall be deemed to be an application to the Controller
30 under this Act, and the provisions of this Act shall apply to those applications and proceedings as if they were applications to, or proceedings before, the Controller under this Act.

(3) All proceedings before a Fair Rents Board in
35 this State under the Commonwealth Regulations which are pending immediately before the commencement of this
this

Landlord and Tenant (Amendment).

this Act, may be continued before and determined by a Fair Rents Board under this Act, and the provisions of this Act shall apply to those proceedings as if they were proceedings before a Fair Rents Board under this Act.

5 (4) All proceedings under Part III of the Commonwealth Regulations which are pending immediately before the commencement of this Act may be continued and determined under Part III of this Act as if they had been commenced thereunder.

10 (5) The generality of this section shall not be affected by any saving in any other section of this Act nor shall this section limit any saving in the Interpretation Act of 1897, as amended by subsequent Acts.

15 **5.** This Act shall not bind—

Crown not bound.

(a) the Crown in right of the Commonwealth or of the State; or

(b) The Housing Commission of New South Wales.

20 **6.** (1) The Governor may, by order published in the Gazette, declare that the application of this Act shall extend to premises, or the premises included in any class of premises, specified in the order, and thereupon the application of this Act shall, notwithstanding anything contained in paragraph (b) of subsection one of section
25 twelve, section seventeen or section seventy-eight of this Act, extend to those premises (including goods leased with those premises) or to the premises included in that class of premises (including goods leased with those premises).

Declarations as to application of Act.

30 (2) The Governor may, by order published in the Gazette, declare that any premises, or the premises included in any class of premises, shall be excluded from the operation of this Act or of such of the provisions of this Act as are specified in the order, and thereupon those
35 premises, or premises of that class, shall be excluded accordingly.

(3) Any declaration made before the commencement of this Act under sub-regulation four or sub-regulation five of Regulation seven of the Commonwealth
40 Regulations and having force or effect in this State immediately

Landlord and Tenant (Amendment).

immediately before such commencement shall continue to have force and effect in all respects as if this section had been in force at the time when such declaration was made, and the declaration had been made thereunder by
5 the Governor.

7. (1) Where any prescribed premises are not holiday ^{Holiday} premises by reason only of the fact that they have at some time subsequent to the first day of March, one thousand nine hundred and forty-five, been leased to or
10 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.

15 (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
20 operation of this Act or of such of the provisions of this Act as are specified in the certificate, 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.

25 (4) Any certificate issued before the commencement of this Act under sub-regulation three of Regulation 7A of the Commonwealth Regulations and having force or effect in this State immediately before such commencement shall continue to have force and effect in all respects
30 as if this section had been in force 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 three of this
35 section or continued in force under subsection four of this section.

8. (1) In this Act, unless the contrary intention ^{Definitions.} appears—

40 “appeal” means appeal to a Fair Rents Board from a determination of the Controller;

“application”

Landlord and Tenant (Amendment).

- “application” means an application to the Controller under this Act;
- 5 “authorized officer” means any person appointed by the Controller in writing to be an authorized officer for the purpose of this Act;
- 10 “Commonwealth Regulations” means the Regulations having the title of the National Security (Landlord and Tenant) Regulations as in force immediately before the commencement of this Act under the Defence (Transitional Provisions) Act, 1946-1947, of the Parliament of the Commonwealth;
- 15 “determination” means determination of the fair rent of any premises, or of any premises together with goods leased therewith, made or continued in force under this Act;
- 20 “dwelling-house” means any prescribed premises (including shared accommodation) leased for the purposes of residence, and includes—
- (a) the premises of any lodging-house or boarding house;
- (b) any part of premises which is leased separately for the purposes of residence,
- 25 but does not include premises licensed for the sale of spirituous or fermented liquors;
- “Fair Rents Board” or “Board” means a Fair Rents Board constituted or deemed to have been constituted under this Act;
- 30 “holiday premises” means any premises which—
- (a) during the period commencing on the first day of March, one thousand nine hundred and forty-five, and ending on the sixteenth day of December, one thousand nine hundred and forty-six, have ordinarily been leased for holiday purposes only;
- 35

(b)

Landlord and Tenant (Amendment).

- (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
- 5 (c) were not, on the sixteenth day of December, one thousand nine hundred and forty-six, leased for purposes other than holiday purposes,
- 10 but does not include any such premises which at any time after that date—
- (d) are or were leased for purposes other than holiday purposes; or
- (e) are or were leased to or occupied by any lessee for a continuous period exceeding
- 15 three months;
- “lease” includes every contract for the letting of any prescribed premises, whether the contract is express or implied or is made orally, in writing or by deed, and includes a contract for
- 20 the letting of prescribed premises together with goods, and also includes any tenancy the existence of which is presumed by operation of section 22A of the Landlord and Tenant Act of 1899 as amended by subsequent Acts, but does
- 25 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
- 30 include respectively—
- (a) a mesne lessor and a mesne lessee;
- (b) a sub-lessor and sub-lessee;
- (c) in respect of premises which are subject to a mortgage, a mortgagee who enters or has entered into possession of the
- 35 premises under the mortgage and a person who was the lessee of the premises

Landlord and Tenant (Amendment).

- premises under the mortgagor immediately prior to the mortgagee entering into possession; and
- 5 (d) the persons who, by operation of section 22A of the Landlord and Tenant Act of 1899 as amended by subsequent Acts are presumed to be the landlord and tenant respectively;
- “Part” means Part of this Act;
- 10 “prescribed” means prescribed by this Act or the regulations;
- “prescribed premises” means any premises, other than—
- 15 (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
- 20 (c) any premises, or the premises included in any class of premises, declared by the Governor, by order published in the Gazette, to be excluded from the operation of this Act,
- 25 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 by any local authority or other local governing body, including any municipal, shire or county council and water or sewerage authority;
- 30 “regulations” means regulations made under this Act;
- “rent” means the actual rent payable under a lease, and includes—
- 35 (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

Landlord and Tenant (Amendment).

conditions and provisions usually entered into by a lessee; and

5 (b) any rates or taxes payable by a lessee in respect of any prescribed premises, other than excess water rates,

and where, in any lease—

10 (c) 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

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

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

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

30 “the Controller” means the Rent Controller appointed under this Act, and includes any person exercising any powers or functions delegated to him by the Controller;

“the prescribed date,” in relation to any prescribed premises, means the thirty-first day of August, one thousand nine hundred and thirty-nine.

35 (2) 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.

(3)

Landlord and Tenant (Amendment).

(3) Where the lessor of prescribed premises supplies or provides any service 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) Any declarations made before the commencement of this Act under paragraph (b) of the definition of "prescribed premises" in sub-regulation one of Regulation eight of the Commonwealth Regulations and in force in this State immediately before such commencement shall continue in force in all respects as if they had been made by the Governor under paragraph (c) of the definition of "prescribed premises" in subsection one of this section.

PART II.—FAIR RENTS.

Division 1.—Administration.

9. (1) The Minister may, for the purposes of this Act, constitute Fair Rents Boards at such places as he thinks fit.

Constitution
and aboli-
tion of Fair
Rents
Boards.

All Fair Rents Boards constituted in this State before the commencement of this Act under Regulation nine of the Commonwealth Regulations and in existence immediately before such commencement shall be deemed to have been constituted under this subsection.

(2)

Landlord and Tenant (Amendment).

(2) The Minister may abolish any Fair Rents Board.

(3) 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.

10. (1) The Governor may by regulations regulate the procedure of Fair Rents Boards.

(2) All rules made by the Governor before the commencement of this Act under Regulation ten of the Commonwealth Regulations, and in force in this State immediately before such commencement shall continue in force in all respects as if they were regulations made by the Governor under subsection one of this section.

11. (1) For the purposes of this Act, there shall be a Rent Controller, who shall be appointed under and in accordance with the provisions of the Public Service Act, 1902, as amended by subsequent Acts:

Provided that pending the appointment of the first Rent Controller under this section, a person may be appointed under and in accordance with the provisions of the Public Service Act, 1902, as amended by subsequent Acts, to act temporarily as Rent Controller, for a period specified in the instrument of his appointment, and a person so appointed shall have and may exercise and discharge during the term of his appointment all the powers, authorities, duties and functions conferred and imposed on the Rent Controller by this Act and shall, during such term, be deemed to be the Rent Controller for all purposes of this Act.

(2) The Controller may, by writing under his hand, delegate all or any of his powers and functions under this Act or under any order made thereunder (except this power of delegation) so that the delegated powers and functions may be exercised by the delegate.

(3)

Landlord and Tenant (Amendment).

(3) Any delegation by the Controller under this section shall be revocable in writing at will and no such delegation shall prevent the exercise of any power or function by the Controller.

5 **12.** (1) The Controller and each Fair Rents Board shall have and may exercise such powers and functions as are conferred upon him or it respectively by this Act, and may exercise those powers and functions—

Powers of
Controller
and Fair
Rents
Boards.

10 (a) in relation to all prescribed premises (including goods leased therewith); or

15 (b) where the Governor, by order published in the Gazette, declares that it is desirable that the powers and functions of the Controller and of Boards shall be exercisable with respect to certain prescribed premises only, or with respect to a limited class of prescribed premises only—
in relation to those prescribed premises (including goods leased therewith) only or to that limited class of prescribed premises
20 (including goods leased therewith) only.

(2) The powers and functions of a Fair Rents Board may be exercised by any Stipendiary Magistrate.

13. There shall be a clerk of each Fair Rents Board. The clerk shall be appointed under and in accordance with
25 the provisions of the Public Service Act, 1902, as amended by subsequent Acts.

Clerks of
Fair Rents
Boards.

14. Such officers and employees as may be necessary for the administration of this Act may be appointed under and in accordance with the provisions of the
30 Public Service Act, 1902, as amended by subsequent Acts.

Officers and
employees.

DIVISION 2.—Rent of Prescribed Premises.

15. (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
35 premises (or of prescribed premises together with goods) shall not, in respect of any period after the commencement of this Act and notwithstanding any term or covenant in any lease in force at any time after the commencement of this Act, exceed the rent payable in
respect

Rent of
prescribed
premises.

Landlord and Tenant (Amendment).

respect of the prescribed premises at the prescribed date (including the rent of any goods then leased therewith and the charge for any service then provided in connection with the lease), or where that rent has been
5 increased or decreased by a determination made before the commencement of this Act under the Commonwealth Regulations and in force immediately before such commencement 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
10 not leased, on the prescribed date but were leased on the first day of March, one thousand nine hundred and forty-five, or by the lessee of any such premises together with goods leased therewith, shall not, in respect of any period
15 after the commencement of this Act, and notwithstanding any term or covenant in any lease in force at any time after the commencement of this Act, exceed the rent payable in respect of the prescribed premises at the first day of March, one thousand nine hundred and forty-five
20 (including the rent of any goods then leased therewith and the charge for any service then provided in connection with the lease), or where that rent has been increased or decreased by a determination made before the commencement of this Act under the Commonwealth
25 Regulations and in force immediately before such commencement the rent as so increased or decreased.

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

(4) Until any rent fixed by subsection one or
30 subsection two of this section is increased or decreased by a determination, 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, additions,
35 repairs 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 by the lessor or in the goods leased with the premises.

Landlord and Tenant (Amendment).

16. (1) Where the rent of any prescribed premises (or of prescribed premises together with goods) is fixed by subsection one or subsection two of section fifteen of this Act, the lessee may, if the lessor of the premises was the lessor on the prescribed date, or on the first day of March, one thousand nine hundred and forty-five, as the case may be, 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.

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

17. Where the powers conferred by this Act on the Controler or a Fair Rents Board may be exercised in relation to certain prescribed premises (including goods leased therewith) only, or to a limited class of prescribed premises (including goods leased therewith) only, the provisions of this Division shall apply to those prescribed premises (including goods leased therewith) only, or to that limited class of prescribed premises (including goods leased therewith) only.

Application of Division.

DIVISION 3.—Rent of Prescribed Premises other than Shared Accommodation.

18. The lessor, or a lessee 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, of any prescribed premises other than shared accommodation (not being prescribed premises in relation to which the Controller is not authorized to exercise the powers conferred by this Part), or the owner of any such premises which are vacant, may apply in writing to

Application to have fair rent fixed.

Landlord and Tenant (Amendment).

to the Controller to have the fair rent of the prescribed premises determined by the Controller.

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

Notice of application.

(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 two 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 other than shared accommodation in respect of which an application is made are the subject of a mortgage, 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 mortgagee, who shall be entitled to be a party to the application.

20. (1) Where an application has been made for the determination of the fair rent of any prescribed premises other than shared accommodation, 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 the prescribed premises.

Determination of application.

(2)

Landlord and Tenant (Amendment).

(2) Subject to subsections three and four of this section, the determination 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
5 six per centum 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
10 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 twenty-one of this Act, that the rent as at the prescribed date is insuffi-
15 cient, 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) The determination may increase the fair
20 rent if the Controller is satisfied that, by reason of an error or omission, an injustice has been occasioned by the last determination.

21. Subject to section twenty of this Act, in deter-
25 mining the fair rent the Controller shall have regard to— Matters to
be con-
sidered.

- (a) the capital value of the premises at the pre-
scribed date, or, if the premises were not in
existence on that date, on the date on which the
erection of the premises was completed;
- 30 (b) the annual rates and insurance premiums paid
in respect of the premises;
- (c) the estimated annual cost of repairs, mainten-
ance and renewals of the premises and fixtures
thereon;
- 35 (d) 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;
- 40 (e) the rents of comparable premises in the locality
of the premises the subject of the application;
- (f)

Landlord and Tenant (Amendment).

- (f) the rate of interest charged upon overdrafts by the Commonwealth Bank of Australia;
- (g) any services provided by the lessor or lessee in connection with the lease;
- 5 (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
- 10 (j) any hardship which would be caused to the lessor or lessee or any other person by the making of an order increasing or reducing the rent of the premises including (but without limiting the generality of the word "hardship") any loss
- 15 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 agree-
- 20 ment or contract of sale in respect of any goods leased with the premises.

22. (1) Every determination of the fair rent of pre-
scribed premises other than shared accommodation made
by the Controller shall come into force on a date fixed
25 by the Controller, but the date so fixed shall not be earlier
than the date of the application.

Date of
operation of
determina-
tion.

(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
30 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 nineteen or section twenty-four
of this Act.

23. Where any fair rent has been determined by the
35 Controller it shall, as from the date fixed under section
twenty-two of this Act and 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 fixed.

Effect of
determina-
tion.

Landlord and Tenant (Amendment).

24. (1) The Controller may, of his own motion, after inquiry, determine the fair rent of any prescribed premises other than shared accommodation.

Controller may determine fair rent of his own motion.

5 (2) The Controller shall give to the lessor and lessee of the prescribed premises and to the other persons referred to in section nineteen of this Act notice of his intention to determine the fair rent of the premises, and the notice so given to the lessor shall, for the purposes of this Division, be deemed to be an application.

10 (3) In determining the fair rent of prescribed premises under this section, the Controller shall have the same powers as he has in connection with an application, and any determination made by the Controller shall have the same effect for all purposes as a determination made
15 upon an application.

25. (1) This Division shall extend in relation to prescribed premises together with goods leased therewith, and any reference in this Division to prescribed premises shall, so far as applicable, include a reference
20 to prescribed premises together with goods leased therewith.

Lease of prescribed premises together with goods.

(2) In the case of prescribed premises which are leased together with goods, the Controller may fix the fair rent of the prescribed premises irrespective of the
25 goods or may, in his discretion, fix the fair rent of the prescribed premises together with goods leased therewith.

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

Inspection of prescribed premises.

DIVISION 4.—Rent of Shared Accommodation.

27. (1) The lessor, or the lessee who has paid, or has offered (either to the lessor personally or to the person to whom the rent is ordinarily paid) the money
35 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, under a lease of shared accommodation (not being shared accommodation in relation to

Determination of rent of shared accommodation.

Landlord and Tenant (Amendment).

which the Controller is not authorised to exercise the powers conferred by this Part), or the owner of any such shared accommodation which is vacant, may make application in writing to the Controller to determine the
5 fair rent thereof.

(2) The Controller shall thereupon cause the shared accommodation to be inspected for the purpose of determining the fair rent thereof.

(3) The Controller may of his own motion, from
10 time to time, cause any shared accommodation to be inspected for the purpose of determining the fair rent thereof.

(4) At least seven days prior to determining the fair rent of any shared accommodation, the Controller
15 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.

(5) After an inspection of any shared accommodation has been made under subsection two or subsection three of this section, after making such inquiries and obtaining such reports (if any) as the Controller considers necessary, and after considering any representations
20 made by the lessor (or intending lessor), and any representations made by the lessee (if any), of the shared accommodation, the Controller may determine the fair rent of the shared accommodation.
25

(6) Every such determination shall come into
30 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 or, in any case in which the Controller causes any shared accommodation to be inspected pursuant to sub-
35 section three of this section, not earlier than the date of such inspection.

(7) In determining the fair rent of any shared accommodation the Controller shall have regard to the matters specified in section twenty-one of this Act.

(8)

Landlord and Tenant (Amendment).

(8) 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.

- 5 (9) Where any fair rent has been determined in pursuance of this section, it 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
10 together with the goods leased therewith, in respect of which it is fixed.

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

Variation in arrangement of shared accommodation to be notified.

- 15 (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; or
(c) the shared accommodation is leased—
20 (i) without the use of any convenience or service which was available to the tenant at the time when the determination was made; or
25 (ii) with the use of any convenience or service which was not so available,

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.

- 30 **29.** (1) This Division shall extend in relation to shared accommodation together with goods leased therewith, and any reference in this Division to shared accommodation shall, so far as applicable, include a reference to shared accommodation together with goods
35 leased therewith.

Rent of shared accommodation and goods leased therewith.

Landlord and Tenant (Amendment).

(2) In the case of shared accommodation which is leased together with goods, the Controller may determine the fair rent of the shared accommodation irrespective of the goods or may, in his discretion, determine
5 the fair rent of the shared accommodation together with goods leased therewith.

DIVISION 5.—*General.*

30. (1) The lessor or lessee of any prescribed premises, including shared accommodation, in respect of
10 which a determination has been made under this Act may, within twenty-one days after the giving of the notice referred to in subsection two of section twenty-two or in subsection eight of section twenty-seven of this Act, as the case may be, by a notice in writing lodged with
15 the clerk of the Fair Rents Board nearest to the premises (or of any other Fair Rents Board if that other Board is satisfied that hardship will not be occasioned thereby to any party to the appeal), appeal to that Board from the determination of the Controller.

Appeal from
determina-
tion.

20 (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 pur-
25 suance of section nineteen or section twenty-four of this Act, as the case may be.

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

30 **31.** (1) The Board shall hear the appeal and may, having regard to the matters specified in section twenty-one of this Act, 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,
35 is the correct fair rent of the prescribed premises.

Procedure
on appeal.

(2)

Landlord and Tenant (Amendment).

(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
5 thinks fit.

(3) The determination of the Board shall have effect from and including the date fixed by the Controller under subsection one of section twenty-two or under subsection six of section twenty-seven of this Act, as
10 the case may be.

(4) Where any fair rent 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
15 respect of which it is determined.

(5) The Board shall furnish a copy of its determination to the Controller.

32. (1) A determination may be varied—

Variation of
determina-
tion.

(a) on application made in the same manner as an
20 application to the Controller for a determination; or

(b) by the Controller of his own motion,

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

(2) During such period as is specified in the determination, or, if no period is so specified, during the period commencing with the date of the determination and ending twelve months after that date, an application
30 shall not be made to vary a determination, or to determine the fair rent of prescribed premises, or of prescribed premises together with goods leased therewith, in respect of which a determination has been made, nor shall the Controller vary a determination of his own
35 motion, except on the ground that—

(a) by an error or omission an injustice has been occasioned by the determination;

(b)

Landlord and Tenant (Amendment).

- (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;
- 5 (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 by the lessor, or of premises of which the premises form part, or on an incorrect calculation, and
- 10 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;
- 15 (e) substantial alterations or additions have been made to the premises, to the goods leased therewith, or to the services supplied by the lessor, since the determination was made; or
- 20 (f) the value of the premises, of the goods leased therewith or of the services supplied by the lessor has materially decreased or increased since the determination was made.

(3) For the purposes of this section, any reference in section nineteen, section twenty-four or section

25 twenty-seven of this Act to notice of intention to make a determination shall be read as a reference to notice of intention to consider the making of a variation of a determination.

33. (1) A determination shall apply to any lease of

30 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,

35 additions, repairs 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 by the lessor or in the goods leased with the premises.

Effect of
determina-
tion.

(2)

Landlord and Tenant (Amendment).

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

34. (1) Where the fair rent of any prescribed premises or shared accommodation has been determined, the lessor shall give notice in writing to the Controller
10 of—

Lessor to
notify
change in
services
supplied or
in nature of
occupancy.

(a) the nature and extent of any services, not supplied at the date of the determination, which he commences to supply to any lessee; and

15 (b) the fact that the prescribed premises cease or the shared accommodation ceases to be occupied by a lessee and become or becomes occupied by a lodger.

(2) A notice under this section shall be given within seven days after the matter required to be notified
20 arises.

35. (1) A person shall not—

(a) let premises, or premises together with goods, at a rent exceeding the fair rent thereof; or

25 (b) demand, receive or pay any sum as rent exceeding the fair rent thereof.

Premises
not to be
let at rent
exceeding
fair rent.

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

30 (a) to pay rent for premises, or for premises together with goods, exceeding the fair rent thereof; or

35 (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)

Landlord and Tenant (Amendment).

(3) Any sum paid as rent—

(a) for or in respect of the occupation of premises;
or

5 (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 in an action for debt in any court
of competent jurisdiction by the lessee from the lessor
to whom it was paid.

10 (4) In any prosecution for an offence arising
under this section, the averment of the prosecutor—

(a) that the prescribed premises were let to a
specified person on the prescribed date; and

15 (b) as to the rent payable in respect of the
prescribed premises at the prescribed date,
shall be prima facie evidence of the matter or matters
averred.

(5) Any evidence given by a witness in support
or rebuttal of a matter so averred shall be considered on
20 its merits and the credibility and probative value of the
evidence shall not be increased or diminished by reason
of this section.

(6) An averment shall not be made under this
section unless the Crown Solicitor, or an Assistant Crown
25 Solicitor is satisfied that the averment is reasonably
necessary for the due administration of justice and will
not impose hardship upon, or occasion injustice to, the
defendant and certifies in writing accordingly on the
paper containing the averment.

30 (7) An averment shall not be evidence for the
purposes of this section unless a copy of the paper
containing the averment has been served on the defend-
ant in the same manner as the process requiring his
attendance before the court.

35 (8) Service of the copy of the paper containing
the averment may be proved in the same manner as
service of the process requiring the defendant's attend-
ance before the court may be proved.

(9) Upon the hearing of an information for an
40 offence arising under this section, the court may, if the
amendments

Landlord and Tenant (Amendment).

amendments can be made without hardship or injustice to the defendant, allow such amendments to be made in the writing containing an averment as appear to it to be desirable or to be necessary to enable the real question
5 in the dispute to be determined.

(10) If in any such case the court considers the defendant has been misled by the form of the averment, it may refuse to allow the amendments, or may, as a condition of allowing the amendments, adjourn the hearing of the case for such period as it thinks fit and may
10 make such order as to the costs of the adjournment as it thinks proper.

36. (1) A person shall not, whether as principal or agent, or in any other capacity—

Certain
payments
prohibited.

15 (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, or in association with—

20 (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;

25 (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,

30 any prescribed premises (including any dwelling house), 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—

35 (i) for obtaining or making available a key of any prescribed premises (including any dwelling house); or

40 (ii) for information as to a tenancy, or as to the possibility or likelihood of obtaining a tenancy, of any prescribed premises

Landlord and Tenant (Amendment).

premises (including any dwelling-house); or

- 5 (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.

10 (2) 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 in an action for debt 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.

15 (3) Where a person has, in contravention of this section, been required to purchase or exchange any goods or goodwill, he may recover 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.

25 **37.** (1) A person shall not 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 dwelling-house).

Certain representations, etc., prohibited.

30 (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.

38.

Landlord and Tenant (Amendment).

38. (1) A person shall not refuse, or procure any person to refuse, to let a dwelling-house to any person on the ground that it is intended that a child shall live in the dwelling-house. Refusal to let dwelling-house to applicant with family prohibited.
- 5 (2) In any prosecution for an offence arising under subsection one 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
- 10 was not the ground alleged in the charge.
- (3) A person shall not—
- (a) instruct any other person not to let; or
- (b) state his intention, whether by advertisement or otherwise, not to let,
- 15 a dwelling-house to any person if it is intended that a child shall live in the dwelling-house.
- (4) A person shall not, for the purpose of determining whether or not he will let a dwelling-house, inquire from any prospective tenant of the dwelling-
- 20 house whether—
- (a) the prospective tenant has any children; or
- (b) it is intended that a child shall live in the dwelling-house if it is let to that prospective tenant.
- 25 (5) In any prosecution for an offence arising under subsection four 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
- 30 inquiry was not the purpose alleged in the charge.
39. A person shall not let a dwelling-house which to his knowledge is, at the date of the letting, not in fair and tenantable repair. Dwelling-house not to be let unless in good repair.
40. Notwithstanding anything contained in this Act
- 35 or in any declaration issued in pursuance of this Act, a dwelling-house shall, for the purposes of sections thirty-six, thirty-seven, thirty-eight and thirty-nine of this Act, be deemed to include holiday premises. Premises leased for holiday purposes only.

Landlord and Tenant (Amendment).

- 41.** Every determination of a Fair Rents Board or of the Controller shall, except as provided by this Part, be final and without appeal, and no writ of prohibition or certiorari shall lie in respect thereof. No appeal from order of Board.
- 5 **42.** 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.
- 10 **43.** (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.
- 15 (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.
- 20 **44.** (1) The Controller, or the Stipendiary 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 books, documents or writings in his custody or control which Summoning of witnesses and production of documents.
- 25 he is required by the summons to produce.
- (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 Failure to attend or produce documents.
- 30 may examine the witness upon oath or affirmation.
- 45.** (1) A person who has been served with a summons to attend the Controller or a Fair Rents Board shall not, 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.
- 35 (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

Landlord and Tenant (Amendment).

that the documents, books or writings were not relevant to the subject-matter of the proceedings before the Controller or Board.

46. A person appearing as a witness before the
5 Controller or a Fair Rents Board shall not 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
10 Controller or Board.

Refusal to
be sworn or
give
evidence.

47. A witness before the Controller or a Fair Rents
Board shall not knowingly give false testimony in any
evidence given by him to the Controller or Board.

False
testimony.

48. A witness before the Controller or a Fair Rents
15 Board shall have the same protection 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.

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

Protection
of reports
and proceed-
ings.

- (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
25 (b) a fair and accurate report of any proceedings before the Controller or a 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
30 the person defamed or by any other improper motive.

50. (1) A person shall not 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
35 defamatory of a Board, or otherwise commit any wilful contempt of a Board.

Contempt
of Board.

(2)

Landlord and Tenant (Amendment).

(2) The Stipendiary Magistrate constituting a Fair Rents Board shall, in relation to any contravention of subsection one 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.

51. 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 Justice of the Peace.

Protection of Board.

52. The Controller shall, 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, fixed by the Board or by the Controller.

Information as to fair rent.

53. The Minister may, at any stage of any proceedings under this Part before a Fair Rents Board, intervene by counsel, solicitor or agent and may examine witnesses and address the Board.

Intervention by Minister.

54. (1) Any person who is a party to proceedings under this Part or who may be affected by the result of any such proceedings, may appear in person or may be represented by counsel or a solicitor or by an agent authorised in writing in that behalf, who may examine witnesses and address the Board or Controller on that person's behalf.

Representation by agent.

(2) No counsel, solicitor or agent representing a person in proceedings under this Part shall demand or take by way of fees for work done by him in relation to such proceedings any sum in excess of the sum prescribed by the regulations and applicable to him.

55. (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.

Records of rent.

(2) The person having the custody of the record or of any previous like record, relating to a period not earlier than the prescribed date, in respect of the prescribed

Landlord and Tenant (Amendment).

prescribed premises shall, when requested by any tenant 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 tenant or
5 authorised officer, as the case may be.

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

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

(5) A request under this section may be made
15 orally or in writing.

56. The person receiving any payment of rent of 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
20 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.

57. (1) It shall be the duty of the lessor of any
25 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.

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

(3)

Landlord and Tenant (Amendment).

(3) Where any prescribed premises were not in existence, or were not leased, on the prescribed date, but were leased on the first day of March, one thousand nine hundred and forty-five, the lessor at the first day
5 of March, one thousand nine hundred and forty-five, shall, on demand in writing by 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
10 the rent of the premises (or of the premises together with goods) at the first day of March, one thousand nine hundred and forty-five.

58. (1) In any proceedings before any court, a Certificate
certificate by the Controller that, in respect of a period as to fair
specified in the certificate, the fair rent of any prescribed rent.
15 premises was fixed by a determination (whether by the Controller or a Fair Rents Board), and specifying the amount thereof, shall be evidence of the matters certified to.

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

59. (1) Any notice or other document required or Service of
permitted by this Part to be given to, or served upon, any notices.
person, may be given or served—

25 (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
30 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 Part to be given to, or served upon,
35 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)

Landlord and Tenant (Amendment).

(3) Where any notice or other document is required or permitted by this Part 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
5 a daily newspaper circulating in the district in which the prescribed premises concerned are situated.

60. (1) Any notice or other document required or permitted by this Part to be given to, or served upon, a lessor under the lease of any prescribed premises shall
10 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.

(2) Any notice or other document required or permitted by this Part to be given to, or served upon, a
15 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
20 under any lease of any prescribed premises, it shall be a sufficient compliance with any provision of this Part 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
25 or lessees.

61. (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
30 be refunded to the person by whom the payment was made.

Courts may
order refund
of amounts
overpaid.

(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
35 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 sees fit, include

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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
5 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
10 any court having civil jurisdiction to the extent of that amount, and shall thereupon be enforceable in all respects as a final judgment of that court.

PART III.

RECOVERY OF POSSESSION OF PRESCRIBED PREMISES.

62. (1) Except as provided by this Part, the lessor of
15 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 ejectment of the lessee therefrom. Restriction on eviction.

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

(3)

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(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) if the lessor, before
5 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 sixty-three of this Act, and that period of notice has expired.

10 (4) Service of the 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 occupa-
15 tion of the premises; or

(b) the person by whom the rent of the premises is customarily paid.

(5) The prescribed grounds shall be—

20 (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 twelve months—of not less than fourteen days; and

25 (ii) 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
30 by the lessor;

(c) that the lessee has failed to take reasonable care of the premises, or of any goods leased there- with, or has committed waste;

(d)

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- (d) that the lessee has been guilty of conduct which is a nuisance or annoyance to adjoining or neighbouring occupiers;
- 5 (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
- 10 currency of the lease, been used for some illegal purpose;
- (f) that the lessee has given notice in writing 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
- 15 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
- 20 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
- 25 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
- 30 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);
- 35 (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
- 40 upon, him;
- (j)

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- 5 (j) that the lessor is a person, body or authority carrying on a hospital, or a trustee for such a person, body or authority, and the use of the premises is reasonably required for the purposes of the hospital (including the accommodation of the staff of the hospital);
- 10 (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;
- 15 (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—
- 20 (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
- 25 (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;
- 30 (m) that the premises are reasonably required by the lessor for reconstruction or demolition;
- 35 (n) that the lessee has become the lessee of the premises being a dwelling-house by virtue of an assignment or transfer which the lessor has not consented to or approved; or
- 40 (o) that the lessee has sub-let the premises being a dwelling-house or some part of the dwelling-house by a sub-lease which has not been consented to or approved by the lessor.

(6)

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(6) (a) In subsection five 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
 5 one lessee, any one or more of the lessees.

(b) In paragraphs (n) and (o) of subsection five of this section, "dwelling-house" does not include the premises of any lodging-house or boarding-house.

(7) Notice to quit on a ground specified in para-
 10 graph (n) or paragraph (o) of subsection five of this section—

(a) shall not be given—

(i) where the lessee became the lessee by
 15 virtue of an assignment or transfer made before the fourteenth day of March, one thousand nine hundred and forty-seven, or the sub-lease was granted before that date;

(ii) where the lease is for a fixed term—
 20 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;
 25 and

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

63. (1) The period for which notice to quit shall
 30 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.

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

35 (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 paragraph (c), (d), (e) or (f) of
 subsection

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- subsection five of section sixty-two of this Act and not on any other ground;
- (ii) a period exceeding thirty days if the notice is given on any other ground;
- 5 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.
- 10

- 64.** A lessor shall not, after the lessee has made an application for a determination, or after he has received from the Controller notice of his intention to determine the fair rent, except with the consent of the Controller,
- 15 give a notice to quit on any ground specified in paragraph (f), (g), (h), (i), (j), (k) or (l) of subsection five of section sixty-two of this Act until after the expiration of six months after the making of a determination on the application or in pursuance of the notice, but if a determination has not been made within a period of six months
- 20 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.
- 25

- A 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
- 30 made or given under the Commonwealth Regulations before the commencement of this Act.

- 65.** (1) A person who has, either before or after the commencement of this Act, become the lessor of prescribed premises being a dwelling-house or part of a
- 35 dwelling-house, by purchase thereof, shall not, within a period of two years after the date of the agreement for the purchase, give a notice to quit on the ground specified in paragraph (g) of subsection five of section sixty-two of this Act to any person who was a lessee of
- 40 the prescribed premises at the date of the agreement for

Notice to quit not to be given within six months after determination.

Notice to quit where dwelling-house sold.

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for the purchase unless, after the date of such agreement, he has given the lessee at least eighteen months notice in writing of his intention to give such notice to quit.

- (2) A lessor of prescribed premises, being a dwelling-house or part thereof, shall not give a notice to quit on the ground specified in paragraph (1) of subsection five of section sixty-two of this Act 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.

66. 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
specify
grounds.

67. A notice to quit given in accordance with the provisions of section sixty-two of this Act 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 to
terminate
lease.

68. (1) Where a lessor has taken proceedings in any court to recover possession of any prescribed premises from the lessee and the court has (whether before or after the commencement of this Act) 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.

Notice to
quit after
failure
of eviction
proceedings.

- (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.

69. (1) For the purposes of section sixty-two of this Act courts of petty sessions, and those courts only, shall be courts of competent jurisdiction.

Competent
courts.

(2)

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(2) The jurisdiction of a court of petty sessions under this section shall not be exercised except by a Stipendiary Magistrate.

(3) The provisions of sections twenty-six and 5 twenty-seven of the Landlord and Tenant Act of 1899, shall not apply in any case where an order for the recovery of possession of any prescribed premises has been made under this Part.

70. (1) On the hearing of any proceedings by a lessor 10 for an order for the recovery of possession of any prescribed premises, the court shall take into consideration, in addition to all other relevant matters—

Court to consider hardship.

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

15 (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 20 more of the grounds specified in paragraphs (g), (h), (i), (j), (k), (l) and (m) of subsection five of section sixty-two of this Act—whether reasonably suitable alternative accommodation in lieu of the prescribed premises is, or has been since 25 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,

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

(2) Notwithstanding anything contained in this 35 section, an order for the recovery of possession of any prescribed premises, being a dwelling-house, from any person on any of the grounds specified in paragraphs (g), (i), (l) or (m) of subsection five of section sixty-two of this Act shall not be made unless the court is satisfied that

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that the lessor had provided at the date of expiry of the notice to quit, and has immediately available for the occupation of the persons occupying such dwelling-house, reasonably suitable alternative accommodation:

5 Provided that this subsection shall not apply in any case where—

(a) the lessor is a protected person within the meaning of the National Security (War Service Moratorium) Regulations and the lessee is not
10 a protected person within the meaning of those Regulations; or

(b) the court is satisfied that the lessor is required by law to reconstruct or demolish the dwelling-house and possession thereof is sought by him
15 for that purpose.

In this subsection “National Security (War Service Moratorium) Regulations” means the Regulations having that title as in force for the time being under the Defence (Transitional Provisions) Act, 1946-1947, of the
20 Parliament of the Commonwealth.

(3) Where the application is made on either of the grounds specified in paragraphs (n) and (o) of subsection five of section sixty-two of this Act, the court shall not refuse, in the exercise of the discretion vested
25 in it by subsection one 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.

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

71. (1) In respect of any proceedings referred to in section seventy of this Act, the court may—

Power to stay proceedings or orders.

(a) from time to time, subject to such conditions (if any), and for such period as it thinks fit—
35

(i) adjourn the proceedings;

(ii)

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- (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 specified in any such order; or
- (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 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.
- (2) In this section—
 - (a) a reference to an order shall include a reference to an order made before the commencement of this Act under Regulation sixty-three of the Commonwealth Regulations;
 - (b) a reference to a warrant shall include a reference to a warrant issued before the commencement of this Act under the Commonwealth Regulations for the execution of an order made under Regulation sixty-three of those Regulations.

72. (1) An application to stay or suspend the execution of, or to vary, discharge or rescind, any order referred to in section seventy-one of this Act, or to postpone the date for recovery of possession specified in

Certain applications to operate as stay of execution.

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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.

(2) Notwithstanding anything contained in paragraph (c) of section seventy-one of this Act, 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 seventy of this Act, the court has refused to grant an application of any of the kinds referred to in subsection one 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.

73. 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.

74. (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 sixty-nine of this Act.

Appeals.

(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.

75. No order (other than an order made under this Part or under the Commonwealth Regulations) made by any court for the recovery by the lessor of possession of any prescribed premises (or of any goods leased therewith) or for the ejectment of the lessee shall be enforceable.

Ejectment orders not enforceable unless made under this Act.

76. 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

Court may order compensation for misrepresentation.

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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
5 of the order, and the provisions of subsection three of section sixty-one of this Act, shall apply, mutatis mutandis, to and in respect of any order for the payment of any sum under this section.

77. (1) (a) If a notice to quit has been given on the
10 ground specified in paragraph (h), (i), (j) or (k) of subsection five of section sixty-two of this Act 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
15 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,
20 or possession of the premises was recovered.

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

(b) If a notice to quit has been given on the ground specified in paragraph (g) of subsection five of section sixty-two of this Act, and the premises in respect of which the notice was given have been vacated in
25 accordance with the notice, or if an order for the recovery of possession of the premises has been made on 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 three
30 years immediately succeeding the date on which the premises were vacated or possession of the premises was recovered.

(c) If a notice to quit has been given on the ground specified in paragraph (m) of subsection five of
35 section sixty-two of this Act, and the premises in respect of which the notice was given have been vacated in accordance with the notice, or if an order for recovery of possession of the premises has been made on such ground, the premises shall not, without the consent of
the

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the court, be again leased or sold or agreed to be leased or sold, until the reconstruction or demolition referred to in the said paragraph (m) has been carried out.

(d) In this subsection—

- 5 (i) a reference to a notice to quit shall include a reference to a notice to quit given before the commencement of this Act;
- (ii) a reference to a vacation of premises shall include a reference to a vacation of premises before the commencement of this Act; and
- 10 (iii) a reference to an order for the recovery of possession of premises shall include a reference to any such order made under the Commonwealth Regulations before the commencement of this Act.
- 15

(2) Nothing in subsection one 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
- 20
- 25 (b) where notice to quit has been given on the ground specified in paragraph (h), (i) or (j), the letting of the premises—
- (i) to a minister of religion;
- (ii) to a beneficiary under the trust; or
- 30 (iii) to some person in the employ of, or about to become an employee of, the lessor in consequence of his employment,

respectively.

- 35 (3) A transaction entered into in contravention of subsection one 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.

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78. Where an order is in force declaring that it is desirable that the powers and functions of the Controller and of Fair Rents Boards shall be exercisable with respect to certain prescribed premises only, or with respect to a limited class of prescribed premises only, the provisions of this Part shall apply only with respect to the prescribed premises, or limited class of prescribed premises, referred to in the order.

Application
to limited
class of
premises.

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

Enforce-
ment of
orders.

80. Where notice to quit any prescribed premises has been given, whether before or after the commencement of this Act—

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;

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

81. (1) A person shall not, without the consent of the lessee of prescribed premises, or without reasonable cause (proof whereof shall lie upon the defendant), 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.

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(2) Where the lessor, or any agent or servant of the lessor, has been convicted of an offence arising under subsection one of this section, the court may order the lessor to do such things as are necessary to enable the
5 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
10 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
15 and lessee or at times equivalent to those times.

82. (1) Where—Protection
of sub-
lessees.

(a) a lessor has either before or after the commencement of this Act consented to or approved a sub-lease of any prescribed premises or any part thereof by the lessee, or a lessee has either before
20 or after such commencement sub-let any prescribed premises or any part thereof in the course of a business of sub-letting carried on by the lessee; and

25 (b) the lessee has ceased, either before or after such commencement, 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 on any of the grounds specified in paragraphs (a) to
30 (f) of subsection five of section sixty-two of this Act; or

(ii) the surrender of his lease by the lessee,
35 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

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upon the same terms and conditions as the terms and conditions of the sub-lease, as in force immediately prior to—

- 5 (c) the date on which the lessor gave notice to quit to the lessee; or
- (d) 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),

10 as the case may be.

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

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

- 20 (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;
- 25 (b) the lessor shall, upon taking proceedings for the recovery of possession of the prescribed premises, 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
- 30 (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
35 for an order for the recovery of possession of any prescribed premises, every person who is a sub-lessee of such premises or any part thereof shall be entitled to be heard.

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83. Where—

- (a) the tenancy of any prescribed premises is terminated by virtue of the provisions of this Act or of the Commonwealth Regulations;
- 5 (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
- 10 (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.

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 in accordance with the provisions of this Act as if he were a lessee of the premises.

84. 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.

85. The Minister may, at any stage of any proceedings in relation to which this Part applies, intervene by counsel, solicitor or agent and may examine witnesses and address the court.

Intervention of Minister.

86. (1) The lessor or former lessor under a lease, or the proposed lessor under a proposed lease, of any prescribed premises for a fixed term not exceeding six 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.

(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

is

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is specified in the certificate, from the operation of the provisions of this Part and the premises shall be excluded accordingly.

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

(b) Any certificate issued under sub-regulation three of Regulation seventy-eight of the Commonwealth Regulations shall be deemed to have been issued
10 under subsection three of this section.

87. (1) (a) 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.

Exclusion of certain subdivided premises, &c., from operation of Part III.

15 (b) Any certificate issued under Regulation seventy-nine of the Commonwealth Regulations shall be deemed to have been issued under this section.

(2) Where the owner of any prescribed premises is desirous of making the whole or any part of those
20 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—

25 (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.

30 (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
35 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.

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(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;
- 5 (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
10 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
- 15 (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,

20 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
25 independently of any other part of the building.

PART IV.—MISCELLANEOUS.

88. (1) A person shall not, by any threat, or in any other manner, endeavour to dissuade or prevent a lessor or lessee from making or prosecuting any application
30 under this Act, or taking or continuing any proceedings in relation to which this Act applies.

Threats and
boycotts
prohibited.

(2) The owner of any prescribed premises, and the agent of any such owner, shall not refuse, or procure any person to refuse, to lease the premises to any other
person

Landlord and Tenant (Amendment).

person who desires to lease the same if the reason for that refusal was the fact that that other person had made an application to a Board or the Controller under this Act or the Commonwealth Regulations.

5 (3) In any prosecution for an offence arising under subsection two 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
10 refusal was not the reason alleged in the charge.

(4) A person shall not 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
15 under this Act or the Commonwealth Regulations or has taken any proceedings in relation to which this Act applies or the Commonwealth Regulations applied.

89. No covenant or agreement (whether entered into before or after the commencement of this Act) shall have
20 any force or effect to deprive any lessee of any right, power, privilege or benefit provided for by this Act. Contracting out prohibited.

90. A person shall not 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, and
25 whether directly or indirectly, defeating, evading, or preventing the operation of, this Act in any respect. Contracts to evade Act prohibited.

91. (1) Where any transaction is entered into in contravention of this Act, the transaction shall not thereby be invalidated, and the rights, powers and
30 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. Transactions not invalidated.

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

92.

Landlord and Tenant (Amendment).

92. (1) The Controller or an authorised officer may require a person— Information
to be
furnished
on request.

- (a) to furnish to the person making the requirement such information as that person requires;
 - 5 (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.

10 (2) A person shall not, 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
- 15 (b) give any information or make any answer which is false in any particular.

(3) A person shall not 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
20 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
25 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—

- 30 (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.

35 (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.

93. The Controller or an authorised officer may, for the purposes of this Act, enter on and inspect any land
40 or premises. Powers of
entry and
inspection.

94.

Landlord and Tenant (Amendment).

94. 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
5 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. Proof of instruments.

95. (1) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of
10 an offence against this Act. Offences and penalties.

(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
15 this Act shall be liable—

(a) if a body corporate—to a penalty not exceeding two hundred pounds;

(b) if any other person—to a penalty not exceeding one hundred pounds, or to imprisonment for a
20 term not exceeding six months, or to both such penalty and imprisonment.

(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
25 or officer of the body corporate shall be deemed to have committed the like offence, and be liable to the pecuniary penalty or imprisonment or both provided by this section in the case of such an offence by a person other than a body corporate accordingly, unless he proves that the
30 offence was committed without his knowledge, or that he used all due diligence to prevent the commission of the offence.

96. (1) The Governor may make regulations not
35 inconsistent with this Act 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 this Act. Regulations.

(2) The regulations may impose a penalty not exceeding one hundred pounds for any breach thereof.

(3)

Landlord and Tenant (Amendment).

(3) The regulations shall—

- (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified therein;
 - 5 (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.
- 10 If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have
- 15 effect.

97. (1) In addition to the powers conferred by section ninety-six of this Act, the Governor may from time to time by regulations, declare that on a date specified in the regulations, the powers authorities duties and

20 functions conferred and imposed on the Controller by this Act shall be transferred to and shall thereafter be exercised and discharged by Fair Rents Boards as prescribed in the regulations.

Regulations
may
transfer
powers of
Controller to
Fair Rents
Boards.

- (2) Regulations made under this section may—
- 25 (a) apply generally to all powers authorities duties and functions of the Controller, or particularly to such powers authorities duties and functions of the Controller as are prescribed in the regulations;
 - 30 (b) apply generally to all premises in respect of which he is authorised by this Act to exercise and discharge any of his powers authorities duties and functions, or particularly to any class of such premises as may be specified in the regulations;
 - 35 (c) apply generally throughout the State, or particularly within such parts of the State as are specified in the regulations.

(3)

Landlord and Tenant (Amendment).

(3) Regulations made under this section may include provisions for modifying and adapting the provisions of this Act in such manner and to such extent as may be necessary or convenient to give effect to any
5 transfer to Fair Rents Boards of the powers authorities duties and functions of the Controller effected by the regulations and to enable Fair Rents Boards to exercise and discharge the same.

(4) Every determination made by a Fair Rents
10 Board in the exercise of powers transferred to it by regulations made under this section shall be final and without appeal, and no writ of prohibition or certiorari shall lie in respect thereof.

(5) The provisions of subsection three of section
15 ninety-six of this Act shall apply to and in respect of regulations made under this section.

98. All proceedings for offences against this Act or the regulations shall be disposed of in a summary
manner before a court of petty sessions holden before a
20 Stipendiary Magistrate sitting alone. Proceedings
for offences.

Landlord and Tenant (Amendment) Bill, 1948.

EXPLANATORY NOTE.

THE object of this Bill is to adopt within the State of New South Wales, with certain modifications, the provisions of the National Security (Landlord and Tenant) Regulations presently in force under the Defence (Transitional Provisions) Act, 1946-1947, of the Parliament of the Commonwealth.

Provision is also made in the Bill whereby the powers of the Rent Controller to make fair-rent determinations may, by regulation, be transferred to Fair Rents Boards constituted by Stipendiary Magistrates. This transfer may be effected in respect of premises in any area or in respect of premises of any specified class.

EXPLANATORY NOTES

The first item on the agenda is the report of the Finance Committee. The committee has reviewed the financial statements for the year and finds them to be correct and in accordance with the records. It recommends that the same be adopted and that the directors be authorized to sign the same.

The second item is the report of the Executive Committee. The committee has reviewed the operations of the company for the year and finds them to be satisfactory. It recommends that the same be adopted and that the directors be authorized to sign the same.

PROOF

No. , 1948.

A BILL

Relating to the control of rents of certain premises and the recovery of possession of certain premises; to repeal the Fair Rents Act, 1939; to amend the Landlord and Tenant Act of 1899, and certain other Acts; and for purposes connected therewith.

[MR. WEIR;—21 JULY, 1948.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of
5 the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Landlord and Tenant (Amendment) Act, 1948."

Short title
and com-
mencement.

81467 266—A

(2)

Landlord and Tenant (Amendment).

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Fair Rents Act, 1939, is hereby repealed.

Repeal of
Act No. 37,
1939.

5 3. This Act is divided into Parts as follows:—

Division
into Parts.

PART I.—PRELIMINARY.

PART II.—FAIR RENTS—

DIVISION 1.—*Administration.*

DIVISION 2.—*Rent of Prescribed Premises.*

10 DIVISION 3.—*Rent of Prescribed Premises other than Shared Accommodation.*

DIVISION 4.—*Rent of Shared Accommodation.*

DIVISION 5.—*General.*

15 PART III.—RECOVERY OF POSSESSION OF PRESCRIBED PREMISES.

PART IV.—MISCELLANEOUS.

4. (1) All determinations of fair rents made before Savings.
the commencement of this Act under the Commonwealth Regulations and having force or effect in this State
20 immediately before such commencement shall be deemed to have been made under this Act and, subject to this Act, shall continue to have force and effect accordingly.

(2) All applications to, and other proceedings before, the Commonwealth Rent Controller under
25 the Commonwealth Regulations which are pending immediately before the commencement of this Act may be continued before, and may be determined by, the Controller under this Act, and any pending application shall be deemed to be an application to the Controller
30 under this Act, and the provisions of this Act shall apply to those applications and proceedings as if they were applications to, or proceedings before, the Controller under this Act.

(3) All proceedings before a Fair Rents Board in
35 this State under the Commonwealth Regulations which are pending immediately before the commencement of this

Landlord and Tenant (Amendment).

this Act, may be continued before and determined by a Fair Rents Board under this Act, and the provisions of this Act shall apply to those proceedings as if they were proceedings before a Fair Rents Board under this Act.

5 (4) All proceedings under Part III of the Commonwealth Regulations which are pending immediately before the commencement of this Act may be continued and determined under Part III of this Act as if they had been commenced thereunder.

10 (5) The generality of this section shall not be affected by any saving in any other section of this Act nor shall this section limit any saving in the Interpretation Act of 1897, as amended by subsequent Acts.

15 5. This Act shall not bind—

Crown not bound.

(a) the Crown in right of the Commonwealth or of the State; or

(b) The Housing Commission of New South Wales.

20 6. (1) The Governor may, by order published in the Gazette, declare that the application of this Act shall extend to premises, or the premises included in any class of premises, specified in the order, and thereupon the application of this Act shall, notwithstanding anything contained in paragraph (b) of subsection one of section

Declarations as to application of Act.

25 twelve, section seventeen or section seventy-eight of this Act, extend to those premises (including goods leased with those premises) or to the premises included in that class of premises (including goods leased with those premises).

30 (2) The Governor may, by order published in the Gazette, declare that any premises, or the premises included in any class of premises, shall be excluded from the operation of this Act or of such of the provisions of this Act as are specified in the order, and thereupon those

35 premises, or premises of that class, shall be excluded accordingly.

(3) Any declaration made before the commencement of this Act under sub-regulation four or sub-regulation five of Regulation seven of the Commonwealth Regulations and having force or effect in this State

40 immediately

Landlord and Tenant (Amendment).

immediately before such commencement shall continue to have force and effect in all respects as if this section had been in force at the time when such declaration was made, and the declaration had been made thereunder by
5 the Governor.

7. (1) Where any prescribed premises are not holiday premises by reason only of the fact that they have at some time subsequent to the first day of March, one thousand nine hundred and forty-five, been leased to or
10 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.

15 (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
20 operation of this Act or of such of the provisions of this Act as are specified in the certificate, 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.

25 (4) Any certificate issued before the commencement of this Act under sub-regulation three of Regulation 7A of the Commonwealth Regulations and having force or effect in this State immediately before such commencement shall continue to have force and effect in all respects
30 as if this section had been in force 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 three of this
35 section or continued in force under subsection four of this section.

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

40 "appeal" means appeal to a Fair Rents Board from a determination of the Controller;

"application"

Definitions.

Landlord and Tenant (Amendment).

- “application” means an application to the Controller under this Act;
- 5 “authorized officer” means any person appointed by the Controller in writing to be an authorized officer for the purpose of this Act;
- 10 “Commonwealth Regulations” means the Regulations having the title of the National Security (Landlord and Tenant) Regulations as in force immediately before the commencement of this Act under the Defence (Transitional Provisions) Act, 1946-1947, of the Parliament of the Commonwealth;
- 15 “determination” means determination of the fair rent of any premises, or of any premises together with goods leased therewith, made or continued in force under this Act;
- 20 “dwelling-house” means any prescribed premises (including shared accommodation) leased for the purposes of residence, and includes—
- (a) the premises of any lodging-house or boarding house;
- (b) any part of premises which is leased separately for the purposes of residence,
- 25 but does not include premises licensed for the sale of spirituous or fermented liquors;
- “Fair Rents Board” or “Board” means a Fair Rents Board constituted or deemed to have been constituted under this Act;
- 30 “holiday premises” means any premises which—
- (a) during the period commencing on the first day of March, one thousand nine hundred and forty-five, and ending on the sixteenth day of December, one thousand nine hundred and forty-six, have ordinarily been leased for holiday purposes only;
- 35 (b).

Landlord and Tenant (Amendment).

- (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
- 5 (c) were not, on the sixteenth day of December, one thousand nine hundred and forty-six, leased for purposes other than holiday purposes,
- 10 but does not include any such premises which at any time after that date—
- (d) are or were leased for purposes other than holiday purposes; or
- (e) are or were leased to or occupied by any lessee for a continuous period exceeding
- 15 three months;
- “lease” includes every contract for the letting of any prescribed premises, whether the contract is express or implied or is made orally, in writing or by deed, and includes a contract for
- 20 the letting of prescribed premises together with goods, and also includes any tenancy the existence of which is presumed by operation of section 22A of the Landlord and Tenant Act of 1899 as amended by subsequent Acts, but does
- 25 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
- 30 include respectively—
- (a) a mesne lessor and a mesne lessee;
- (b) a sub-lessor and sub-lessee;
- (c) in respect of premises which are subject to a mortgage, a mortgagee who enters or has entered into possession of the
- 35 premises under the mortgage and a person who was the lessee of the premises

Landlord and Tenant (Amendment).

- premises under the mortgagor immediately prior to the mortgagee entering into possession; and
- 5 (d) the persons who, by operation of section 22A of the Landlord and Tenant Act of 1899 as amended by subsequent Acts are presumed to be the landlord and tenant respectively;
- “Part” means Part of this Act;
- 10 “prescribed” means prescribed by this Act or the regulations;
- “prescribed premises” means any premises, other than—
- 15 (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
- 20 (c) any premises, or the premises included in any class of premises, declared by the Governor, by order published in the Gazette, to be excluded from the operation of this Act,
- 25 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 by any local authority or other local governing body, including any municipal, shire or county
- 30 council and water or sewerage authority;
- “regulations” means regulations made under this Act;
- “rent” means the actual rent payable under a lease, and includes—
- 35 (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

Landlord and Tenant (Amendment).

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 excess water rates,

and where, in any lease—

- (c) 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

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

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

“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 Controller” means the Rent Controller appointed under this Act, and includes any person exercising any powers or functions delegated to him by the Controller;

“the prescribed date,” in relation to any prescribed premises, means the thirty-first day of August, one thousand nine hundred and thirty-nine.

- (2) 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.

(3)

Landlord and Tenant (Amendment).

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

(4) Any declarations made before the commencement of this Act under paragraph (b) of the definition of "prescribed premises" in sub-regulation one of
10 Regulation eight of the Commonwealth Regulations and in force in this State immediately before such commencement shall continue in force in all respects as if they had been made by the Governor under paragraph (c) of the definition of "prescribed premises" in subsection one of
15 this section.

PART II.—FAIR RENTS.

Division 1.—Administration.

9. (1) The Minister may, for the purposes of this Act, constitute Fair Rents Boards at such places as he
20 thinks fit.

Constitution
and aboli-
tion of Fair
Rents
Boards.

All Fair Rents Boards constituted in this State before the commencement of this Act under Regulation nine of the Commonwealth Regulations and in existence immediately before such commencement shall be deemed
25 to have been constituted under this subsection.

(2)

Landlord and Tenant (Amendment).

(2) The Minister may abolish any Fair Rents Board.

(3) 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.

10. (1) The Governor may by regulations regulate the procedure of Fair Rents Boards.

Procedure
of Fair
Rents
Boards.

(2) All rules made by the Governor before the commencement of this Act under Regulation ten of the Commonwealth Regulations, and in force in this State immediately before such commencement shall continue in force in all respects as if they were regulations made by the Governor under subsection one of this section.

11. (1) For the purposes of this Act, there shall be a Rent Controller, who shall be appointed under and in accordance with the provisions of the Public Service Act, 1902, as amended by subsequent Acts:

Rent
Controller.

Provided that pending the appointment of the first Rent Controller under this section, a person may be appointed under and in accordance with the provisions of the Public Service Act, 1902, as amended by subsequent Acts, to act temporarily as Rent Controller, for a period specified in the instrument of his appointment, and a person so appointed shall have and may exercise and discharge during the term of his appointment all the powers, authorities, duties and functions conferred and imposed on the Rent Controller by this Act and shall, during such term, be deemed to be the Rent Controller for all purposes of this Act.

(2) The Controller may, by writing under his hand, delegate all or any of his powers and functions under this Act or under any order made thereunder (except this power of delegation) so that the delegated powers and functions may be exercised by the delegate.

(3)

Landlord and Tenant (Amendment).

(3) Any delegation by the Controller under this section shall be revocable in writing at will and no such delegation shall prevent the exercise of any power or function by the Controller.

5 **12.** (1) The Controller and each Fair Rents Board shall have and may exercise such powers and functions as are conferred upon him or it respectively by this Act, and may exercise those powers and functions—

Powers of
Controller
and Fair
Rents
Boards.

10 (a) in relation to all prescribed premises (including goods leased therewith); or

(b) where the Governor, by order published in the Gazette, declares that it is desirable that the powers and functions of the Controller and of Boards shall be exercisable with respect to certain prescribed premises only, or with respect to a limited class of prescribed premises only—
15 in relation to those prescribed premises (including goods leased therewith) only or to that limited class of prescribed premises
20 (including goods leased therewith) only.

(2) The powers and functions of a Fair Rents Board may be exercised by any Stipendiary Magistrate.

13. There shall be a clerk of each Fair Rents Board. The clerk shall be appointed under and in accordance with
25 the provisions of the Public Service Act, 1902, as amended by subsequent Acts.

Clerks of
Fair Rents
Boards.

14. Such officers and employees as may be necessary for the administration of this Act may be appointed under and in accordance with the provisions of the
30 Public Service Act, 1902, as amended by subsequent Acts.

Officers and
employees.

DIVISION 2.—Rent of Prescribed Premises.

15. (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
35 premises (or of prescribed premises together with goods) shall not, in respect of any period after the commencement of this Act and notwithstanding any term or covenant in any lease in force at any time after the commencement of this Act, exceed the rent payable in respect

Rent of
prescribed
premises.

Landlord and Tenant (Amendment).

respect of the prescribed premises at the prescribed date (including the rent of any goods then leased therewith and the charge for any service then provided in connection with the lease), or where that rent has been
5 increased or decreased by a determination made before the commencement of this Act under the Commonwealth Regulations and in force immediately before such commencement the rent as so increased or decreased.

(2) The rent payable by the lessee of any pre-
10 scribed premises which were not in existence, or were not leased, on the prescribed date but were leased on the first day of March, one thousand nine hundred and forty-five, or by the lessee of any such premises together with goods leased therewith, shall not, in respect of any period
15 after the commencement of this Act, and notwithstanding any term or covenant in any lease in force at any time after the commencement of this Act, exceed the rent payable in respect of the prescribed premises at the first day of March, one thousand nine hundred and forty-five
20 (including the rent of any goods then leased therewith and the charge for any service then provided in connection with the lease), or where that rent has been increased or decreased by a determination made before the commencement of this Act under the Commonwealth
25 Regulations and in force immediately before such commencement the rent as so increased or decreased.

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

(4) Until any rent fixed by subsection one or
30 subsection two of this section is increased or decreased by a determination, 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, additions,
35 repairs 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 by the lessor or in the goods leased with the premises.

Landlord and Tenant (Amendment).

16. (1) Where the rent of any prescribed premises (or of prescribed premises together with goods) is fixed by subsection one or subsection two of section fifteen of this Act, the lessee may, if the lessor of the premises was the lessor on the prescribed date, or on the first day of March, one thousand nine hundred and forty-five, as the case may be, 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.

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

17. Where the powers conferred by this Act on the Controler or a Fair Rents Board may be exercised in relation to certain prescribed premises (including goods leased therewith) only, or to a limited class of prescribed premises (including goods leased therewith) only, the provisions of this Division shall apply to those prescribed premises (including goods leased therewith) only, or to that limited class of prescribed premises (including goods leased therewith) only.

Application of Division.

DIVISION 3.—Rent of Prescribed Premises other than Shared Accommodation.

18. The lessor, or a lessee 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, of any prescribed premises other than shared accommodation (not being prescribed premises in relation to which the Controller is not authorized to exercise the powers conferred by this Part), or the owner of any such premises which are vacant, may apply in writing to

Application to have fair rent fixed.

Landlord and Tenant (Amendment).

to the Controller to have the fair rent of the prescribed premises determined by the Controller.

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

Notice of application.

(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 two 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 other than shared accommodation in respect of which an application is made are the subject of a mortgage, 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 mortgagee, who shall be entitled to be a party to the application.

20. (1) Where an application has been made for the determination of the fair rent of any prescribed premises other than shared accommodation, 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 the prescribed premises.

Determination of application.

(2)

Landlord and Tenant (Amendment).

(2) Subject to subsections three and four of this section, the determination 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
 5 six per centum 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
 10 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 twenty-one of this Act, that the rent as at the prescribed date is insuffi-
 15 cient, 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.

20 (4) The determination may increase the fair rent if the Controller is satisfied that, by reason of an error or omission, an injustice has been occasioned by the last determination.

25 **21.** Subject to section twenty of this Act, in determining the fair rent the Controller shall have regard to— Matters to be considered.

- (a) the capital value of the premises at 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;
- 30 (b) the annual rates and insurance premiums paid in respect of the premises;
- (c) the estimated annual cost of repairs, maintenance and renewals of the premises and fixtures thereon;
- 35 (d) 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;
- 40 (e) the rents of comparable premises in the locality of the premises the subject of the application;
- (f)

Landlord and Tenant (Amendment).

- (f) the rate of interest charged upon overdrafts by the Commonwealth Bank of Australia;
- (g) any services provided by the lessor or lessee in connection with the lease;
- 5 (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
- 10 (j) any hardship which would be caused to the lessor or lessee or any other person by the making of an order increasing or reducing the rent of the premises including (but without limiting the generality of the word "hardship") any loss
- 15 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 agree-
- 20 ment or contract of sale in respect of any goods leased with the premises.

22. (1) Every determination of the fair rent of pre-
scribed premises other than shared accommodation made
by the Controller shall come into force on a date fixed
25 by the Controller, but the date so fixed shall not be earlier
than the date of the application.

Date of
operation of
determina-
tion.

(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
30 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 nineteen or section twenty-four
of this Act.

23. Where any fair rent has been determined by the
35 Controller it shall, as from the date fixed under section
twenty-two of this Act and 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 fixed.

Effect of
determina-
tion.

24.

Landlord and Tenant (Amendment).

24. (1) The Controller may, of his own motion, after inquiry, determine the fair rent of any prescribed premises other than shared accommodation.

Controller may determine fair rent of his own motion.

(2) The Controller shall give to the lessor and
 5 lessee of the prescribed premises and to the other persons referred to in section nineteen of this Act notice of his intention to determine the fair rent of the premises, and the notice so given to the lessor shall, for the purposes of this Division, be deemed to be an application.

10 (3) In determining the fair rent of prescribed premises under this section, the Controller shall have the same powers as he has in connection with an application, and any determination made by the Controller shall have the same effect for all purposes as a determination made
 15 upon an application.

25. (1) This Division shall extend in relation to prescribed premises together with goods leased therewith, and any reference in this Division to prescribed premises shall, so far as applicable, include a reference
 20 to prescribed premises together with goods leased therewith.

Lease of prescribed premises together with goods.

(2) In the case of prescribed premises which are leased together with goods, the Controller may fix the fair rent of the prescribed premises irrespective of the
 25 goods or may, in his discretion, fix the fair rent of the prescribed premises together with goods leased therewith.

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

Inspection of prescribed premises.

DIVISION 4.—Rent of Shared Accommodation.

27. (1) The lessor, or the lessee who has paid, or has offered (either to the lessor personally or to the person to whom the rent is ordinarily paid) the money
 35 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, under a lease of shared accommodation (not being shared accommodation in relation to

Determination of rent of shared accommodation.

Landlord and Tenant (Amendment).

which the Controller is not authorised to exercise the powers conferred by this Part), or the owner of any such shared accommodation which is vacant, may make application in writing to the Controller to determine the
5 fair rent thereof.

(2) The Controller shall thereupon cause the shared accommodation to be inspected for the purpose of determining the fair rent thereof.

(3) The Controller may of his own motion, from
10 time to time, cause any shared accommodation to be inspected for the purpose of determining the fair rent thereof.

(4) At least seven days prior to determining the fair rent of any shared accommodation, the Controller
15 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.

(5) After an inspection of any shared accommodation has been made under subsection two or subsection three of this section, after making such inquiries and obtaining such reports (if any) as the Controller considers necessary, and after considering any representations
20 made by the lessor (or intending lessor), and any representations made by the lessee (if any), of the shared accommodation, the Controller may determine the fair rent of the shared accommodation.
25

(6) Every such determination shall come into
30 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 or, in any case in which the Controller causes any shared accommodation to be inspected pursuant to sub-
35 section three of this section, not earlier than the date of such inspection.

(7) In determining the fair rent of any shared accommodation the Controller shall have regard to the matters specified in section twenty-one of this Act.

(8)

Landlord and Tenant (Amendment).

(8) 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.

- 5 (9) Where any fair rent has been determined in pursuance of this section, it 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
10 together with the goods leased therewith, in respect of which it is fixed.

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

Variation in arrangement of shared accommodation to be notified.

- 15 (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; or
(c) the shared accommodation is leased—
20 (i) without the use of any convenience or service which was available to the tenant at the time when the determination was made; or
25 (ii) with the use of any convenience or service which was not so available,

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.

- 30 29. (1) This Division shall extend in relation to shared accommodation together with goods leased therewith, and any reference in this Division to shared accommodation shall, so far as applicable, include a reference to shared accommodation together with goods
35 leased therewith.

Rent of shared accommodation and goods leased therewith.

Landlord and Tenant (Amendment).

(2) In the case of shared accommodation which is leased together with goods, the Controller may determine the fair rent of the shared accommodation irrespective of the goods or may, in his discretion, determine
5 the fair rent of the shared accommodation together with goods leased therewith.

DIVISION 5.—*General.*

30. (1) The lessor or lessee of any prescribed premises, including shared accommodation, in respect of
10 which a determination has been made under this Act may, within twenty-one days after the giving of the notice referred to in subsection two of section twenty-two or in subsection eight of section twenty-seven of this Act, as the case may be, by a notice in writing lodged with
15 the clerk of the Fair Rents Board nearest to the premises (or of any other Fair Rents Board if that other Board is satisfied that hardship will not be occasioned thereby to any party to the appeal), appeal to that Board from the determination of the Controller.

Appeal from
determina-
tion.

20 (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 pur-
25 suance of section nineteen or section twenty-four of this Act, as the case may be.

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

30 **31.** (1) The Board shall hear the appeal and may, having regard to the matters specified in section twenty-one of this Act, 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,
35 is the correct fair rent of the prescribed premises.

Procedure
on appeal.

(2)

Landlord and Tenant (Amendment).

(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
5 thinks fit.

(3) The determination of the Board shall have effect from and including the date fixed by the Controller under subsection one of section twenty-two or under subsection six of section twenty-seven of this Act, as
10 the case may be.

(4) Where any fair rent 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
15 respect of which it is determined.

(5) The Board shall furnish a copy of its determination to the Controller.

32. (1) A determination may be varied—

Variation of
determina-
tion.

(a) on application made in the same manner as an
20 application to the Controller for a determination;
or

(b) by the Controller of his own motion,

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

(2) During such period as is specified in the determination, or, if no period is so specified, during the period commencing with the date of the determination and ending twelve months after that date, an application
30 shall not be made to vary a determination, or to determine the fair rent of prescribed premises, or of prescribed premises together with goods leased therewith, in respect of which a determination has been made, nor shall the Controller vary a determination of his own
35 motion, except on the ground that—

(a) by an error or omission an injustice has been occasioned by the determination;

(b)

Landlord and Tenant (Amendment).

- (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;
- 5 (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 by the lessor, or of premises of which the premises form part, or on an incorrect calculation, and
- 10 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;
- 15 (e) substantial alterations or additions have been made to the premises, to the goods leased therewith, or to the services supplied by the lessor, since the determination was made; or
- 20 (f) the value of the premises, of the goods leased therewith or of the services supplied by the lessor has materially decreased or increased since the determination was made.

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

33. (1) A determination shall apply to any lease of
 30 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,
 35 additions, repairs 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 by the lessor or in the goods leased with the premises.

Effect of
 determina-
 tion.

(2)

Landlord and Tenant (Amendment).

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

34. (1) Where the fair rent of any prescribed premises or shared accommodation has been determined, the lessor shall give notice in writing to the Controller
10 of—

Lessor to notify change in services supplied or in nature of occupancy.

- (a) the nature and extent of any services, not supplied at the date of the determination, which he commences to supply to any lessee; and
- 15 (b) the fact that the prescribed premises cease or the shared accommodation ceases to be occupied by a lessee and become or becomes occupied by a lodger.

(2) A notice under this section shall be given within seven days after the matter required to be notified
20 arises.

35. (1) A person shall not—

Premises not to be let at rent exceeding fair rent.

- (a) let premises, or premises together with goods, at a rent exceeding the fair rent thereof; or
- 25 (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
- 30 (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
- 35 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)

Landlord and Tenant (Amendment).

- (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
 5 and the use of goods leased therewith,
 exceeding the fair rent thereof, shall, to the extent of the
 excess, be recoverable in an action for debt in any court
 of competent jurisdiction by the lessee from the lessor
 to whom it was paid.
- 10 (4) In any prosecution for an offence arising
 under this section, the averment of the prosecutor—
 (a) that the prescribed premises were let to a
 specified person on the prescribed date; and
 (b) as to the rent payable in respect of the
 15 prescribed premises at the prescribed date,
 shall be prima facie evidence of the matter or matters
 averred.
- (5) Any evidence given by a witness in support
 or rebuttal of a matter so averred shall be considered on
 20 its merits and the credibility and probative value of the
 evidence shall not be increased or diminished by reason
 of this section.
- (6) An averment shall not be made under this
 section unless the Crown Solicitor, or an Assistant Crown
 25 Solicitor is satisfied that the averment is reasonably
 necessary for the due administration of justice and will
 not impose hardship upon, or occasion injustice to, the
 defendant and certifies in writing accordingly on the
 paper containing the averment.
- 30 (7) An averment shall not be evidence for the
 purposes of this section unless a copy of the paper
 containing the averment has been served on the defend-
 ant in the same manner as the process requiring his
 attendance before the court.
- 35 (8) Service of the copy of the paper containing
 the averment may be proved in the same manner as
 service of the process requiring the defendant's attend-
 ance before the court may be proved.
- (9) Upon the hearing of an information for an
 40 offence arising under this section, the court may, if the
 amendments

Landlord and Tenant (Amendment).

amendments can be made without hardship or injustice to the defendant, allow such amendments to be made in the writing containing an averment as appear to it to be desirable or to be necessary to enable the real question
5 in the dispute to be determined.

(10) If in any such case the court considers the defendant has been misled by the form of the averment, it may refuse to allow the amendments, or may, as a condition of allowing the amendments, adjourn the hear-
10 ing of the case for such period as it thinks fit and may make such order as to the costs of the adjournment as it thinks proper.

36. (1) A person shall not, whether as principal or agent, or in any other capacity—

Certain
payments
prohibited.

15 (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 good-
will, in consideration of, or in association with—

20 (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;

25 (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,

30 any prescribed premises (including any dwelling house), 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—

35 (i) for obtaining or making available a key of any prescribed premises (including any dwelling house); or

40 (ii) for information as to a tenancy, or as to the possibility or likelihood of obtaining a tenancy, of any prescribed premises

Landlord and Tenant (Amendment).

premises (including any dwelling-house); or

- 5 (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) 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 in an action for debt in any
10 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.

15 (3) Where a person has, in contravention of this section, been required to purchase or exchange any goods or goodwill, he may recover in any court of competent jurisdiction, from the person guilty of the contravention, so much of any amount paid, in accordance with the
20 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.

25 **37.** (1) A person shall not 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,
30 transfer, assignment, renewal or extension of a lease, or consent to a sub-lease, of any prescribed premises (including any dwelling-house).

Certain representations, etc., prohibited.

(2) In any prosecution for a contravention of this section, it shall be a defence if the defendant proves
35 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.

38.

Landlord and Tenant (Amendment).

38. (1) A person shall not refuse, or procure any person to refuse, to let a dwelling-house to any person on the ground that it is intended that a child shall live in the dwelling-house.

Refusal to let dwelling-house to applicant with family prohibited.

5 (2) In any prosecution for an offence arising under subsection one 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
10 was not the ground alleged in the charge.

(3) A person shall not—

(a) instruct any other person not to let; or

(b) state his intention, whether by advertisement or otherwise, not to let,

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

(4) A person shall not, for the purpose of determining whether or not he will let a dwelling-house, inquire from any prospective tenant of the dwelling-
20 house whether—

(a) the prospective tenant has any children; or

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

25 (5) In any prosecution for an offence arising under subsection four 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
30 inquiry was not the purpose alleged in the charge.

39. A person shall not let a dwelling-house which to his knowledge is, at the date of the letting, not in fair and tenantable repair.

Dwelling-house not to be let unless in good repair.

40. Notwithstanding anything contained in this Act
35 or in any declaration issued in pursuance of this Act, a dwelling-house shall, for the purposes of sections thirty-six, thirty-seven, thirty-eight and thirty-nine of this Act, be deemed to include holiday premises.

Premises leased for holiday purposes only.

41.

Landlord and Tenant (Amendment).

41. Every determination of a Fair Rents Board or of the Controller shall, except as provided by this Part, be final and without appeal, and no writ of prohibition or certiorari shall lie in respect thereof.

No appeal
from order
of Board.

42. 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.

43. (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.

(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.

44. (1) The Controller, or the Stipendiary 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 books, documents or writings in his custody or control which he is required by the summons to produce.

Summoning
of witnesses
and produc-
tion of
documents.

(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.

45. (1) A person who has been served with a summons to attend the Controller or a Fair Rents Board shall not, 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.

(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

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that the documents, books or writings were not relevant to the subject-matter of the proceedings before the Controller or Board.

46. A person appearing as a witness before the
5 Controller or a Fair Rents Board shall not 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
10 Controller or Board.

Refusal to
be sworn or
give
evidence.

47. A witness before the Controller or a Fair Rents
Board shall not knowingly give false testimony in any
evidence given by him to the Controller or Board.

False
testimony.

48. A witness before the Controller or a Fair Rents
15 Board shall have the same protection 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.

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

Protection
of reports
and proceed-
ings.

- (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
25 (b) a fair and accurate report of any proceedings before the Controller or a 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
30 the person defamed or by any other improper motive.

50. (1) A person shall not 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
35 defamatory of a Board, or otherwise commit any wilful contempt of a Board.

Contempt
of Board.

(2)

Landlord and Tenant (Amendment).

(2) The Stipendiary Magistrate constituting a Fair Rents Board shall, in relation to any contravention of subsection one 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.

51. 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 Justice of the Peace.

Protection
of Board.

52. The Controller shall, 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, fixed by the Board or by the Controller.

Information
as to fair
rent.

53. The Minister may, at any stage of any proceedings under this Part before a Fair Rents Board, intervene by counsel, solicitor or agent and may examine witnesses and address the Board.

Intervention
by Minister.

54. (1) Any person who is a party to proceedings under this Part or who may be affected by the result of any such proceedings, may appear in person or may be represented by counsel or a solicitor or by an agent authorised in writing in that behalf, who may examine witnesses and address the Board or Controller on that person's behalf.

Representa-
tion by
agent.

(2) No counsel, solicitor or agent representing a person in proceedings under this Part shall demand or take by way of fees for work done by him in relation to such proceedings any sum in excess of the sum prescribed by the regulations and applicable to him.

55. (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.

Records
of rent.

(2) The person having the custody of the record or of any previous like record, relating to a period not earlier than the prescribed date, in respect of the prescribed

Landlord and Tenant (Amendment).

prescribed premises shall, when requested by any tenant 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 tenant or
5 authorised officer, as the case may be.

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

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

(5) A request under this section may be made
15 orally or in writing.

56. The person receiving any payment of rent of 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
20 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.

57. (1) It shall be the duty of the lessor of any
25 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.

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

(3)

Landlord and Tenant (Amendment).

(3) Where any prescribed premises were not in existence, or were not leased, on the prescribed date, but were leased on the first day of March, one thousand nine hundred and forty-five, the lessor at the first day
5 of March, one thousand nine hundred and forty-five, shall, on demand in writing by 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
10 with goods) at the first day of March, one thousand nine hundred and forty-five.

58. (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
15 premises was fixed by a determination (whether by the Controller or a Fair Rents Board), and specifying the amount thereof, shall be evidence of the matters certified to.

Certificate
as to fair
rent.

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

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

Service of
notices.

25 (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
30 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 Part to be given to, or served upon,
35 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)

Landlord and Tenant (Amendment).

(3) Where any notice or other document is required or permitted by this Part 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
5 a daily newspaper circulating in the district in which the prescribed premises concerned are situated.

60. (1) Any notice or other document required or permitted by this Part to be given to, or served upon, a
10 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.

(2) Any notice or other document required or permitted by this Part to be given to, or served upon, a
15 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
20 under any lease of any prescribed premises, it shall be a sufficient compliance with any provision of this Part 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
25 or lessees.

61. (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
30 be refunded to the person by whom the payment was made.

Courts may
order refund
of amounts
overpaid.

(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
35 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 sees fit, include

Landlord and Tenant (Amendment).

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 final judgment of that court.

PART III.

RECOVERY OF POSSESSION OF PRESCRIBED PREMISES.

62. (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. Restriction on eviction.

(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 was given.

(3)

Landlord and Tenant (Amendment).

(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) if the lessor, before
5 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 sixty-three of this Act, and that period of notice has expired.

10 (4) Service of the 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 occupa-
15 tion of the premises; or

(b) the person by whom the rent of the premises is customarily paid.

(5) The prescribed grounds shall be—

20 (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 twelve months—of not less than fourteen days; and

25 (ii) 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
30 by the lessor;

(c) that the lessee has failed to take reasonable care of the premises, or of any goods leased there-with, or has committed waste;

(d)

Landlord and Tenant (Amendment).

- (d) that the lessee has been guilty of conduct which is a nuisance or annoyance to adjoining or neighbouring occupiers;
- 5 (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
- 10 currency of the lease, been used for some illegal purpose;
- (f) that the lessee has given notice in writing 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
- 15 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
- 20 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
- 25 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);
- 30 (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
- 35 upon, him;
- 40
- (j)

Landlord and Tenant (Amendment).

- 5 (j) that the lessor is a person, body or authority carrying on a hospital, or a trustee for such a person, body or authority, and the use of the premises is reasonably required for the purposes of the hospital (including the accommodation of the staff of the hospital);
- 10 (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;
- 15 (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—
- 20 (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
- 25 (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;
- 30 (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 being a dwelling-house by virtue of an assignment or transfer which the lessor has not
- 35 consented to or approved; or
- (o) that the lessee has sub-let the premises being a dwelling-house or some part of the dwelling-house by a sub-lease which has not been
- 40 consented to or approved by the lessor.

(6)

Landlord and Tenant (Amendment).

(6) (a) In subsection five 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
5 one lessee, any one or more of the lessees.

(b) In paragraphs (n) and (o) of subsection five of this section, "dwelling-house" does not include the premises of any lodging-house or boarding-house.

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

(a) shall not be given—

(i) where the lessee became the lessee by
15 virtue of an assignment or transfer made before the fourteenth day of March, one thousand nine hundred and forty-seven, or the sub-lease was granted before that date;

(ii) where the lease is for a fixed term—
20 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;
25 and

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

63. (1) The period for which notice to quit shall
30 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.

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

35 (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 paragraph (c), (d), (e) or (f) of
subsection

Landlord and Tenant (Amendment).

subsection five of section sixty-two of
this Act and not on any other ground;

(ii) a period exceeding thirty days if the
notice is given on any other ground;

5

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.

10

64. A lessor shall not, after the lessee has made an application for a determination, or after he has received from the Controller notice of his intention to determine the fair rent, except with the consent of the Controller,
15 give a notice to quit on any ground specified in paragraph (f), (g), (h), (i), (j), (k) or (l) of subsection five of section sixty-two of this Act until after the expiration of six months after the making of a determination on the application or in pursuance of the notice, but if a deter-
20 mination has not been made 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
25 period.

Notice to
quit not to
be given
within six
months after
determina-
tion.

A 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
30 made or given under the Commonwealth Regulations before the commencement of this Act.

65. (1) A person who has, either before or after the commencement of this Act, become the lessor of prescribed premises being a dwelling-house or part of a
35 dwelling-house, by purchase thereof, shall not, within a period of two years after the date of the agreement for the purchase, give a notice to quit on the ground specified in paragraph (g) of subsection five of section sixty-two of this Act to any person who was a lessee of
40 the prescribed premises at the date of the agreement for

Notice to
quit where
dwelling-
house sold.

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for the purchase unless, after the date of such agreement, he has given the lessee at least eighteen months notice in writing of his intention to give such notice to quit.

(2) A lessor of prescribed premises, being a dwelling-house or part thereof, shall not give a notice to quit on the ground specified in paragraph (1) of subsection five of section sixty-two of this Act 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.

66. 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
specify
grounds.

67. A notice to quit given in accordance with the provisions of section sixty-two of this Act 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 to
terminate
lease.

68. (1) Where a lessor has taken proceedings in any court to recover possession of any prescribed premises from the lessee and the court has (whether before or after the commencement of this Act) 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.

Notice to
quit after
failure
of eviction
proceedings.

(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.

69. (1) For the purposes of section sixty-two of this Act courts of petty sessions, and those courts only, shall be courts of competent jurisdiction.

Competent
courts.

(2)

Landlord and Tenant (Amendment).

(2) The jurisdiction of a court of petty sessions under this section shall not be exercised except by a Stipendiary Magistrate.

(3) The provisions of sections twenty-six and twenty-seven of the Landlord and Tenant Act of 1899, shall not apply in any case where an order for the recovery of possession of any prescribed premises has been made under this Part.

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

Court to consider hardship.

- (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 five of section sixty-two of this Act—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 or may, on such conditions (if any) as it thinks fit, refuse to make the order notwithstanding that one or more of the prescribed grounds has been established.

(2) Notwithstanding anything contained in this section, an order for the recovery of possession of any prescribed premises, being a dwelling-house, from any person on any of the grounds specified in paragraphs (g), (i), (l) or (m) of subsection five of section sixty-two of this Act shall not be made unless the court is satisfied that

Landlord and Tenant (Amendment).

that the lessor had provided at the date of expiry of the notice to quit, and has immediately available for the occupation of the persons occupying such dwelling-house, reasonably suitable alternative accommodation:

5 Provided that this subsection shall not apply in any case where—

10 (a) the lessor is a protected person within the meaning of the National Security (War Service Moratorium) Regulations and the lessee is not a protected person within the meaning of those Regulations; or

15 (b) the court is satisfied that the lessor is required by law to reconstruct or demolish the dwelling-house and possession thereof is sought by him for that purpose.

In this subsection “National Security (War Service Moratorium) Regulations” means the Regulations having that title as in force for the time being under the Defence (Transitional Provisions) Act, 1946-1947, of the
20 Parliament of the Commonwealth.

(3) Where the application is made on either of the grounds specified in paragraphs (n) and (o) of subsection five of section sixty-two of this Act, the court shall not refuse, in the exercise of the discretion vested
25 in it by subsection one 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.

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

71. (1) In respect of any proceedings referred to in section seventy of this Act, the court may—

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

(i) adjourn the proceedings;

(ii)

Power to
stay
proceedings
or orders.

Landlord and Tenant (Amendment).

- (ii) stay or suspend the execution of any order which has been made or given in the proceedings; or
- 5 (iii) postpone the date for recovery of possession specified in any such order; or
- (b) subject to such conditions (if any) as it thinks fit, vary, discharge or rescind any such order; or
- 10 (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—
- 15 (i) if the court is satisfied that, because of the illness of the lessee or for other sufficient cause, it is or has been impracticable for the officer to whom the warrant is directed to execute the warrant within the period stated therein—for such period as it thinks fit; or
- 20 (ii) if the court is not so satisfied—for a period not exceeding seven days from the date on which the extension is granted.
- 25 (2) In this section—
- (a) a reference to an order shall include a reference to an order made before the commencement of this Act under Regulation sixty-three of the Commonwealth Regulations;
- 30 (b) a reference to a warrant shall include a reference to a warrant issued before the commencement of this Act under the Commonwealth Regulations for the execution of an order made under Regulation sixty-three of those Regulations.
- 35 **72.** (1) An application to stay or suspend the execution of, or to vary, discharge or rescind, any order referred to in section seventy-one of this Act, or to postpone the date for recovery of possession specified
- Certain applications to operate as stay of execution.
- in

Landlord and Tenant (Amendment).

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.

(2) Notwithstanding anything contained in paragraph (c) of section seventy-one of this Act, 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 seventy of this Act, the court has refused to grant an application of any of the kinds referred to in subsection one 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.

73. 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.

74. (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 sixty-nine of this Act.

Appeals.

(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.

75. No order (other than an order made under this Part or under the Commonwealth Regulations) made by any court for the recovery by the lessor of possession of any prescribed premises (or of any goods leased therewith) or for the ejectment of the lessee shall be enforceable.

Ejectment orders not enforceable unless made under this Act.

76. 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

Court may order compensation for misrepresentation.

Landlord and Tenant (Amendment).

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
5 of the order, and the provisions of subsection three of section sixty-one of this Act, shall apply, mutatis mutandis, to and in respect of any order for the payment of any sum under this section.

77. (1) (a) If a notice to quit has been given on the
10 ground specified in paragraph (h), (i), (j) or (k) of subsection five of section sixty-two of this Act 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
15 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,
20 or possession of the premises was recovered.

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

(b) If a notice to quit has been given on the ground specified in paragraph (g) of subsection five of section sixty-two of this Act, and the premises in respect of which the notice was given have been vacated in
25 accordance with the notice, or if an order for the recovery of possession of the premises has been made on 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 three
30 years immediately succeeding the date on which the premises were vacated or possession of the premises was recovered.

(c) If a notice to quit has been given on the ground specified in paragraph (m) of subsection five of
35 section sixty-two of this Act, and the premises in respect of which the notice was given have been vacated in accordance with the notice, or if an order for recovery of possession of the premises has been made on such ground, the premises shall not, without the consent of
the

Landlord and Tenant (Amendment).

the court, be again leased or sold or agreed to be leased or sold, until the reconstruction or demolition referred to in the said paragraph (m) has been carried out.

(d) In this subsection—

- 5 (i) a reference to a notice to quit shall include a reference to a notice to quit given before the commencement of this Act;
- (ii) a reference to a vacation of premises shall include a reference to a vacation of premises before the commencement of this Act; and
- 10 (iii) a reference to an order for the recovery of possession of premises shall include a reference to any such order made under the Commonwealth Regulations before the commencement of this Act.
- 15

(2) Nothing in subsection one 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
- 20
- 25 (b) where notice to quit has been given on the ground specified in paragraph (h), (i) or (j), the letting of the premises—
- (i) to a minister of religion;
- (ii) to a beneficiary under the trust; or
- 30 (iii) to some person in the employ of, or about to become an employee of, the lessor in consequence of his employment,
- respectively.

- 35 (3) A transaction entered into in contravention of subsection one 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.

Landlord and Tenant (Amendment).

78. Where an order is in force declaring that it is desirable that the powers and functions of the Controller and of Fair Rents Boards shall be exercisable with respect to certain prescribed premises only, or with respect to a limited class of prescribed premises only, the provisions of this Part shall apply only with respect to the prescribed premises, or limited class of prescribed premises, referred to in the order.

Application to limited class of premises.

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

Enforcement of orders.

80. Where notice to quit any prescribed premises has been given, whether before or after the commencement of this Act—

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;

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

81. (1) A person shall not, without the consent of the lessee of prescribed premises, or without reasonable cause (proof whereof shall lie upon the defendant), 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.

Landlord and Tenant (Amendment).

(2) Where the lessor, or any agent or servant of the lessor, has been convicted of an offence arising under subsection one of this section, the court may order the lessor to do such things as are necessary to enable the
5 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
10 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
15 and lessee or at times equivalent to those times.

82. (1) Where—Protection
of sub-
lessees.

- 20 (a) a lessor has either before or after the commencement of this Act consented to or approved a sub-lease of any prescribed premises or any part thereof by the lessee, or a lessee has either before or after such commencement sub-let any prescribed premises or any part thereof in the course of a business of sub-letting carried on by the lessee; and
- 25 (b) the lessee has ceased, either before or after such commencement, to be in possession of the premises, following upon—

- 30 (i) the obtaining of an order by the lessor for the recovery of possession of the premises from the lessee on any of the grounds specified in paragraphs (a) to (f) of subsection five of section sixty-two of this Act; or

- (ii) the surrender of his lease by the lessee,
35 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

Landlord and Tenant (Amendment).

upon the same terms and conditions as the terms and conditions of the sub-lease, as in force immediately prior to—

5 (c) the date on which the lessor gave notice to quit to the lessee; or

(d) 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),

10 as the case may be.

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

15 (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 five of section sixty-two of this Act, the lessee of the prescribed premises has sub-let the whole or any part thereof—

20 (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;

25 (b) the lessor shall, upon taking proceedings for the recovery of possession of the prescribed premises, 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

30 (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.

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

*Landlord and Tenant (Amendment).***83.** Where—

- (a) the tenancy of any prescribed premises is terminated by virtue of the provisions of this Act or of the Commonwealth Regulations;
- 5 (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
- 10 (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.

that person shall have the like right to continue in
15 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 in accordance with the provisions of this Act as if he were a lessee of the
20 premises.

84. 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.

25 **85.** The Minister may, at any stage of any proceedings in relation to which this Part applies, intervene by counsel, solicitor or agent and may examine witnesses and address the court.

Intervention
of Minister.

86. (1) The lessor or former lessor under a lease, or the proposed lessor under a proposed lease, of any
30 prescribed premises for a fixed term not exceeding six 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
35 premises from the operation of this Part.

Exclusion of
premises
let for a
short term
from operation of Part
III.

(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

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is specified in the certificate, from the operation of the provisions of this Part and the premises shall be excluded accordingly.

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

(b) Any certificate issued under sub-regulation three of Regulation seventy-eight of the Commonwealth Regulations shall be deemed to have been issued
10 under subsection three of this section.

87. (1) (a) 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.
15 (b) Any certificate issued under Regulation seventy-nine of the Commonwealth Regulations shall be deemed to have been issued under this section.

Exclusion of certain subdivided premises, &c., from operation of Part III.

(2) Where the owner of any prescribed premises is desirous of making the whole or any part of those
20 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,
25 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
30 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
35 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.

Landlord and Tenant (Amendment).

(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;
- 5 (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
10 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
- 15 (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
20 more than three residential units or in relation to any residential unit in any such building.

25 (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.

PART IV.—MISCELLANEOUS.

30 88. (1) A person shall not, 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.

(2) The owner of any prescribed premises, and the agent of any such owner, shall not refuse, or procure any person to refuse, to lease the premises to any other
person

Landlord and Tenant (Amendment).

person who desires to lease the same if the reason for that refusal was the fact that that other person had made an application to a Board or the Controller under this Act or the Commonwealth Regulations.

5 (3) In any prosecution for an offence arising under subsection two 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
10 refusal was not the reason alleged in the charge.

(4) A person shall not 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
15 under this Act or the Commonwealth Regulations or has taken any proceedings in relation to which this Act applies or the Commonwealth Regulations applied.

89. No covenant or agreement (whether entered into before or after the commencement of this Act) shall have
20 any force or effect to deprive any lessee of any right, power, privilege or benefit provided for by this Act. Contracting out prohibited.

90. A person shall not 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, and
25 whether directly or indirectly, defeating, evading, or preventing the operation of, this Act in any respect. Contracts to evade Act prohibited.

91. (1) Where any transaction is entered into in contravention of this Act, the transaction shall not thereby be invalidated, and the rights, powers and
30 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. Transactions not invalidated.

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

Landlord and Tenant (Amendment).

92. (1) The Controller or an authorised officer may require a person— Information to be furnished on request.

- (a) to furnish to the person making the requirement such information as that person requires;
 - 5 (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.

10 (2) A person shall not, 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
- 15 (b) give any information or make any answer which is false in any particular.

(3) A person shall not 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
20 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
25 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—

- 30 (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.

35 (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.

93. The Controller or an authorised officer may, for the purposes of this Act, enter on and inspect any land
40 or premises. Powers of entry and inspection.

94.

Landlord and Tenant (Amendment).

94. 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
5 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.

Proof of instruments.

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

Offences and penalties.

(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
15 this Act shall be liable—

(a) if a body corporate—to a penalty not exceeding two hundred pounds;

(b) if any other person—to a penalty not exceeding one hundred pounds, or to imprisonment for a
20 term not exceeding six months, or to both such penalty and imprisonment.

(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
25 or officer of the body corporate shall be deemed to have committed the like offence, and be liable to the pecuniary penalty or imprisonment or both provided by this section in the case of such an offence by a person other than a body corporate accordingly, unless he proves that the
30 offence was committed without his knowledge, or that he used all due diligence to prevent the commission of the offence.

96. (1) The Governor may make regulations not
inconsistent with this Act prescribing all matters which
35 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 this Act.

Regulations.

(2) The regulations may impose a penalty not exceeding one hundred pounds for any breach thereof.

(3)

Landlord and Tenant (Amendment).

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified therein;
- 5 (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.
- 10 If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have
- 15 effect.

97. (1) In addition to the powers conferred by section ninety-six of this Act, the Governor may from time to time by regulations, declare that on a date specified in the regulations, the powers authorities duties and

20 functions conferred and imposed on the Controller by this Act shall be transferred to and shall thereafter be exercised and discharged by Fair Rents Boards as prescribed in the regulations.

Regulations may transfer powers of Controller to Fair Rents Boards.

(2) Regulations made under this section may—

- 25 (a) apply generally to all powers authorities duties and functions of the Controller, or particularly to such powers authorities duties and functions of the Controller as are prescribed in the regulations;
- 30 (b) apply generally to all premises in respect of which he is authorised by this Act to exercise and discharge any of his powers authorities duties and functions, or particularly to any class of such premises as may be specified in the regulations;
- 35 (c) apply generally throughout the State, or particularly within such parts of the State as are specified in the regulations.

(3)

Landlord and Tenant (Amendment).

(3) Regulations made under this section may include provisions for modifying and adapting the provisions of this Act in such manner and to such extent as may be necessary or convenient to give effect to any
5 transfer to Fair Rents Boards of the powers authorities duties and functions of the Controller effected by the regulations and to enable Fair Rents Boards to exercise and discharge the same.

(4) Every determination made by a Fair Rents
10 Board in the exercise of powers transferred to it by regulations made under this section shall be final and without appeal, and no writ of prohibition or certiorari shall lie in respect thereof.

(5) The provisions of subsection three of section
15 ninety-six of this Act shall apply to and in respect of regulations made under this section.

98. All proceedings for offences against this Act or
the regulations shall be disposed of in a **summary** Proceedings for offences.
manner before a court of petty sessions holden before a
20 Stipendiary Magistrate sitting alone.

No. , 1948.

A BILL

Relating to the control of rents of certain premises and the recovery of possession of certain premises; to repeal the Fair Rents Act, 1939; to amend the Landlord and Tenant Act of 1899, and certain other Acts; and for purposes connected therewith.

[MR. WEIR;—21 JULY, 1948.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of
5 the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Landlord and Tenant (Amendment) Act, 1948."

Short title
and com-
mencement.

Landlord and Tenant (Amendment).

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Fair Rents Act, 1939, is hereby repealed.

Repeal of
Act No. 37,
1939.

5 3. This Act is divided into Parts as follows:—

Division
into Parts.

PART I.—PRELIMINARY.

PART II.—FAIR RENTS—

DIVISION 1.—*Administration.*

DIVISION 2.—*Rent of Prescribed Premises.*

10 DIVISION 3.—*Rent of Prescribed Premises other than Shared Accommodation.*

DIVISION 4.—*Rent of Shared Accommodation.*

DIVISION 5.—*General.*

15 PART III.—RECOVERY OF POSSESSION OF PRESCRIBED PREMISES.

PART IV.—MISCELLANEOUS.

4. (1) All determinations of fair rents made before Savings.
the commencement of this Act under the Commonwealth
Regulations and having force or effect in this State
20 immediately before such commencement shall be deemed
to have been made under this Act and, subject to this
Act, shall continue to have force and effect accordingly.

(2) All applications to, and other proceedings
before, the Commonwealth Rent Controller under
25 the Commonwealth Regulations which are pending
immediately before the commencement of this Act may be
continued before, and may be determined by, the
Controller under this Act, and any pending application
shall be deemed to be an application to the Controller
30 under this Act, and the provisions of this Act shall apply
to those applications and proceedings as if they were
applications to, or proceedings before, the Controller
under this Act.

(3) All proceedings before a Fair Rents Board in
35 this State under the Commonwealth Regulations which
are pending immediately before the commencement of
this

Landlord and Tenant (Amendment).

this Act, may be continued before and determined by a Fair Rents Board under this Act, and the provisions of this Act shall apply to those proceedings as if they were proceedings before a Fair Rents Board under this Act.

5 (4) All proceedings under Part III of the Commonwealth Regulations which are pending immediately before the commencement of this Act may be continued and determined under Part III of this Act as if they had been commenced thereunder.

10 (5) The generality of this section shall not be affected by any saving in any other section of this Act nor shall this section limit any saving in the Interpretation Act of 1897, as amended by subsequent Acts.

15 5. This Act shall not bind—

Crown not bound.

(a) the Crown in right of the Commonwealth or of the State; or

(b) The Housing Commission of New South Wales.

20 6. (1) The Governor may, by order published in the Gazette, declare that the application of this Act shall extend to premises, or the premises included in any class of premises, specified in the order, and thereupon the application of this Act shall, notwithstanding anything contained in paragraph (b) of subsection one of section
25 twelve, section seventeen or section seventy-eight of this Act, extend to those premises (including goods leased with those premises) or to the premises included in that class of premises (including goods leased with those premises).

Declarations as to application of Act.

30 (2) The Governor may, by order published in the Gazette, declare that any premises, or the premises included in any class of premises, shall be excluded from the operation of this Act or of such of the provisions of this Act as are specified in the order, and thereupon those
35 premises, or premises of that class, shall be excluded accordingly.

(3) Any declaration made before the commencement of this Act under sub-regulation four or sub-regulation five of Regulation seven of the Commonwealth
40 Regulations and having force or effect in this State immediately

Landlord and Tenant (Amendment).

immediately before such commencement shall continue to have force and effect in all respects as if this section had been in force at the time when such declaration was made, and the declaration had been made thereunder by
5 the Governor.

7. (1) Where any prescribed premises are not holiday premises by reason only of the fact that they have at some time subsequent to the first day of March, one thousand nine hundred and forty-five, been leased to or
10 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.

15 (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
20 operation of this Act or of such of the provisions of this Act as are specified in the certificate, 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.

25 (4) Any certificate issued before the commencement of this Act under sub-regulation three of Regulation 7A of the Commonwealth Regulations and having force or effect in this State immediately before such commencement shall continue to have force and effect in all respects
30 as if this section had been in force 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 three of this
35 section or continued in force under subsection four of this section.

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

40 “appeal” means appeal to a Fair Rents Board from a determination of the Controller;

“application”

Holiday
premises.

Definitions.

Landlord and Tenant (Amendment).

“application” means an application to the Controller under this Act;

5 “authorized officer” means any person appointed by the Controller in writing to be an authorized officer for the purpose of this Act;

10 “Commonwealth Regulations” means the Regulations having the title of the National Security (Landlord and Tenant) Regulations as in force immediately before the commencement of this Act under the Defence (Transitional Provisions) Act, 1946-1947, of the Parliament of the Commonwealth;

15 “determination” means determination of the fair rent of any premises, or of any premises together with goods leased therewith, made or continued in force under this Act;

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

20 (a) the premises of any lodging-house or boarding house;

(b) any part of premises which is leased separately for the purposes of residence,

25 but does not include premises licensed for the sale of spirituous or fermented liquors;

“Fair Rents Board” or “Board” means a Fair Rents Board constituted or deemed to have been constituted under this Act;

30 “holiday premises” means any premises which—

35 (a) during the period commencing on the first day of March, one thousand nine hundred and forty-five, and ending on the sixteenth day of December, one thousand nine hundred and forty-six, have ordinarily been leased for holiday purposes only;

(b)

Landlord and Tenant (Amendment).

- (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
- 5 (c) were not, on the sixteenth day of December, one thousand nine hundred and forty-six, leased for purposes other than holiday purposes,
- 10 but does not include any such premises which at any time after that date—
- (d) are or were leased for purposes other than holiday purposes; or
- (e) are or were leased to or occupied by any lessee for a continuous period exceeding
- 15 three months;
- “lease” includes every contract for the letting of any prescribed premises, whether the contract is express or implied or is made orally, in writing or by deed, and includes a contract for
- 20 the letting of prescribed premises together with goods, and also includes any tenancy the existence of which is presumed by operation of section 22A of the Landlord and Tenant Act of 1899 as amended by subsequent Acts, but does
- 25 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
- 30 include respectively—
- (a) a mesne lessor and a mesne lessee;
- (b) a sub-lessor and sub-lessee;
- (c) in respect of premises which are subject to a mortgage, a mortgagee who enters or has entered into possession of the
- 35 premises under the mortgage and a person who was the lessee of the premises

Landlord and Tenant (Amendment).

- premises under the mortgagor immediately prior to the mortgagee entering into possession; and
- 5 (d) the persons who, by operation of section 22A of the Landlord and Tenant Act of 1899 as amended by subsequent Acts are presumed to be the landlord and tenant respectively;
- “Part” means Part of this Act;
- 10 “prescribed” means prescribed by this Act or the regulations;
- “prescribed premises” means any premises, other than—
- 15 (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
- 20 (c) any premises, or the premises included in any class of premises, declared by the Governor, by order published in the Gazette, to be excluded from the operation of this Act,
- 25 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 by any local authority or other local governing body, including any municipal, shire or county
- 30 council and water or sewerage authority;
- “regulations” means regulations made under this Act;
- “rent” means the actual rent payable under a lease, and includes—
- 35 (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

Landlord and Tenant (Amendment).

conditions and provisions usually entered into by a lessee; and

5 (b) any rates or taxes payable by a lessee in respect of any prescribed premises, other than excess water rates,

and where, in any lease—

10 (c) 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

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

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

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

30 “the Controller” means the Rent Controller appointed under this Act, and includes any person exercising any powers or functions delegated to him by the Controller;

“the prescribed date,” in relation to any prescribed premises, means the thirty-first day of August, one thousand nine hundred and thirty-nine.

35 (2) 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.

Landlord and Tenant (Amendment).

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

(4) Any declarations made before the commencement of this Act under paragraph (b) of the definition of "prescribed premises" in sub-regulation one of
10 Regulation eight of the Commonwealth Regulations and in force in this State immediately before such commencement shall continue in force in all respects as if they had been made by the Governor under paragraph (c) of the definition of "prescribed premises" in subsection one of
15 this section.

PART II.—FAIR RENTS.

Division 1.—Administration.

9. (1) The Minister may, for the purposes of this Act, constitute Fair Rents Boards at such places as he
20 thinks fit.

Constitution
and aboli-
tion of Fair
Rents
Boards.

All Fair Rents Boards constituted in this State before the commencement of this Act under Regulation nine of the Commonwealth Regulations and in existence immediately before such commencement shall be deemed
25 to have been constituted under this subsection.

(2)

Landlord and Tenant (Amendment).

(2) The Minister may abolish any Fair Rents Board.

(3) 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.

10 **10.** (1) The Governor may by regulations regulate the procedure of Fair Rents Boards.

Procedure
of Fair
Rents
Boards.

(2) All rules made by the Governor before the commencement of this Act under Regulation ten of the Commonwealth Regulations, and in force in this State immediately before such commencement shall continue in force in all respects as if they were regulations made by the Governor under subsection one of this section.

20 **11.** (1) For the purposes of this Act, there shall be a Rent Controller, who shall be appointed under and in accordance with the provisions of the Public Service Act, 1902, as amended by subsequent Acts:

Rent
Controller.

25 Provided that pending the appointment of the first Rent Controller under this section, a person may be appointed under and in accordance with the provisions of the Public Service Act, 1902, as amended by subsequent Acts, to act temporarily as Rent Controller, for a period specified in the instrument of his appointment, and a person so appointed shall have and may exercise and discharge during the term of his appointment all the powers, authorities, duties and functions conferred and imposed on the Rent Controller by this Act and shall, during such term, be deemed to be the Rent Controller for all purposes of this Act.

35 (2) The Controller may, by writing under his hand, delegate all or any of his powers and functions under this Act or under any order made thereunder (except this power of delegation) so that the delegated powers and functions may be exercised by the delegate.

(3)

Landlord and Tenant (Amendment).

(3) Any delegation by the Controller under this section shall be revocable in writing at will and no such delegation shall prevent the exercise of any power or function by the Controller.

5 **12.** (1) The Controller and each Fair Rents Board shall have and may exercise such powers and functions as are conferred upon him or it respectively by this Act, and may exercise those powers and functions—

Powers of
Controller
and Fair
Rents
Boards.

10 (a) in relation to all prescribed premises (including goods leased therewith) ; or

(b) where the Governor, by order published in the Gazette, declares that it is desirable that the powers and functions of the Controller and of Boards shall be exercisable with respect to certain prescribed premises only, or with respect to a limited class of prescribed premises only—
15 in relation to those prescribed premises (including goods leased therewith) only or to that limited class of prescribed premises
20 (including goods leased therewith) only.

(2) The powers and functions of a Fair Rents Board may be exercised by any Stipendiary Magistrate.

13. There shall be a clerk of each Fair Rents Board. The clerk shall be appointed under and in accordance with
25 the provisions of the Public Service Act, 1902, as amended by subsequent Acts.

Clerks of
Fair Rents
Boards.

14. Such officers and employees as may be necessary for the administration of this Act may be appointed under and in accordance with the provisions of the
30 Public Service Act, 1902, as amended by subsequent Acts.

Officers and
employees.

DIVISION 2.—Rent of Prescribed Premises.

15. (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
35 premises (or of prescribed premises together with goods) shall not, in respect of any period after the commencement of this Act and notwithstanding any term or covenant in any lease in force at any time after the commencement of this Act, exceed the rent payable in
respect

Rent of
prescribed
premises.

Landlord and Tenant (Amendment).

respect of the prescribed premises at the prescribed date (including the rent of any goods then leased therewith and the charge for any service then provided in connection with the lease), or where that rent has been
5 increased or decreased by a determination made before the commencement of this Act under the Commonwealth Regulations and in force immediately before such commencement 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
10 not leased, on the prescribed date but were leased on the first day of March, one thousand nine hundred and forty-five, or by the lessee of any such premises together with goods leased therewith, shall not, in respect of any period
15 after the commencement of this Act, and notwithstanding any term or covenant in any lease in force at any time after the commencement of this Act, exceed the rent payable in respect of the prescribed premises at the first day of March, one thousand nine hundred and forty-five
20 (including the rent of any goods then leased therewith and the charge for any service then provided in connection with the lease), or where that rent has been increased or decreased by a determination made before the commencement of this Act under the Commonwealth
25 Regulations and in force immediately before such commencement the rent as so increased or decreased.

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

(4) Until any rent fixed by subsection one or
30 subsection two of this section is increased or decreased by a determination, 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, additions,
35 repairs 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 by the lessor or in the goods leased with the premises.

Landlord and Tenant (Amendment).

16. (1) Where the rent of any prescribed premises (or of prescribed premises together with goods) is fixed by subsection one or subsection two of section fifteen of this Act, the lessee may, if the lessor of the premises
 5 was the lessor on the prescribed date, or on the first day of March, one thousand nine hundred and forty-five, as the case may be, 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
 10 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
declara-
tions as
to rent.

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

17. Where the powers conferred by this Act on the Control-
 20 relation to certain prescribed premises (including goods leased therewith) only, or to a limited class of prescribed premises (including goods leased therewith) only, the provisions of this Division shall apply to those pre-
 25 scribed premises (including goods leased therewith) only, or to that limited class of prescribed premises (including goods leased therewith) only.

Application
of Division.

DIVISION 3.—*Rent of Prescribed Premises other than Shared Accommodation.*

18. The lessor, or a lessee who has paid, or has
 30 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, of any prescribed premises other than shared
 35 accommodation (not being prescribed premises in relation to which the Controller is not authorized to exercise the powers conferred by this Part), or the owner of any such premises which are vacant, may apply in writing
 to

Application
to have
fair rent
fixed.

Landlord and Tenant (Amendment).

to the Controller to have the fair rent of the prescribed premises determined by the Controller.

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

Notice of application.

(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 two 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 other than shared accommodation in respect of which an application is made are the subject of a mortgage, 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 mortgagee, who shall be entitled to be a party to the application.

20. (1) Where an application has been made for the determination of the fair rent of any prescribed premises other than shared accommodation, 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 the prescribed premises.

Determination of application.

(2)

Landlord and Tenant (Amendment).

5 (2) Subject to subsections three and four of this section, the determination 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 six per centum 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).

10 (3) Where the Controller is of opinion, having regard to the matters specified in section twenty-one of this Act, 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.

20 (4) The determination may increase the fair rent if the Controller is satisfied that, by reason of an error or omission, an injustice has been occasioned by the last determination.

25 **21.** Subject to section twenty of this Act, in determining the fair rent the Controller shall have regard to—

Matters to
be con-
sidered.

- 30 (a) the capital value of the premises at 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;
- (b) the annual rates and insurance premiums paid in respect of the premises;
- 35 (c) the estimated annual cost of repairs, maintenance and renewals of the premises and fixtures thereon;
- (d) 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;
- 40 (e) the rents of comparable premises in the locality of the premises the subject of the application;
- (f)

Landlord and Tenant (Amendment).

- (f) the rate of interest charged upon overdrafts by the Commonwealth Bank of Australia;
- (g) any services provided by the lessor or lessee in connection with the lease;
- 5 (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
- 10 (j) any hardship which would be caused to the lessor or lessee or any other person by the making of an order increasing or reducing the rent of the premises including (but without limiting the generality of the word "hardship") any loss
- 15 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 agree-
- 20 ment or contract of sale in respect of any goods leased with the premises.

22. (1) Every determination of the fair rent of pre-
scribed premises other than shared accommodation made
by the Controller shall come into force on a date fixed
25 by the Controller, but the date so fixed shall not be earlier
than the date of the application.

Date of
operation of
determina-
tion.

(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
30 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 nineteen or section twenty-four
of this Act.

23. Where any fair rent has been determined by the
35 Controller it shall, as from the date fixed under section
twenty-two of this Act and 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 fixed.

Effect of
determina-
tion.

Landlord and Tenant (Amendment).

24. (1) The Controller may, of his own motion, after inquiry, determine the fair rent of any prescribed premises other than shared accommodation.

Controller
may deter-
mine fair
rent of his
own motion.

(2) The Controller shall give to the lessor and
5 lessee of the prescribed premises and to the other persons referred to in section nineteen of this Act notice of his intention to determine the fair rent of the premises, and the notice so given to the lessor shall, for the purposes of this Division, be deemed to be an application.

10 (3) In determining the fair rent of prescribed premises under this section, the Controller shall have the same powers as he has in connection with an application, and any determination made by the Controller shall have the same effect for all purposes as a determination made
15 upon an application.

25. (1) This Division shall extend in relation to prescribed premises together with goods leased there-
with, and any reference in this Division to prescribed
premises shall, so far as applicable, include a reference
20 to prescribed premises together with goods leased
therewith.

Lease of
prescribed
premises
together
with goods.

(2) In the case of prescribed premises which are leased together with goods, the Controller may fix the fair rent of the prescribed premises irrespective of the
25 goods or may, in his discretion, fix the fair rent of the prescribed premises together with goods leased there-
with.

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

Inspection
of
prescribed
premises.

DIVISION 4.—Rent of Shared Accommodation.

27. (1) The lessor, or the lessee who has paid, or has offered (either to the lessor personally or to the person to whom the rent is ordinarily paid) the money
35 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, under a lease of shared accommodation (not being shared accommodation in relation to
266—B which

Determina-
tion of
rent of
shared
accommoda-
tion.

Landlord and Tenant (Amendment).

which the Controller is not authorised to exercise the powers conferred by this Part), or the owner of any such shared accommodation which is vacant, may make application in writing to the Controller to determine the
5 fair rent thereof.

(2) The Controller shall thereupon cause the shared accommodation to be inspected for the purpose of determining the fair rent thereof.

(3) The Controller may of his own motion, from
10 time to time, cause any shared accommodation to be inspected for the purpose of determining the fair rent thereof.

(4) At least seven days prior to determining the fair rent of any shared accommodation, the Controller
15 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.

(5) After an inspection of any shared accommodation has been made under subsection two or subsection three of this section, after making such inquiries and obtaining such reports (if any) as the Controller considers necessary, and after considering any representations
20 made by the lessor (or intending lessor), and any representations made by the lessee (if any), of the shared accommodation, the Controller may determine the fair rent of the shared accommodation.
25

(6) Every such determination shall come into
30 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 or, in any case in which the Controller causes any shared accommodation to be inspected pursuant to sub-
35 section three of this section, not earlier than the date of such inspection.

(7) In determining the fair rent of any shared accommodation the Controller shall have regard to the matters specified in section twenty-one of this Act.

(8)

Landlord and Tenant (Amendment).

(8) 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.

- 5 (9) Where any fair rent has been determined in pursuance of this section, it 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
10 together with the goods leased therewith, in respect of which it is fixed.

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

Variation in arrangement of shared accommodation to be notified.

- 15 (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; or
(c) the shared accommodation is leased—
20 (i) without the use of any convenience or service which was available to the tenant at the time when the determination was made; or
(ii) with the use of any convenience or
25 service which was not so available,

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.

- 30 **29.** (1) This Division shall extend in relation to shared accommodation together with goods leased therewith, and any reference in this Division to shared accommodation shall, so far as applicable, include a reference to shared accommodation together with goods
35 leased therewith.

Rent of shared accommodation and goods leased therewith.

Landlord and Tenant (Amendment).

(2) In the case of shared accommodation which is leased together with goods, the Controller may determine the fair rent of the shared accommodation irrespective of the goods or may, in his discretion, determine
5 the fair rent of the shared accommodation together with goods leased therewith.

DIVISION 5.—*General.*

30. (1) The lessor or lessee of any prescribed premises, including shared accommodation, in respect of
10 which a determination has been made under this Act may, within twenty-one days after the giving of the notice referred to in subsection two of section twenty-two or in subsection eight of section twenty-seven of this Act, as the case may be, by a notice in writing lodged with
15 the clerk of the Fair Rents Board nearest to the premises (or of any other Fair Rents Board if that other Board is satisfied that hardship will not be occasioned thereby to any party to the appeal), appeal to that Board from the determination of the Controller.

Appeal from
determina-
tion.

20 (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 pur-
25 suance of section nineteen or section twenty-four of this Act, as the case may be.

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

30 **31.** (1) The Board shall hear the appeal and may, having regard to the matters specified in section twenty-one of this Act, 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,
35 is the correct fair rent of the prescribed premises.

Procedure
on appeal.

(2)

Landlord and Tenant (Amendment).

(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
5 thinks fit.

(3) The determination of the Board shall have effect from and including the date fixed by the Controller under subsection one of section twenty-two or under subsection six of section twenty-seven of this Act, as
10 the case may be.

(4) Where any fair rent 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
15 respect of which it is determined.

(5) The Board shall furnish a copy of its determination to the Controller.

32. (1) A determination may be varied—

Variation of
determina-
tion.

(a) on application made in the same manner as an
20 application to the Controller for a determination; or

(b) by the Controller of his own motion,

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

(2) During such period as is specified in the determination, or, if no period is so specified, during the period commencing with the date of the determination and ending twelve months after that date, an application
30 shall not be made to vary a determination, or to determine the fair rent of prescribed premises, or of prescribed premises together with goods leased therewith, in respect of which a determination has been made, nor shall the Controller vary a determination of his own
35 motion, except on the ground that—

(a) by an error or omission an injustice has been occasioned by the determination;

(b)

Landlord and Tenant (Amendment).

- (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;
- 5 (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 by the lessor, or of premises of which the premises form part, or on an incorrect calculation, and
- 10 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;
- 15 (e) substantial alterations or additions have been made to the premises, to the goods leased therewith, or to the services supplied by the lessor, since the determination was made; or
- 20 (f) the value of the premises, of the goods leased therewith or of the services supplied by the lessor has materially decreased or increased since the determination was made.

(3) For the purposes of this section, any reference in section nineteen, section twenty-four or section

25 twenty-seven of this Act to notice of intention to make a determination shall be read as a reference to notice of intention to consider the making of a variation of a determination.

33. (1) A determination shall apply to any lease of

30 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,

35 additions, repairs 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 by the lessor or in the goods leased with the premises.

Effect of
determina-
tion.

(2)

Landlord and Tenant (Amendment).

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

34. (1) Where the fair rent of any prescribed premises or shared accommodation has been determined, the lessor shall give notice in writing to the Controller of—

Lessor to notify change in services supplied or in nature of occupancy.

- (a) the nature and extent of any services, not supplied at the date of the determination, which he commences to supply to any lessee; and
- (b) the fact that the prescribed premises cease or the shared accommodation ceases to be occupied by a lessee and become or becomes occupied by a lodger.

(2) A notice under this section shall be given within seven days after the matter required to be notified arises.

35. (1) A person shall not—

Premises not to be let at rent exceeding fair rent.

- (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)

Landlord and Tenant (Amendment).

(3) Any sum paid as rent—

(a) for or in respect of the occupation of premises;
or

5 (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 in an action for debt in any court of competent jurisdiction by the lessee from the lessor to whom it was paid.

10 (4) In any prosecution for an offence arising
under this section, the averment of the prosecutor—

(a) that the prescribed premises were let to a specified person on the prescribed date; and

15 (b) as to the rent payable in respect of the
prescribed premises at the prescribed date,
shall be prima facie evidence of the matter or matters
averred.

(5) Any evidence given by a witness in support
or rebuttal of a matter so averred shall be considered on
20 its merits and the credibility and probative value of the
evidence shall not be increased or diminished by reason
of this section.

(6) An averment shall not be made under this
section unless the Crown Solicitor, or an Assistant Crown
25 Solicitor is satisfied that the averment is reasonably
necessary for the due administration of justice and will
not impose hardship upon, or occasion injustice to, the
defendant and certifies in writing accordingly on the
paper containing the averment.

30 (7) An averment shall not be evidence for the
purposes of this section unless a copy of the paper
containing the averment has been served on the defend-
ant in the same manner as the process requiring his
attendance before the court.

35 (8) Service of the copy of the paper containing
the averment may be proved in the same manner as
service of the process requiring the defendant's attend-
ance before the court may be proved.

(9) Upon the hearing of an information for an
40 offence arising under this section, the court may, if the
amendments

Landlord and Tenant (Amendment).

amendments can be made without hardship or injustice to the defendant, allow such amendments to be made in the writing containing an averment as appear to it to be desirable or to be necessary to enable the real question
5 in the dispute to be determined.

(10) If in any such case the court considers the defendant has been misled by the form of the averment, it may refuse to allow the amendments, or may, as a condition of allowing the amendments, adjourn the hear-
10 ing of the case for such period as it thinks fit and may make such order as to the costs of the adjournment as it thinks proper.

36. (1) A person shall not, whether as principal or agent, or in any other capacity—

Certain
payments
prohibited.

- 15 (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 good-
will, in consideration of, or in association with—
- 20 (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
25 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 dwell-
30 ling house), 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—
- 35 (i) for obtaining or making available a key of any prescribed premises (including any dwelling house); or
(ii) for information as to a tenancy, or as
40 to the possibility or likelihood of obtaining a tenancy, of any prescribed premises

Landlord and Tenant (Amendment).

premises (including any dwelling-house); or

- 5 (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) 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 in an action for debt in any
10 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.

15 (3) Where a person has, in contravention of this section, been required to purchase or exchange any goods or goodwill, he may recover in any court of competent jurisdiction, from the person guilty of the contravention, so much of any amount paid, in accordance with the
20 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.

25 **37.** (1) A person shall not 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,
30 transfer, assignment, renewal or extension of a lease, or consent to a sub-lease, of any prescribed premises (including any dwelling-house).

Certain
representa-
tions, etc.,
prohibited.

(2) In any prosecution for a contravention of this section, it shall be a defence if the defendant proves
35 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.

Landlord and Tenant (Amendment).

38. (1) A person shall not refuse, or procure any person to refuse, to let a dwelling-house to any person on the ground that it is intended that a child shall live in the dwelling-house.

Refusal to let dwelling-house to applicant with family prohibited.

5 (2) In any prosecution for an offence arising under subsection one 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
10 was not the ground alleged in the charge.

(3) A person shall not—

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

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

(4) A person shall not, for the purpose of determining whether or not he will let a dwelling-house, inquire from any prospective tenant of the dwelling-
20 house whether—

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

25 (5) In any prosecution for an offence arising under subsection four 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
30 inquiry was not the purpose alleged in the charge.

39. A person shall not let a dwelling-house which to his knowledge is, at the date of the letting, not in fair and tenantable repair.

Dwelling-house not to be let unless in good repair.

40. Notwithstanding anything contained in this Act
35 or in any declaration issued in pursuance of this Act, a dwelling-house shall, for the purposes of sections thirty-six, thirty-seven, thirty-eight and thirty-nine of this Act, be deemed to include holiday premises.

Premises leased for holiday purposes only.

41.

Landlord and Tenant (Amendment).

- 41.** Every determination of a Fair Rents Board or of the Controller shall, except as provided by this Part, be final and without appeal, and no writ of prohibition or certiorari shall lie in respect thereof. No appeal from order of Board.
- 5 **42.** 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.
- 43.** (1) Before making a determination, or a variation of a determination, the Controller shall make a thorough Controller not bound to conduct oral hearing.
10 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.
- (2) This section shall not affect the right of any 31
15 person to make representations to the Controller in writing, or the duty of the Controller to consider any such representations.
- 44.** (1) The Controller, or the Stipendiary Magistrate constituting a Fair Rents Board, may by summons in Summoning of witnesses and production of documents.
20 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 books, documents or writings in his custody or control which
25 he is required by the summons to produce.
- (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
30 may examine the witness upon oath or affirmation.
- 45.** (1) A person who has been served with a summons to attend the Controller or a Fair Rents Board shall not, without reasonable excuse, refuse or fail to attend the Controller or Board or to produce any Failure to attend or produce documents.
35 documents, books, or writings in his custody or control which he was required by the summons to produce.
- (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

Landlord and Tenant (Amendment).

that the documents, books or writings were not relevant to the subject-matter of the proceedings before the Controller or Board.

46. A person appearing as a witness before the
 5 Controller or a Fair Rents Board shall not 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
 10 Controller or Board.

Refusal to
be sworn or
give
evidence.

47. A witness before the Controller or a Fair Rents Board shall not knowingly give false testimony in any evidence given by him to the Controller or Board.

False
testimony.

48. A witness before the Controller or a Fair Rents
 15 Board shall have the same protection 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.

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

Protection
of reports
and proceed-
ings.

- (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
 25 (b) a fair and accurate report of any proceedings before the Controller or a 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
 30 the person defamed or by any other improper motive.

50. (1) A person shall not 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
 35 defamatory of a Board, or otherwise commit any wilful contempt of a Board.

Contempt
of Board.

Landlord and Tenant (Amendment).

(2) The Stipendiary Magistrate constituting a Fair Rents Board shall, in relation to any contravention of subsection one 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.

51. 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 Justice of the Peace.

Protection
of Board.

52. The Controller shall, 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, fixed by the Board or by the Controller.

Information
as to fair
rent.

53. The Minister may, at any stage of any proceedings under this Part before a Fair Rents Board, intervene by counsel, solicitor or agent and may examine witnesses and address the Board.

Intervention
by Minister.

54. (1) Any person who is a party to proceedings under this Part or who may be affected by the result of any such proceedings, may appear in person or may be represented by counsel or a solicitor or by an agent authorised in writing in that behalf, who may examine witnesses and address the Board or Controller on that person's behalf.

Representa-
tion by
agent.

(2) No counsel, solicitor or agent representing a person in proceedings under this Part shall demand or take by way of fees for work done by him in relation to such proceedings any sum in excess of the sum prescribed by the regulations and applicable to him.

55. (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.

Records
of rent.

(2) The person having the custody of the record or of any previous like record, relating to a period not earlier than the prescribed date, in respect of the prescribed

Landlord and Tenant (Amendment).

prescribed premises shall, when requested by any tenant 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 tenant or
5 authorised officer, as the case may be.

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

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

(5) A request under this section may be made
15 orally or in writing.

56. The person receiving any payment of rent of 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
20 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.

57. (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.
25

Lessor to ascertain fair rent.

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

(3)

Landlord and Tenant (Amendment).

(3) Where any prescribed premises were not in existence, or were not leased, on the prescribed date, but were leased on the first day of March, one thousand nine hundred and forty-five, the lessor at the first day
5 of March, one thousand nine hundred and forty-five, shall, on demand in writing by 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
10 with goods) at the first day of March, one thousand nine hundred and forty-five.

58. (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
15 premises was fixed by a determination (whether by the Controller or a Fair Rents Board), and specifying the amount thereof, shall be evidence of the matters certified to.
Certificate as to fair rent.

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

59. (1) Any notice or other document required or permitted by this Part to be given to, or served upon, any person, may be given or served—
Service of notices.

- 25 (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
30 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 Part to be given to, or served upon,
35 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)

Landlord and Tenant (Amendment).

(3) Where any notice or other document is required or permitted by this Part 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
5 a daily newspaper circulating in the district in which the prescribed premises concerned are situated.

60. (1) Any notice or other document required or permitted by this Part to be given to, or served upon, a lessor under the lease of any prescribed premises shall
10 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.

(2) Any notice or other document required or permitted by this Part to be given to, or served upon, a
15 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
20 under any lease of any prescribed premises, it shall be a sufficient compliance with any provision of this Part 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
25 or lessees.

61. (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
30 be refunded to the person by whom the payment was made.

Courts may order refund of amounts overpaid.

(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
35 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 sees fit, include

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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
5 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
10 any court having civil jurisdiction to the extent of that amount, and shall thereupon be enforceable in all respects as a final judgment of that court.

PART III.

RECOVERY OF POSSESSION OF PRESCRIBED PREMISES.

62. (1) Except as provided by this Part, the lessor of
15 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 ejectment of the lessee therefrom. Restriction on eviction.

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

(3)

Landlord and Tenant (Amendment).

(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) if the lessor, before
5 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 sixty-three of this Act, and that period of notice has expired.

10 (4) Service of the 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 occupa-
15 tion of the premises; or

(b) the person by whom the rent of the premises is customarily paid.

(5) The prescribed grounds shall be—

20 (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 twelve months—of not less than fourteen days; and

25 (ii) 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
30 by the lessor;

(c) that the lessee has failed to take reasonable care of the premises, or of any goods leased there- with, or has committed waste;

(d)

Landlord and Tenant (Amendment).

- (d) that the lessee has been guilty of conduct which is a nuisance or annoyance to adjoining or neighbouring occupiers;
- 5 (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
- 10 currency of the lease, been used for some illegal purpose;
- (f) that the lessee has given notice in writing 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
- 15 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
- 20 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
- 25 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);
- 30 (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
- 35 upon, him;
- 40

(j)

Landlord and Tenant (Amendment).

- 5 (j) that the lessor is a person, body or authority carrying on a hospital, or a trustee for such a person, body or authority, and the use of the premises is reasonably required for the purposes of the hospital (including the accommodation of the staff of the hospital);
- 10 (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;
- 15 (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—
- 20 (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
- 25 (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;
- 30 (m) that the premises are reasonably required by the lessor for reconstruction or demolition;
- 35 (n) that the lessee has become the lessee of the premises being a dwelling-house by virtue of an assignment or transfer which the lessor has not consented to or approved; or
- 40 (o) that the lessee has sub-let the premises being a dwelling-house or some part of the dwelling-house by a sub-lease which has not been consented to or approved by the lessor.

(6)

Landlord and Tenant (Amendment).

(6) (a) In subsection five 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
5 one lessee, any one or more of the lessees.

(b) In paragraphs (n) and (o) of subsection five of this section, "dwelling-house" does not include the premises of any lodging-house or boarding-house.

(7) Notice to quit on a ground specified in para-
10 graph (n) or paragraph (o) of subsection five of this section—

(a) shall not be given—

15 (i) where the lessee became the lessee by virtue of an assignment or transfer made before the fourteenth day of March, one thousand nine hundred and forty-seven, or the sub-lease was granted before that date;

20 (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;
25 and

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

30 **63.** (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.

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

35 (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 paragraph (c), (d), (e) or (f) of
subsection

Landlord and Tenant (Amendment).

subsection five of section sixty-two of
this Act and not on any other ground;

- (ii) a period exceeding thirty days if the
notice is given on any other ground;
or

5

- (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.

10

64. A lessor shall not, after the lessee has made an
application for a determination, or after he has received
from the Controller notice of his intention to determine
the fair rent, except with the consent of the Controller,
15 give a notice to quit on any ground specified in paragraph
(f), (g), (h), (i), (j), (k) or (l) of subsection five of
section sixty-two of this Act until after the expiration of
six months after the making of a determination on the
application or in pursuance of the notice, but if a deter-
20 mination has not been made 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
25 period.

Notice to
quit not to
be given
within six
months after
determina-
tion.

A 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
30 made or given under the Commonwealth Regulations
before the commencement of this Act.

65. (1) A person who has, either before or after the
commencement of this Act, become the lessor of
prescribed premises being a dwelling-house or part of a
35 dwelling-house, by purchase thereof, shall not, within a
period of two years after the date of the agreement
for the purchase, give a notice to quit on the ground
specified in paragraph (g) of subsection five of section
sixty-two of this Act to any person who was a lessee of
40 the prescribed premises at the date of the agreement
for

Notice to
quit where
dwelling-
house sold.

Landlord and Tenant (Amendment).

for the purchase unless, after the date of such agreement, he has given the lessee at least eighteen months notice in writing of his intention to give such notice to quit.

(2) A lessor of prescribed premises, being a
5 dwelling-house or part thereof, shall not give a notice to quit on the ground specified in paragraph (1) of subsection five of section sixty-two of this Act to any person who was a lessee of the prescribed premises at the date of the agreement referred to in that paragraph within
10 a period of six months after the date of the agreement.

66. 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 specify grounds.

15 67. A notice to quit given in accordance with the provisions of section sixty-two of this Act 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
20 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 to terminate lease.

25 68. (1) Where a lessor has taken proceedings in any court to recover possession of any prescribed premises from the lessee and the court has (whether before or after the commencement of this Act) 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
30 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. Notice to quit after failure of eviction proceedings.

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

69. (1) For the purposes of section sixty-two of this Act courts of petty sessions, and those courts only, shall be courts of competent jurisdiction. Competent courts.

(2)

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(2) The jurisdiction of a court of petty sessions under this section shall not be exercised except by a Stipendiary Magistrate.

(3) The provisions of sections twenty-six and 5 twenty-seven of the Landlord and Tenant Act of 1899, shall not apply in any case where an order for the recovery of possession of any prescribed premises has been made under this Part.

70. (1) On the hearing of any proceedings by a lessor 10 for an order for the recovery of possession of any prescribed premises, the court shall take into consideration, in addition to all other relevant matters—

Court to consider hardship.

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

15 (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 20 more of the grounds specified in paragraphs (g), (h), (i), (j), (k), (l) and (m) of subsection five of section sixty-two of this Act—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, 25 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,

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

(2) Notwithstanding anything contained in this 35 section, an order for the recovery of possession of any prescribed premises, being a dwelling-house, from any person on any of the grounds specified in paragraphs (g), (i), (l) or (m) of subsection five of section sixty-two of this Act shall not be made unless the court is satisfied that

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that the lessor had provided at the date of expiry of the notice to quit, and has immediately available for the occupation of the persons occupying such dwelling-house, reasonably suitable alternative accommodation:

5 Provided that this subsection shall not apply in any case where—

- 10 (a) the lessor is a protected person within the meaning of the National Security (War Service Moratorium) Regulations and the lessee is not a protected person within the meaning of those Regulations; or
- 15 (b) the court is satisfied that the lessor is required by law to reconstruct or demolish the dwelling-house and possession thereof is sought by him for that purpose.

In this subsection "National Security (War Service Moratorium) Regulations" means the Regulations having that title as in force for the time being under the Defence (Transitional Provisions) Act, 1946-1947, of the
20 Parliament of the Commonwealth.

(3) Where the application is made on either of the grounds specified in paragraphs (n) and (o) of subsection five of section sixty-two of this Act, the court shall not refuse, in the exercise of the discretion vested
25 in it by subsection one 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.

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

71. (1) In respect of any proceedings referred to in section seventy of this Act, the court may—

- 35 (a) from time to time, subject to such conditions (if any), and for such period as it thinks fit—
 - (i) adjourn the proceedings;
 - (ii)

Power to stay proceedings or orders.

Landlord and Tenant (Amendment).

- (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 specified in any such order; or

(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 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.

(2) In this section—

(a) a reference to an order shall include a reference to an order made before the commencement of this Act under Regulation sixty-three of the Commonwealth Regulations;

(b) a reference to a warrant shall include a reference to a warrant issued before the commencement of this Act under the Commonwealth Regulations for the execution of an order made under Regulation sixty-three of those Regulations.

72. (1) An application to stay or suspend the execution of, or to vary, discharge or rescind, any order referred to in section seventy-one of this Act, or to postpone the date for recovery of possession specified

in

Certain applications to operate as stay of execution.

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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.

(2) Notwithstanding anything contained in paragraph (c) of section seventy-one of this Act, 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 seventy of this Act, the court has refused to grant an application of any of the kinds referred to in subsection one 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.

73. 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.

74. (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 sixty-nine of this Act.

(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.

75. No order (other than an order made under this Part or under the Commonwealth Regulations) made by any court for the recovery by the lessor of possession of any prescribed premises (or of any goods leased therewith) or for the ejectment of the lessee shall be enforceable.

76. 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

Hearing in chambers.

Appeals.

Ejectment orders not enforceable unless made under this Act.

Court may order compensation for misrepresentation.

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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
5 of the order, and the provisions of subsection three of section sixty-one of this Act, shall apply, mutatis mutandis, to and in respect of any order for the payment of any sum under this section.

77. (1) (a) If a notice to quit has been given on the
10 ground specified in paragraph (h), (i), (j) or (k) of subsection five of section sixty-two of this Act 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
15 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,
20 or possession of the premises was recovered.

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

(b) If a notice to quit has been given on the ground specified in paragraph (g) of subsection five of section sixty-two of this Act, and the premises in respect of which the notice was given have been vacated in
25 accordance with the notice, or if an order for the recovery of possession of the premises has been made on 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 three
30 years immediately succeeding the date on which the premises were vacated or possession of the premises was recovered.

(c) If a notice to quit has been given on the ground specified in paragraph (m) of subsection five of
35 section sixty-two of this Act, and the premises in respect of which the notice was given have been vacated in accordance with the notice, or if an order for recovery of possession of the premises has been made on such ground, the premises shall not, without the consent of
the

Landlord and Tenant (Amendment).

the court, be again leased or sold or agreed to be leased or sold, until the reconstruction or demolition referred to in the said paragraph (m) has been carried out.

(d) In this subsection—

- 5 (i) a reference to a notice to quit shall include a reference to a notice to quit given before the commencement of this Act;
- (ii) a reference to a vacation of premises shall include a reference to a vacation of premises before the commencement of this Act; and
- 10 (iii) a reference to an order for the recovery of possession of premises shall include a reference to any such order made under the Commonwealth Regulations before the commencement of this Act.

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

- 20 (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
- 25 (b) where notice to quit has been given on the ground specified in paragraph (h), (i) or (j), the letting of the premises—
 - (i) to a minister of religion;
 - (ii) to a beneficiary under the trust; or
 - 30 (iii) to some person in the employ of, or about to become an employee of, the lessor in consequence of his employment,

respectively.

35 (3) A transaction entered into in contravention of subsection one 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.

Landlord and Tenant (Amendment).

78. Where an order is in force declaring that it is desirable that the powers and functions of the Controller and of Fair Rents Boards shall be exercisable with respect to certain prescribed premises only, or with respect to a limited class of prescribed premises only, the provisions of this Part shall apply only with respect to the prescribed premises, or limited class of prescribed premises, referred to in the order.

Application
to limited
class of
premises.

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

Enforce-
ment of
orders.

80. Where notice to quit any prescribed premises has been given, whether before or after the commencement of this Act—

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;

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

81. (1) A person shall not, without the consent of the lessee of prescribed premises, or without reasonable cause (proof whereof shall lie upon the defendant), 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.

Landlord and Tenant (Amendment).

(2) Where the lessor, or any agent or servant of the lessor, has been convicted of an offence arising under subsection one of this section, the court may order the lessor to do such things as are necessary to enable the
5 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
10 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
15 and lessee or at times equivalent to those times.

82. (1) Where—

Protection
of sub-
lessees.

(a) a lessor has either before or after the commencement of this Act consented to or approved a sub-lease of any prescribed premises or any part thereof by the lessee, or a lessee has either before
20 or after such commencement sub-let any prescribed premises or any part thereof in the course of a business of sub-letting carried on by the lessee; and

25 (b) the lessee has ceased, either before or after such commencement, 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 on any of the
30 grounds specified in paragraphs (a) to (f) of subsection five of section sixty-two of this Act; or

(ii) the surrender of his lease by the lessee,
35 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

Landlord and Tenant (Amendment).

upon the same terms and conditions as the terms and conditions of the sub-lease, as in force immediately prior to—

5 (c) the date on which the lessor gave notice to quit to the lessee; or

(d) 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),

10 as the case may be.

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

15 (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 five of section sixty-two of this Act, the lessee of the prescribed premises has sub-let the whole or any part thereof—

20 (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;

25 (b) the lessor shall, upon taking proceedings for the recovery of possession of the prescribed premises, 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

30 (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.

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

*Landlord and Tenant (Amendment).***83.** Where—

- (a) the tenancy of any prescribed premises is terminated by virtue of the provisions of this Act or of the Commonwealth Regulations;
- 5 (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
- 10 (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.

that person shall have the like right to continue in
15 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 in accordance with the provisions of this Act as if he were a lessee of the
20 premises.

84. 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.

85. The Minister may, at any stage of any proceed-
25 ings in relation to which this Part applies, intervene by counsel, solicitor or agent and may examine witnesses and address the court.

Intervention
of Minister.

86. (1) The lessor or former lessor under a lease, or the proposed lessor under a proposed lease, of any
30 prescribed premises for a fixed term not exceeding six 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
35 premises from the operation of this Part.

Exclusion of
premises
let for a
short term
from opera-
tion of Part
III.

(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

Landlord and Tenant (Amendment).

is specified in the certificate, from the operation of the provisions of this Part and the premises shall be excluded accordingly.

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

(b) Any certificate issued under sub-regulation three of Regulation seventy-eight of the Commonwealth Regulations shall be deemed to have been issued
10 under subsection three of this section.

87. (1) (a) 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.

15 (b) Any certificate issued under Regulation seventy-nine of the Commonwealth Regulations shall be deemed to have been issued under this section.

Exclusion of certain subdivided premises, &c., from operation of Part III.

(2) Where the owner of any prescribed premises is desirous of making the whole or any part of those
20 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—

25 (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
30 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
35 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.

Landlord and Tenant (Amendment).

(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;
- 5 (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
10 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
- 15 (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
20 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
25 independently of any other part of the building.

PART IV.—MISCELLANEOUS.

88. (1) A person shall not, by any threat, or in any other manner, endeavour to dissuade or prevent a lessor or lessee from making or prosecuting any application
30 under this Act, or taking or continuing any proceedings in relation to which this Act applies.

Threats and
boycotts
prohibited.

(2) The owner of any prescribed premises, and the agent of any such owner, shall not refuse, or procure any person to refuse, to lease the premises to any other
person

Landlord and Tenant (Amendment).

person who desires to lease the same if the reason for that refusal was the fact that that other person had made an application to a Board or the Controller under this Act or the Commonwealth Regulations.

5 (3) In any prosecution for an offence arising under subsection two 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
10 refusal was not the reason alleged in the charge.

(4) A person shall not 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
15 under this Act or the Commonwealth Regulations or has taken any proceedings in relation to which this Act applies or the Commonwealth Regulations applied.

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

Contracting out prohibited.

90. A person shall not 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, and
25 whether directly or indirectly, defeating, evading, or preventing the operation of, this Act in any respect.

Contracts to evade Act prohibited.

91. (1) Where any transaction is entered into in contravention of this Act, the transaction shall not thereby be invalidated, and the rights, powers and
30 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.

Transactions not invalidated.

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

Landlord and Tenant (Amendment).

92. (1) The Controller or an authorised officer may require a person—

Information
to be
furnished
on request.

- (a) to furnish to the person making the requirement such information as that person requires;
- 5 (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.

10 (2) A person shall not, 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
- 15 (b) give any information or make any answer which is false in any particular.

(3) A person shall not 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
20 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
25 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—

- 30 (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.

35 (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.

93. The Controller or an authorised officer may, for the purposes of this Act, enter on and inspect any land
40 or premises.

Powers of
entry and
inspection.

94.

Landlord and Tenant (Amendment).

94. 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
5 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. Proof of instruments.

95. (1) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of
10 an offence against this Act. Offences and penalties.

(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
15 this Act shall be liable—

- (a) if a body corporate—to a penalty not exceeding two hundred pounds;
- (b) if any other person—to a penalty not exceeding one hundred pounds, or to imprisonment for a term not exceeding six months, or to both such
20 penalty and imprisonment.

(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
25 or officer of the body corporate shall be deemed to have committed the like offence, and be liable to the pecuniary penalty or imprisonment or both provided by this section in the case of such an offence by a person other than a body corporate accordingly, unless he proves that the
30 offence was committed without his knowledge, or that he used all due diligence to prevent the commission of the offence.

96. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which
35 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 this Act. Regulations.

(2) The regulations may impose a penalty not exceeding one hundred pounds for any breach thereof.

(3)

Landlord and Tenant (Amendment).

- (3) The regulations shall—
- (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified therein;
 - 5 (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.
- 10 If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have
- 15 effect.

97. (1) In addition to the powers conferred by section ninety-six of this Act, the Governor may from time to time by regulations, declare that on a date specified in the regulations, the powers authorities duties and

20 functions conferred and imposed on the Controller by this Act shall be transferred to and shall thereafter be exercised and discharged by Fair Rents Boards as prescribed in the regulations.

Regulations
may
transfer
powers of
Controller to
Fair Rents
Boards.

- (2) Regulations made under this section may—
- 25 (a) apply generally to all powers authorities duties and functions of the Controller, or particularly to such powers authorities duties and functions of the Controller as are prescribed in the regulations;
 - 30 (b) apply generally to all premises in respect of which he is authorised by this Act to exercise and discharge any of his powers authorities duties and functions, or particularly to any class of such premises as may be specified in the regulations;
 - 35 (c) apply generally throughout the State, or particularly within such parts of the State as are specified in the regulations.

(3)

Landlord and Tenant (Amendment).

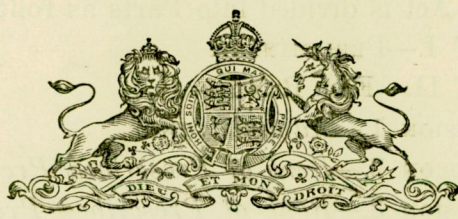
(3) Regulations made under this section may include provisions for modifying and adapting the provisions of this Act in such manner and to such extent as may be necessary or convenient to give effect to any
5 transfer to Fair Rents Boards of the powers authorities duties and functions of the Controller effected by the regulations and to enable Fair Rents Boards to exercise and discharge the same.

(4) Every determination made by a Fair Rents
10 Board in the exercise of powers transferred to it by regulations made under this section shall be final and without appeal, and no writ of prohibition or certiorari shall lie in respect thereof.

(5) The provisions of subsection three of section
15 ninety-six of this Act shall apply to and in respect of regulations made under this section.

98. All proceedings for offences against this Act or the regulations shall be disposed of in a summary
manner before a court of petty sessions holden before a
20 Stipendiary Magistrate sitting alone. Proceedings
for offences.

New South Wales.



ANNO DUODECIMO

GEORGII VI REGIS.

Act No. 25, 1948.

An Act relating to the control of rents of certain premises and the recovery of possession of certain premises; to repeal the Fair Rents Act, 1939; to amend the Landlord and Tenant Act of 1899, and certain other Acts; and for purposes connected therewith. [Assented to, 13th August, 1948.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Landlord and Tenant (Amendment) Act, 1948."

Short title
and com-
mencement.

Landlord and Tenant (Amendment).

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Repeal of
Act No. 37,
1939.

2. The Fair Rents Act, 1939, is hereby repealed.

Division
into Parts.

3. This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—FAIR RENTS—

DIVISION 1.—*Administration.*

DIVISION 2.—*Rent of Prescribed Premises.*

DIVISION 3.—*Rent of Prescribed Premises other than Shared Accommodation.*

DIVISION 4.—*Rent of Shared Accommodation.*

DIVISION 5.—*General.*

PART III.—RECOVERY OF POSSESSION OF PRESCRIBED PREMISES.

PART IV.—MISCELLANEOUS.

Savings.

4. (1) All determinations of fair rents made before the commencement of this Act under the Commonwealth Regulations and having force or effect in this State immediately before such commencement shall be deemed to have been made under this Act and, subject to this Act, shall continue to have force and effect accordingly.

(2) All applications to, and other proceedings before, the Commonwealth Rent Controller under the Commonwealth Regulations which are pending immediately before the commencement of this Act may be continued before, and may be determined by, the Controller under this Act, and any pending application shall be deemed to be an application to the Controller under this Act, and the provisions of this Act shall apply to those applications and proceedings as if they were applications to, or proceedings before, the Controller under this Act.

(3) All proceedings before a Fair Rents Board in this State under the Commonwealth Regulations which are pending immediately before the commencement of this

Landlord and Tenant (Amendment).

this Act, may be continued before and determined by a Fair Rents Board under this Act, and the provisions of this Act shall apply to those proceedings as if they were proceedings before a Fair Rents Board under this Act.

(4) All proceedings under Part III of the Commonwealth Regulations which are pending immediately before the commencement of this Act may be continued and determined under Part III of this Act as if they had been commenced thereunder.

(5) The generality of this section shall not be affected by any saving in any other section of this Act nor shall this section limit any saving in the Interpretation Act of 1897, as amended by subsequent Acts.

5. This Act shall not bind—

- (a) the Crown in right of the Commonwealth or of the State; or Crown not bound.
- (b) The Housing Commission of New South Wales.

6. (1) The Governor may, by order published in the Gazette, declare that the application of this Act shall extend to premises, or the premises included in any class of premises, specified in the order, and thereupon the application of this Act shall, notwithstanding anything contained in paragraph (b) of subsection one of section twelve, section seventeen or section seventy-eight of this Act, extend to those premises (including goods leased with those premises) or to the premises included in that class of premises (including goods leased with those premises). Declarations as to application of Act.

(2) The Governor may, by order published in the Gazette, declare that any premises, or the premises included in any class of premises, shall be excluded from the operation of this Act or of such of the provisions of this Act as are specified in the order, and thereupon those premises, or premises of that class, shall be excluded accordingly.

(3)

Landlord and Tenant (Amendment).

(3) Any declaration made before the commencement of this Act under sub-regulation four or sub-regulation five of Regulation seven of the Commonwealth Regulations and having force or effect in this State immediately before such commencement shall continue to have force and effect in all respects as if this section had been in force at the time when such declaration was made, and the declaration had been made thereunder by the Governor.

**Holiday
premises.**

7. (1) Where any prescribed premises are not holiday premises by reason only of the fact that such premises are not ordinarily regularly and primarily leased for holiday purposes only, 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, 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 commencement of this Act under sub-regulation three of Regulation 7A of the Commonwealth Regulations and having force or effect in this State immediately before such commencement shall continue to have force and effect in all respects as if this section had been in force 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 three of this section or continued in force under subsection four of this section.

Landlord and Tenant (Amendment).

8. (1) In this Act, unless the contrary intention appears— Definitions.

“appeal” means appeal to a Fair Rents Board from a determination of the Controller;

“application” means an application to the Controller under this Act;

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

“Commonwealth Regulations” means the Regulations having the title of the National Security (Landlord and Tenant) Regulations as in force immediately before the commencement of this Act under the Defence (Transitional Provisions) Act, 1946-1947, of the Parliament of the Commonwealth;

“determination” means determination of the fair rent of any premises, or of any premises together with goods leased therewith, made or continued in force under this Act;

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

(a) the premises of any lodging-house or boarding house;

(b) any part of premises which is leased separately for the purposes of residence,

but does not include premises licensed for the sale of spirituous or fermented liquors;

“Fair Rents Board” or “Board” means a Fair Rents Board constituted or deemed to have been constituted under this Act;

“holiday

Landlord and Tenant (Amendment).

“holiday premises” means any premises which are ordinarily regularly and primarily leased for holiday purposes only;

“lease” includes every contract for the letting of any prescribed premises, whether the contract is express or implied or is made orally, in writing or by deed, and includes a contract for the letting of prescribed premises together with goods, and also includes any tenancy the existence of which is presumed by operation of section 22A of the Landlord and Tenant Act of 1899 as amended by subsequent Acts, 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;
- (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 a person who was the lessee of the premises under the mortgagor immediately prior to the mortgagee entering into possession; and
- (d) the persons who, by operation of section 22A of the Landlord and Tenant Act of 1899 as amended by subsequent Acts are presumed to be the landlord and tenant respectively;

“Part” means Part of this Act;

“prescribed” means prescribed by this Act or the regulations;

“prescribed

Landlord and Tenant (Amendment).

“prescribed premises” means 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) any premises, or the premises included in any class of premises, declared by the Governor, by order published in the Gazette, to be excluded from the operation of this Act,

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 by any local authority or other local governing body, including any municipal, shire or county council and water or sewerage authority;

“regulations” means regulations made under this Act;

“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 excess water rates,

and

Landlord and Tenant (Amendment).

and where, in any lease—

(c) 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

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

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

“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 Controller” means the Rent Controller appointed under this Act, and includes any person exercising any powers or functions delegated to him by the Controller;

“the prescribed date,” in relation to any prescribed premises, means the thirty-first day of August, one thousand nine hundred and thirty-nine.

(2) 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.

(3) Where the lessor of prescribed premises supplies or provides any service 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)

Landlord and Tenant (Amendment).

(4) Any declarations made before the commencement of this Act under paragraph (b) of the definition of "prescribed premises" in sub-regulation one of Regulation eight of the Commonwealth Regulations and in force in this State immediately before such commencement shall continue in force in all respects as if they had been made by the Governor under paragraph (c) of the definition of "prescribed premises" in subsection one of this section.

PART II.—FAIR RENTS.

Division 1.—Administration.

9. (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.

All Fair Rents Boards constituted in this State before the commencement of this Act under Regulation nine of the Commonwealth Regulations and in existence immediately before such commencement shall be deemed to have been constituted under this subsection.

Landlord and Tenant (Amendment).

(2) The Minister may abolish any Fair Rents Board.

(3) 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.

Procedure
of Fair
Rents
Boards.

10. (1) The Governor may by regulations regulate the procedure of Fair Rents Boards.

(2) All rules made by the Governor before the commencement of this Act under Regulation ten of the Commonwealth Regulations, and in force in this State immediately before such commencement shall continue in force in all respects as if they were regulations made by the Governor under subsection one of this section.

Rent
Controller.

11. (1) For the purposes of this Act, there shall be a Rent Controller, who shall be appointed under and in accordance with the provisions of the Public Service Act, 1902, as amended by subsequent Acts:

Provided that pending the appointment of the first Rent Controller under this section, a person may be appointed under and in accordance with the provisions of the Public Service Act, 1902, as amended by subsequent Acts, to act temporarily as Rent Controller, for a period specified in the instrument of his appointment, and a person so appointed shall have and may exercise and discharge during the term of his appointment all the powers, authorities, duties and functions conferred and imposed on the Rent Controller by this Act and shall, during such term, be deemed to be the Rent Controller for all purposes of this Act.

(2) The Controller may, by writing under his hand, delegate all or any of his powers and functions under this Act or under any order made thereunder (except this power of delegation) so that the delegated powers and functions may be exercised by the delegate.

(3)

Landlord and Tenant (Amendment).

(3) Any delegation by the Controller under this section shall be revocable in writing at will and no such delegation shall prevent the exercise of any power or function by the Controller.

12. (1) The Controller and each Fair Rents Board shall have and may exercise such powers and functions as are conferred upon him or it respectively by this Act, and may exercise those powers and functions—

Powers of
Controller
and Fair
Rents
Boards.

- (a) in relation to all prescribed premises (including goods leased therewith); or
- (b) where the Governor, by order published in the Gazette, declares that it is desirable that the powers and functions of the Controller and of Boards shall be exercisable with respect to certain prescribed premises only, or with respect to a limited class of prescribed premises only—in relation to those prescribed premises (including goods leased therewith) only or to that limited class of prescribed premises (including goods leased therewith) only.

(2) The powers and functions of a Fair Rents Board may be exercised by any Stipendiary Magistrate.

13. There shall be a clerk of each Fair Rents Board. The clerk shall be appointed under and in accordance with the provisions of the Public Service Act, 1902, as amended by subsequent Acts.

Clerks of
Fair Rents
Boards.

14. Such officers and employees as may be necessary for the administration of this Act may be appointed under and in accordance with the provisions of the Public Service Act, 1902, as amended by subsequent Acts.

Officers and
employees.

DIVISION 2.—Rent of Prescribed Premises.

15. (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 together with goods) shall not, in respect of any period after the commencement of this Act and notwithstanding any term or covenant in any lease in force at any time after the commencement of this Act, exceed the rent payable in respect

Rent of
prescribed
premises.

Landlord and Tenant (Amendment).

respect of the prescribed premises at the prescribed date (including the rent of any goods then leased therewith and the charge for any service then provided in connection with the lease), or where that rent has been increased or decreased by a determination made before the commencement of this Act under the Commonwealth Regulations and in force immediately before such commencement 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 but were leased on the first day of March, one thousand nine hundred and forty-five, or by the lessee of any such premises together with goods leased therewith, shall not, in respect of any period after the commencement of this Act, and notwithstanding any term or covenant in any lease in force at any time after the commencement of this Act, exceed the rent payable in respect of the prescribed premises at the first day of March, one thousand nine hundred and forty-five (including the rent of any goods then leased therewith and the charge for any service then provided in connection with the lease), or where that rent has been increased or decreased by a determination made before the commencement of this Act under the Commonwealth Regulations and in force immediately before such commencement the rent as so increased or decreased.

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

(4) Until any rent fixed by subsection one or subsection two of this section is increased or decreased by a determination, 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, additions, repairs 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 by the lessor or in the goods leased with the premises.

Landlord and Tenant (Amendment).

16. (1) Where the rent of any prescribed premises (or of prescribed premises together with goods) is fixed by subsection one or subsection two of section fifteen of this Act, the lessee may, if the lessor of the premises was the lessor on the prescribed date, or on the first day of March, one thousand nine hundred and forty-five, as the case may be, 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
declara-
tions as
to rent.

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

17. Where the powers conferred by this Act on the Controller or a Fair Rents Board may be exercised in relation to certain prescribed premises (including goods leased therewith) only, or to a limited class of prescribed premises (including goods leased therewith) only, the provisions of this Division shall apply to those prescribed premises (including goods leased therewith) only, or to that limited class of prescribed premises (including goods leased therewith) only.

Application
of Division.

DIVISION 3.—Rent of Prescribed Premises other than Shared Accommodation.

18. The lessor, or a lessee 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, of any prescribed premises other than shared accommodation (not being prescribed premises in relation to which the Controller is not authorized to exercise the powers conferred by this Part), or the owner of any such premises which are vacant, may apply in writing

Application
to have
fair rent
fixed.

to

Landlord and Tenant (Amendment).

to the Controller to have the fair rent of the prescribed premises determined by the Controller.

Notice of
application.

19. (1) At least seven days prior to determining the fair rent of any prescribed premises other than shared accommodation, the Controller shall give notice of his intention to determine the fair rent of the prescribed premises to the lessor and lessee of the prescribed premises 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 two 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 other than shared accommodation in respect of which an application is made are the subject of a mortgage, 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 mortgagee, who shall be entitled to be a party to the application.

Determina-
tion of
application.

20. (1) Where an application has been made for the determination of the fair rent of any prescribed premises other than shared accommodation, 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 the prescribed premises.

(2)

Landlord and Tenant (Amendment).

(2) Subject to subsections three and four of this section, the determination 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 six per centum 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 twenty-one of this Act, 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) The determination may increase the fair rent if the Controller is satisfied that, by reason of an error or omission, an injustice has been occasioned by the last determination.

21. Subject to section twenty of this Act, in determining the fair rent the Controller shall have regard to— Matters to be considered.

- (a) the capital value of the premises at 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;
- (b) the annual rates and insurance premiums paid in respect of the premises;
- (c) the estimated annual cost of repairs, maintenance and renewals of the premises and fixtures thereon;
- (d) 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;
- (e) the rents of comparable premises in the locality of the premises the subject of the application;
- (f)

Landlord and Tenant (Amendment).

- (f) the rate of interest charged upon overdrafts by the Commonwealth Bank of Australia;
- (g) any services 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 an order 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.

Date of
operation of
determina-
tion.

22. (1) Every determination of the fair rent of prescribed premises other than shared accommodation made by the Controller 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.

(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 nineteen or section twenty-four of this Act.

Effect of
determina-
tion.

23. Where any fair rent has been determined by the Controller it shall, as from the date fixed under section twenty-two of this Act and 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 fixed.

24.

Landlord and Tenant (Amendment).

24. (1) The Controller may, of his own motion, after inquiry, determine the fair rent of any prescribed premises other than shared accommodation.

Controller may determine fair rent of his own motion.

(2) The Controller shall give to the lessor and lessee of the prescribed premises and to the other persons referred to in section nineteen of this Act notice of his intention to determine the fair rent of the premises, and the notice so given to the lessor shall, for the purposes of this Division, be deemed to be an application.

(3) In determining the fair rent of prescribed premises under this section, the Controller shall have the same powers as he has in connection with an application, and any determination made by the Controller shall have the same effect for all purposes as a determination made upon an application.

25. (1) This Division shall extend in relation to prescribed premises together with goods leased therewith, and any reference in this Division to prescribed premises shall, so far as applicable, include a reference to prescribed premises together with goods leased therewith.

Lease of prescribed premises together with goods.

(2) In the case of prescribed premises which are leased together with goods, the Controller may fix the fair rent of the prescribed premises irrespective of the goods or may, in his discretion, fix the fair rent of the prescribed premises together with goods leased therewith.

26. 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.

Inspection of prescribed premises.

DIVISION 4.—Rent of Shared Accommodation.

27. (1) The lessor, or the lessee 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, under a lease of shared accommodation (not being shared accommodation in relation to which

Determination of rent of shared accommodation.

Landlord and Tenant (Amendment).

which the Controller is not authorised to exercise the powers conferred by this Part), 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) The Controller shall thereupon cause the shared accommodation to be inspected for the purpose of determining the fair rent thereof.

(3) The Controller may of his own motion, from time to time, cause any shared accommodation to be inspected for the purpose of determining the fair rent thereof.

(4) 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.

(5) After an inspection of any shared accommodation has been made under subsection two or subsection three of this section, after making such inquiries and obtaining such reports (if any) as the Controller considers necessary, and after considering any representations made by the lessor (or intending lessor), and any representations made by the lessee (if any), of the shared accommodation, the Controller may determine the fair rent of the shared accommodation.

(6) 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 or, in any case in which the Controller causes any shared accommodation to be inspected pursuant to subsection three of this section, not earlier than the date of such inspection.

(7) In determining the fair rent of any shared accommodation the Controller shall have regard to the matters specified in section twenty-one of this Act.

(8)

Landlord and Tenant (Amendment).

(8) 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.

(9) Where any fair rent has been determined in pursuance of this section, it 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.

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

Variation in arrangement of shared accommodation to be notified.

- (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; or
- (c) the shared accommodation is leased—
 - (i) without the use of any convenience or service which was available to the tenant at the time when the determination was made; or
 - (ii) with the use of any convenience or service which was not so available,

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.

29. (1) This Division shall extend in relation to shared accommodation together with goods leased therewith, and any reference in this Division to shared accommodation shall, so far as applicable, include a reference to shared accommodation together with goods leased therewith.

Rent of shared accommodation and goods leased therewith.

Landlord and Tenant (Amendment).

(2) In the case of shared accommodation which is leased together with goods, the Controller may determine the fair rent of the shared accommodation irrespective of the goods or may, in his discretion, determine the fair rent of the shared accommodation together with goods leased therewith.

DIVISION 5.—*General.*

Appeal from
determina-
tion.

30. (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-one days after the giving of the notice referred to in subsection two of section twenty-two or in subsection eight of section twenty-seven of this Act, as the case may be, by a notice in writing lodged with the clerk of the Fair Rents Board nearest to the premises (or of any other Fair Rents Board if that other Board is satisfied that hardship will not be occasioned thereby to any party to the appeal), 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 nineteen or section twenty-four of this Act, as the case may be.

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

Procedure
on appeal.

31. (1) The Board shall hear the appeal and may, having regard to the matters specified in section twenty-one of this Act, 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)

Landlord and Tenant (Amendment).

(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 one of section twenty-two or under subsection six of section twenty-seven of this Act, as the case may be.

(4) Where any fair rent 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) The Board shall furnish a copy of its determination to the Controller.

32. (1) A determination may be varied—

Variation of
determina-
tion.

(a) on application made in the same manner as an application to the Controller for a determination; or

(b) by the Controller of his own motion,

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

(2) During such period as is specified in the determination, or, if no period is so specified, during the period commencing with the date of the determination and ending twelve months after that date, an application shall not be made to vary a determination, or to determine the fair rent of prescribed premises, or of prescribed premises together with goods leased therewith, in respect of which a determination has been made, nor shall the Controller vary a determination of his own motion, except on the ground that—

(a) by an error or omission an injustice has been occasioned by the determination;

(b).

Landlord and Tenant (Amendment).

- (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 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 or additions have been made to the premises, to the goods leased therewith, or to the services supplied by the lessor, since the determination was made; or
- (f) the value of the premises, of the goods leased therewith or of the services supplied by the lessor has materially decreased or increased since the determination was made.

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

Effect of
determina-
tion.

33. (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, additions, repairs 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 by the lessor or in the goods leased with the premises.

(2)

Landlord and Tenant (Amendment).

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

34. (1) Where the fair rent of any prescribed premises or shared accommodation has been determined, the lessor shall give notice in writing to the Controller of—

Lessor to
notify
change in
services
supplied or
in nature of
occupancy.

- (a) the nature and extent of any services, not supplied at the date of the determination, which he commences to supply to any lessee; and
- (b) the fact that the prescribed premises cease or the shared accommodation ceases to be occupied by a lessee and become or becomes occupied by a lodger.

(2) A notice under this section shall be given within seven days after the matter required to be notified arises.

35. (1) A person shall not—

- (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.

Premises
not to be
let at rent
exceeding
fair rent.

(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)

Landlord and Tenant (Amendment).

(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 in an action for debt in any court of competent jurisdiction by the lessee from the lessor to whom it was paid.

(4) In any prosecution for an offence arising under this section, the averment of the prosecutor—

(a) that the prescribed premises were let to a specified person on the prescribed date; and

(b) as to the rent payable in respect of the prescribed premises at the prescribed date,

shall be *prima facie* evidence of the matter or matters averred.

(5) Any evidence given by a witness in support or rebuttal of a matter so averred shall be considered on its merits and the credibility and probative value of the evidence shall not be increased or diminished by reason of this section.

(6) An averment shall not be made under this section unless the Crown Solicitor, or an Assistant Crown Solicitor is satisfied that the averment is reasonably necessary for the due administration of justice and will not impose hardship upon, or occasion injustice to, the defendant and certifies in writing accordingly on the paper containing the averment.

(7) An averment shall not be evidence for the purposes of this section unless a copy of the paper containing the averment has been served on the defendant in the same manner as the process requiring his attendance before the court.

(8) Service of the copy of the paper containing the averment may be proved in the same manner as service of the process requiring the defendant's attendance before the court may be proved.

(9) Upon the hearing of an information for an offence arising under this section, the court may, if the amendments

Landlord and Tenant (Amendment).

amendments can be made without hardship or injustice to the defendant, allow such amendments to be made in the writing containing an averment as appear to it to be desirable or to be necessary to enable the real question in the dispute to be determined.

(10) If in any such case the court considers the defendant has been misled by the form of the averment, it may refuse to allow the amendments, or may, as a condition of allowing the amendments, adjourn the hearing of the case for such period as it thinks fit and may make such order as to the costs of the adjournment as it thinks proper.

36. (1) A person shall not, whether as principal or agent, or in any other capacity—

Certain
payments
prohibited.

(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, or in association with—

(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 dwelling house), 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 dwelling house); or

(ii) for information as to a tenancy, or as to the possibility or likelihood of obtaining a tenancy, of any prescribed premises

Landlord and Tenant (Amendment).

premises (including any dwelling-house); 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) 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 in an action for debt 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.

(3) Where a person has, in contravention of this section, been required to purchase or exchange any goods or goodwill, he may recover 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
representa-
tions, etc.,
prohibited.

37. (1) A person shall not 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 dwelling-house).

(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.

38.

Landlord and Tenant (Amendment).

38. (1) A person shall not refuse, or procure any person to refuse, to let a dwelling-house to any person on the ground that it is intended that a child shall live in the dwelling-house.

Refusal to let dwelling-house to applicant with family prohibited.]

(2) In any prosecution for an offence arising under subsection one 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) A person shall not—

(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 a child shall live in the dwelling-house.

(4) A person shall not, 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 a child shall live in the dwelling-house if it is let to that prospective tenant.

(5) In any prosecution for an offence arising under subsection four 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.

39. A person shall not let a dwelling-house which to his knowledge is, at the date of the letting, not in fair and tenantable repair.

Dwelling-house not to be let unless in good repair.]

40. Notwithstanding anything contained in this Act or in any declaration issued in pursuance of this Act, a dwelling-house shall, for the purposes of sections thirty-six, thirty-seven, thirty-eight and thirty-nine of this Act, be deemed to include holiday premises.

Premises leased for holiday purposes only.]

Landlord and Tenant (Amendment).

No appeal
from order
of Board.

41. Every determination of a Fair Rents Board or of the Controller shall, except as provided by this Part, be final and without appeal, and no writ of prohibition or certiorari shall lie in respect thereof.

Costs not
to be
allowed.

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

Controller
not bound
to conduct
oral hearing.

43. (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.

(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.

Summoning
of witnesses
and produc-
tion of
documents.

44. (1) The Controller, or the Stipendiary 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 books, documents or writings in his custody or control which he is required by the summons to produce.

(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.

Failure to
attend or
produce
documents.

45. (1) A person who has been served with a summons to attend the Controller or a Fair Rents Board shall not, 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.

(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

Landlord and Tenant (Amendment).

that the documents, books or writings were not relevant to the subject-matter of the proceedings before the Controller or Board.

46. A person appearing as a witness before the Controller or a Fair Rents Board shall not 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.

47. A witness before the Controller or a Fair Rents Board shall not knowingly give false testimony in any evidence given by him to the Controller or Board.

False
testimony.

48. A witness before the Controller or a Fair Rents Board shall have the same protection 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.

49. (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—

Protection
of reports
and proceed-
ings.

(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 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 the person defamed or by any other improper motive.

50. (1) A person shall not 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.

Landlord and Tenant (Amendment).

(2) The Stipendiary Magistrate constituting a Fair Rents Board shall, in relation to any contravention of subsection one 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.

51. 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 Justice of the Peace.

Information
as to fair
rent.

52. The Controller shall, 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, fixed by the Board or by the Controller.

Intervention
by Minister.

53. The Minister may, at any stage of any proceedings under this Part before a Fair Rents Board, intervene by counsel, solicitor or agent and may examine witnesses and address the Board.

Representa-
tion by
agent.

54. (1) Any person who is a party to proceedings under this Part or who may be affected by the result of any such proceedings, may appear in person or may be represented by counsel or a solicitor or by an agent authorised in writing in that behalf, who may examine witnesses and address the Board or Controller on that person's behalf.

(2) No counsel, solicitor or agent representing a person in proceedings under this Part shall demand or take by way of fees for work done by him in relation to such proceedings any sum in excess of the sum prescribed by the regulations and applicable to him.

Records
of rent.

55. (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 or of any previous like record, relating to a period not earlier than the prescribed date, in respect of the
prescribed

Landlord and Tenant (Amendment).

prescribed premises shall, when requested by any tenant 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 tenant or authorised officer, as the case may be.

(3) The lessor shall, by himself or his agent, produce the records at the hearing of any proceedings under this Part in respect of the prescribed premises and the records 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 false in a material particular.

(5) A request under this section may be made orally or in writing.

56. The person receiving any payment of rent of 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.

57. (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.

(2) Where any prescribed premises (or prescribed premises together with goods) were leased at the prescribed date, the lessor at the prescribed date shall, on demand in writing by 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) at the prescribed date.

(3)

Landlord and Tenant (Amendment).

(3) Where any prescribed premises were not in existence, or were not leased, on the prescribed date, but were leased on the first day of March, one thousand nine hundred and forty-five, the lessor at the first day of March, one thousand nine hundred and forty-five, shall, on demand in writing by 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) at the first day of March, one thousand nine hundred and forty-five.

Certificate
as to fair
rent.

58. (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 by the Controller or a Fair Rents Board), and specifying the amount thereof, shall be evidence of the matters certified to.

(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.

Service of
notices.

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

(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 Part 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)

Landlord and Tenant (Amendment).

(3) Where any notice or other document is required or permitted by this Part 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.

60. (1) Any notice or other document required or permitted by this Part 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.

(2) Any notice or other document required or permitted by this Part 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 Part 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.

61. (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 be refunded to the person by whom the payment was made. Courts may order refund of amounts overpaid.

(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 sees fit, include

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in

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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 final judgment of that court.

PART III.

RECOVERY OF POSSESSION OF PRESCRIBED PREMISES.

Restriction
on eviction.

62. (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 ejectment 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 was 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) 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 sixty-three of this Act, and that period of notice has expired.

(4) Service of the 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)

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- (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 twelve months—of not less than fourteen days; and
 - (ii) 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 in writing 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

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- 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, body or authority carrying on a hospital, or a trustee for such a person, body or authority, 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)

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- (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 being a dwelling-house by virtue of an assignment or transfer which the lessor has not consented to or approved;
- (o) that the lessee has sub-let the premises being a dwelling-house or some part of the dwelling-house by a sub-lease which has not been consented to or approved by the lessor; or
- (p) that the lessee has parted with the possession of the premises being a dwelling-house without the consent or approval of the lessor.

(6) (a) In subsection five 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.

(b) In paragraphs (n), (o) and (p) of subsection five of this section, “dwelling-house” does not include the premises of any lodging-house or boarding-house.

(7) Notice to quit on a ground specified in paragraph (n) or paragraph (o) of subsection five 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

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March, one thousand nine hundred and forty-seven, 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.

(8) Notice to quit on the ground specified in paragraph (p) of subsection five of this section shall not be given—

(a) where the lessee parted with the possession of the premises before the twenty-first day of July, one thousand nine hundred and forty-eight;

(b) where the lease is for a fixed term—unless that term has expired;

(c) in the case of a periodic lease—unless the period which was current at the date on which the parting with possession took place has expired; or

(d) where the lease contains any covenant against assigning, transferring or sub-letting by the lessee.

Period of
notice to
quit.

63. (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.

(2) Nothing in subsection one 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 paragraph (c), (d), (e) or (f) of subsection

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- subsection five of section sixty-two of this Act 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.

64. A lessor shall not, after the lessee has made an application for a determination, or after he has received from the Controller notice of his intention to determine the fair rent, except with the consent of the Controller, give a notice to quit on any ground specified in paragraph (f), (g), (h), (i), (j), (k) or (l) of subsection five of section sixty-two of this Act until after the expiration of six months after the making of a determination on the application or in pursuance of the notice, but if a determination has not been made 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.

Notice to quit not to be given within six months after determination.

A 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 commencement of this Act.

65. (1) A person who has, either before or after the commencement of this Act, become the lessor of prescribed premises being a dwelling-house or part of a dwelling-house, by purchase thereof, shall not, 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 five of section sixty-two

Notice to quit where dwelling-house sold.

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sixty-two of this Act to any person who was a lessee of the prescribed premises at the date of the agreement for the purchase.

(2) A lessor of prescribed premises, being a dwelling-house or part thereof, shall not give a notice to quit on the ground specified in paragraph (1) of subsection five of section sixty-two of this Act 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.

66. A notice to quit shall specify the ground relied upon and shall give the particulars thereof and, in the proceedings, the lessor shall not except by leave of court be entitled to rely upon any ground not so specified or upon any matter particulars of which have not been given.

Notice to
quit to
terminate
lease.

67. A notice to quit given in accordance with the provisions of section sixty-two of this Act 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.

68. (1) Where a lessor has taken proceedings in any court to recover possession of any prescribed premises from the lessee and the court has (whether before or after the commencement of this Act) 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.

Competent
courts.

69. (1) For the purposes of section sixty-two of this Act courts of petty sessions, and those courts only, shall be courts of competent jurisdiction.

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(2) The jurisdiction of a court of petty sessions under this section shall not be exercised except by a Stipendiary Magistrate.

(3) The provisions of sections twenty-six and twenty-seven of the Landlord and Tenant Act of 1899, shall not apply in any case where an order for the recovery of possession of any prescribed premises has been made under this Part.

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

Court to consider hardship.

- (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 five of section sixty-two of this Act—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 or may, on such conditions (if any) as it thinks fit, refuse to make the order notwithstanding that one or more of the prescribed grounds has been established.

(2) Notwithstanding anything contained in this section, an order for the recovery of possession of any prescribed premises, being a dwelling-house, from any person on any of the grounds specified in paragraphs (g), (i), (l) or (m) of subsection five of section sixty-two of this Act shall not be made unless the court is satisfied that

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that suitable accommodation provided by the lessor in lieu of the prescribed premises, is immediately available for the occupation of the person occupying the prescribed premises.

Provided that this subsection shall not apply in any case where—

- (a) the lessor is a protected person within the meaning of Regulation thirty of the National Security (War Service Moratorium) Regulations and the lessee is not a protected person within the meaning of those Regulations; or
- (b) the court is satisfied that the lessor is required by law to reconstruct or demolish the dwelling-house and possession thereof is sought by him for that purpose; or
- (c) the court is satisfied that the lessee has sub-let or has parted with the possession of the dwelling-house, and that he was not, at the date of service of the notice to quit, a bona fide occupant of the dwelling-house or any part thereof.

Provided further that this subsection shall not apply in the case of proceedings for the recovery of possession of prescribed premises, being a dwelling-house, where the proceedings are taken on any of the grounds specified in paragraph (g) or paragraph (i) of subsection five of section sixty-two of this Act and the lessor was the owner of the dwelling-house on the twenty-first day of July one thousand nine hundred and forty-eight, or has since that date become the owner thereof pursuant to a contract of purchase entered into on or before that date.

In this subsection “National Security (War Service Moratorium) Regulations” means the Regulations having that title as in force for the time being under the Defence (Transitional Provisions) Act, 1946-1947, of the Parliament of the Commonwealth.

(3) Where the application is made on either of the grounds specified in paragraphs (n) and (o) of subsection five of section sixty-two of this Act, the court shall not refuse, in the exercise of the discretion vested in

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in it by subsection one 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.

(4) On the hearing of an application specified in subsection three 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.

71. (1) In respect of any proceedings referred to in section seventy of this Act, the court may—

Power to
stay
proceedings
or orders.

(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 specified in any such order; or

(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 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.

(2) In this section—

(a) a reference to an order shall include a reference to an order made before the commencement of this Act under Regulation sixty-three of the Commonwealth Regulations; (b)

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- (b) a reference to a warrant shall include a reference to a warrant issued before the commencement of this Act under the Commonwealth Regulations for the execution of an order made under Regulation sixty-three of those Regulations.

Certain applications to operate as stay of execution.

72. (1) An application to stay or suspend the execution of, or to vary, discharge or rescind, any order referred to in section seventy-one of this Act, or to postpone the date for recovery of possession 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.

(2) Notwithstanding anything contained in paragraph (c) of section seventy-one of this Act, 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 seventy of this Act, the court has refused to grant an application of any of the kinds referred to in subsection one 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.

Hearing in chambers.

73. 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.

Appeals.

74. (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 sixty-nine of this Act.

(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.

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75. No order (other than an order made under this Part or under the Commonwealth Regulations) made by any court for the recovery by the lessor of possession of any prescribed premises (or of any goods leased therewith) or for the ejectment of the lessee shall be enforceable.

Ejectment orders not enforceable unless made under this Act.

76. 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 three of section sixty-one of this Act, shall apply, mutatis mutandis, to and in respect of any order for the payment of any sum under this section.

Court may order compensation for misrepresentation.

77. (1) (a) If a notice to quit has been given on the ground specified in paragraph (h), (i), (j) or (k) of subsection five of section sixty-two of this Act 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 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.

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

(b) If a notice to quit has been given on the ground specified in paragraph (g) of subsection five of section sixty-two of this Act, 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 has been made on 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.

(c)

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(c) If a notice to quit has been given on the ground specified in paragraph (m) of subsection five of section sixty-two of this Act, and the premises in respect of which the notice was given have been vacated in accordance with the notice, or if an order for recovery of possession of the premises has been made on 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 the reconstruction or demolition referred to in the said paragraph (m) has been carried out.

(d) In this subsection—

- (i) a reference to a notice to quit shall include a reference to a notice to quit given before the commencement of this Act;
- (ii) a reference to a vacation of premises shall include a reference to a vacation of premises before the commencement of this Act; and
- (iii) a reference to an order for the recovery of possession of premises shall include a reference to any such order made under the Commonwealth Regulations before the commencement of this Act.

(2) Nothing in subsection one 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 the ground specified in paragraph (h), (i) or (k), 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)

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(3) A transaction entered into in contravention of subsection one 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.

78. Where an order is in force declaring that it is desirable that the powers and functions of the Controller and of Fair Rents Boards shall be exercisable with respect to certain prescribed premises only, or with respect to a limited class of prescribed premises only, the provisions of this Part shall apply only with respect to the prescribed premises, or limited class of prescribed premises, referred to in the order.

Application to limited class of premises.

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

Enforcement of orders.

80. Where notice to quit any prescribed premises has been given, whether before or after the commencement of this Act—

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;

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

81. (1) A person shall not, without the consent of the lessee of prescribed premises, or without reasonable cause (proof whereof shall lie upon the defendant), do, or cause to be done, any act, or omit, or cause to be omitted, any act whereby the ordinary use or enjoyment by

Persons not to interfere with use or enjoyment of premises.

Landlord and Tenant (Amendment).

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.

(2) Where the lessor, or any agent or servant of the lessor, has been convicted of an offence arising under subsection one 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.

82. (1) Where—

Protection
of sub-
lessees.

- (a) a lessor has either before or after the commencement of this Act consented to or approved a sub-lease of any prescribed premises or any part thereof by the lessee, or a lessee has either before or after such commencement 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 such commencement, 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 on any of the grounds specified in paragraphs (a) to (f) of subsection five of section sixty-two of this Act; or
 - (ii) the surrender of his lease by the lessee,
the

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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—

- (c) the date on which the lessor gave notice to quit to the lessee; or
- (d) 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 one 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 five of section sixty-two of this Act, 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, 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, every person who is a sub-lessee of such premises or any part thereof shall be entitled to be heard.

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Protection
of certain
persons in
possession
of premises.

83. Where—

- (a) the tenancy of any prescribed premises is terminated by virtue of the provisions of this Act or of the Commonwealth Regulations;
- (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,

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 in accordance with the provisions of this Act as if he were a lessee of the premises.

Costs not
to be
allowed.

84. 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.

Intervention
of Minister.

85. The Minister may, at any stage of any proceedings in relation to which this Part applies, intervene by counsel, solicitor or agent and may examine witnesses and address the court.

Exclusion of
premises
let for a
short term
from opera-
tion of Part
III.

86. (1) The lessor or former lessor under a lease, or the proposed lessor under a proposed lease, of any prescribed premises for a fixed term not exceeding six 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.

(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

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is specified in the certificate, from the operation of the provisions of this Part and the premises shall be excluded accordingly.

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

(b) Any certificate issued under sub-regulation three of Regulation seventy-eight of the Commonwealth Regulations shall be deemed to have been issued under subsection three of this section.

87. (1) (a) 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.

Exclusion of certain subdivided premises, &c., from operation of Part III.

(b) Any certificate issued under Regulation seventy-nine of the Commonwealth Regulations shall be deemed to have been issued under this section.

(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.

D

(6)

Landlord and Tenant (Amendment).

(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.

PART IV.—MISCELLANEOUS.

Threats and
boycotts
prohibited.

88. (1) A person shall not, 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.

(2) The owner of any prescribed premises, and the agent of any such owner, shall not refuse, or procure any person to refuse, to lease the premises to any other
person

Landlord and Tenant (Amendment).

person who desires to lease the same if the reason for that refusal was the fact that that 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 two 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) A person shall not 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.

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

90. A person shall not 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, and whether directly or indirectly, defeating, evading, or preventing the operation of, this Act in any respect. Contracts to evade Act prohibited.

91. (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. Transactions not invalidated.

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

Landlord and Tenant (Amendment).

Information
to be
furnished
on request.

92. (1) The Controller or an authorised officer may require a 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) A person shall not, 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) A person shall not 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.

Powers of
entry and
inspection.

93. The Controller or an authorised officer may, for the purposes of this Act, enter on and inspect any land or premises.

94.

Landlord and Tenant (Amendment).

94. 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. Proof of instruments.

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

(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 shall be liable—

- (a) if a body corporate—to a penalty not exceeding two hundred pounds;
- (b) if any other person—to a penalty not exceeding one hundred pounds, or to imprisonment for a term not exceeding six months, or to both such penalty and imprisonment.

(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 to the pecuniary penalty or imprisonment or both provided by this section in the case of such an offence by a person other than a body corporate accordingly, 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.

96. (1) The Governor may make regulations not inconsistent with this Act 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 this Act. Regulations.

(2) The regulations may impose a penalty not exceeding one hundred pounds for any breach thereof.

(3)

Landlord and Tenant (Amendment).

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified therein;
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

Regulations
may
transfer
powers of
Controller to
Fair Rents
Boards.

97. (1) In addition to the powers conferred by section ninety-six of this Act, the Governor may from time to time by regulations, declare that on a date specified in the regulations, the powers authorities duties and functions conferred and imposed on the Controller by this Act shall be transferred to and shall thereafter be exercised and discharged by Fair Rents Boards as prescribed in the regulations.

(2) Regulations made under this section may—

- (a) apply generally to all powers authorities duties and functions of the Controller, or particularly to such powers authorities duties and functions of the Controller as are prescribed in the regulations;
- (b) apply generally to all premises in respect of which he is authorised by this Act to exercise and discharge any of his powers authorities duties and functions, or particularly to any class of such premises as may be specified in the regulations;
- (c) apply generally throughout the State, or particularly within such parts of the State as are specified in the regulations.

(3)

Landlord and Tenant (Amendment).

(3) Regulations made under this section may include provisions for modifying and adapting the provisions of this Act in such manner and to such extent as may be necessary or convenient to give effect to any transfer to Fair Rents Boards of the powers authorities duties and functions of the Controller effected by the regulations and to enable Fair Rents Boards to exercise and discharge the same.

(4) Every determination made by a Fair Rents Board in the exercise of powers transferred to it by regulations made under this section shall be final and without appeal, and no writ of prohibition or certiorari shall lie in respect thereof.

(5) The provisions of subsection three of section ninety-six of this Act shall apply to and in respect of regulations made under this section.

98. All proceedings for offences against this Act or the regulations shall be disposed of in a summary manner before a court of petty sessions holden before a Stipendiary Magistrate sitting alone. Proceedings
for offences.

99. (1) This Act with the exception of section two shall expire on the thirty-first day of December, one thousand nine hundred and forty-nine. Expiration
of Act.

(2) The expiry of this Act shall not affect the previous operation thereof or the validity of any action taken thereunder or any penalty incurred in respect of any contravention of or failure to comply with this Act or any proceeding or remedy in respect of any such penalty or punishment.

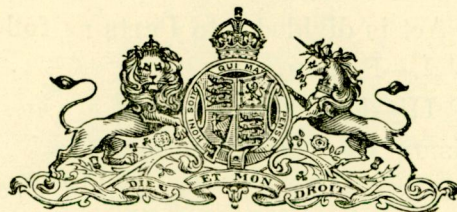
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[2s.]

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

H. ROBBINS,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 10 August, 1948.

New South Wales.



ANNO DUODECIMO

GEORGII VI REGIS.

Act No. 25, 1948.

An Act relating to the control of rents of certain premises and the recovery of possession of certain premises; to repeal the Fair Rents Act, 1939; to amend the Landlord and Tenant Act of 1899, and certain other Acts; and for purposes connected therewith. [Assented to, 13th August, 1948.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Landlord and Tenant (Amendment) Act, 1948."

Short title
and com-
mencement.

(2)

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. BOOTH,
Chairman of Committees of the Legislative Assembly.

Landlord and Tenant (Amendment).

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Repeal of
Act No. 37,
1939.
Division
into Parts.

2. The Fair Rents Act, 1939, is hereby repealed.

3. This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—FAIR RENTS—

DIVISION 1.—*Administration.*

DIVISION 2.—*Rent of Prescribed Premises.*

DIVISION 3.—*Rent of Prescribed Premises other than Shared Accommodation.*

DIVISION 4.—*Rent of Shared Accommodation.*

DIVISION 5.—*General.*

PART III.—RECOVERY OF POSSESSION OF PRESCRIBED PREMISES.

PART IV.—MISCELLANEOUS.

Savings.

4. (1) All determinations of fair rents made before the commencement of this Act under the Commonwealth Regulations and having force or effect in this State immediately before such commencement shall be deemed to have been made under this Act and, subject to this Act, shall continue to have force and effect accordingly.

(2) All applications to, and other proceedings before, the Commonwealth Rent Controller under the Commonwealth Regulations which are pending immediately before the commencement of this Act may be continued before, and may be determined by, the Controller under this Act, and any pending application shall be deemed to be an application to the Controller under this Act, and the provisions of this Act shall apply to those applications and proceedings as if they were applications to, or proceedings before, the Controller under this Act.

(3) All proceedings before a Fair Rents Board in this State under the Commonwealth Regulations which are pending immediately before the commencement of this

Landlord and Tenant (Amendment).

this Act, may be continued before and determined by a Fair Rents Board under this Act, and the provisions of this Act shall apply to those proceedings as if they were proceedings before a Fair Rents Board under this Act.

(4) All proceedings under Part III of the Commonwealth Regulations which are pending immediately before the commencement of this Act may be continued and determined under Part III of this Act as if they had been commenced thereunder.

(5) The generality of this section shall not be affected by any saving in any other section of this Act nor shall this section limit any saving in the Interpretation Act of 1897, as amended by subsequent Acts.

5. This Act shall not bind—

- (a) the Crown in right of the Commonwealth or of the State; or Crown not bound.
- (b) The Housing Commission of New South Wales.

6. (1) The Governor may, by order published in the Gazette, declare that the application of this Act shall extend to premises, or the premises included in any class of premises, specified in the order, and thereupon the application of this Act shall, notwithstanding anything contained in paragraph (b) of subsection one of section twelve, section seventeen or section seventy-eight of this Act, extend to those premises (including goods leased with those premises) or to the premises included in that class of premises (including goods leased with those premises). Declarations as to application of Act.

(2) The Governor may, by order published in the Gazette, declare that any premises, or the premises included in any class of premises, shall be excluded from the operation of this Act or of such of the provisions of this Act as are specified in the order, and thereupon those premises, or premises of that class, shall be excluded accordingly.

(3)

Landlord and Tenant (Amendment).

(3) Any declaration made before the commencement of this Act under sub-regulation four or sub-regulation five of Regulation seven of the Commonwealth Regulations and having force or effect in this State immediately before such commencement shall continue to have force and effect in all respects as if this section had been in force at the time when such declaration was made, and the declaration had been made thereunder by the Governor.

Holiday
premises.

7. (1) Where any prescribed premises are not holiday premises by reason only of the fact that such premises are not ordinarily regularly and primarily leased for holiday purposes only, 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, 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 commencement of this Act under sub-regulation three of Regulation 7A of the Commonwealth Regulations and having force or effect in this State immediately before such commencement shall continue to have force and effect in all respects as if this section had been in force 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 three of this section or continued in force under subsection four of this section.

Landlord and Tenant (Amendment).

8. (1) In this Act, unless the contrary intention appears— Definitions.

“appeal” means appeal to a Fair Rents Board from a determination of the Controller;

“application” means an application to the Controller under this Act;

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

“Commonwealth Regulations” means the Regulations having the title of the National Security (Landlord and Tenant) Regulations as in force immediately before the commencement of this Act under the Defence (Transitional Provisions) Act, 1946-1947, of the Parliament of the Commonwealth;

“determination” means determination of the fair rent of any premises, or of any premises together with goods leased therewith, made or continued in force under this Act;

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

(a) the premises of any lodging-house or boarding house;

(b) any part of premises which is leased separately for the purposes of residence,

but does not include premises licensed for the sale of spirituous or fermented liquors;

“Fair Rents Board” or “Board” means a Fair Rents Board constituted or deemed to have been constituted under this Act;

“holiday

Landlord and Tenant (Amendment).

“holiday premises” means any premises which are ordinarily regularly and primarily leased for holiday purposes only;

“lease” includes every contract for the letting of any prescribed premises, whether the contract is express or implied or is made orally, in writing or by deed, and includes a contract for the letting of prescribed premises together with goods, and also includes any tenancy the existence of which is presumed by operation of section 22A of the Landlord and Tenant Act of 1899 as amended by subsequent Acts, 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;
- (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 a person who was the lessee of the premises under the mortgagor immediately prior to the mortgagee entering into possession; and
- (d) the persons who, by operation of section 22A of the Landlord and Tenant Act of 1899 as amended by subsequent Acts are presumed to be the landlord and tenant respectively;

“Part” means Part of this Act;

“prescribed” means prescribed by this Act or the regulations;

“prescribed

Landlord and Tenant (Amendment).

“prescribed premises” means 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) any premises, or the premises included in any class of premises, declared by the Governor, by order published in the Gazette, to be excluded from the operation of this Act,

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 by any local authority or other local governing body, including any municipal, shire or county council and water or sewerage authority;

“regulations” means regulations made under this Act;

“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 excess water rates,

and

Landlord and Tenant (Amendment).

and where, in any lease—

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

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

“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 Controller” means the Rent Controller appointed under this Act, and includes any person exercising any powers or functions delegated to him by the Controller;

“the prescribed date,” in relation to any prescribed premises, means the thirty-first day of August, one thousand nine hundred and thirty-nine.

(2) 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.

(3) Where the lessor of prescribed premises supplies or provides any service 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)

Landlord and Tenant (Amendment).

(4) Any declarations made before the commencement of this Act under paragraph (b) of the definition of "prescribed premises" in sub-regulation one of Regulation eight of the Commonwealth Regulations and in force in this State immediately before such commencement shall continue in force in all respects as if they had been made by the Governor under paragraph (c) of the definition of "prescribed premises" in subsection one of this section.

PART II.—FAIR RENTS.

Division 1.—Administration.

9. (1) The Minister may, for the purposes of this Act, constitute Fair Rents Boards at such places as he thinks fit.

Constitution
and aboli-
tion of Fair
Rents
Boards.

All Fair Rents Boards constituted in this State before the commencement of this Act under Regulation nine of the Commonwealth Regulations and in existence immediately before such commencement shall be deemed to have been constituted under this subsection.

(2)

Landlord and Tenant (Amendment).

(2) The Minister may abolish any Fair Rents Board.

(3) 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.

Procedure
of Fair
Rents
Boards.

10. (1) The Governor may by regulations regulate the procedure of Fair Rents Boards.

(2) All rules made by the Governor before the commencement of this Act under Regulation ten of the Commonwealth Regulations, and in force in this State immediately before such commencement shall continue in force in all respects as if they were regulations made by the Governor under subsection one of this section.

Rent
Controller.

11. (1) For the purposes of this Act, there shall be a Rent Controller, who shall be appointed under and in accordance with the provisions of the Public Service Act, 1902, as amended by subsequent Acts:

Provided that pending the appointment of the first Rent Controller under this section, a person may be appointed under and in accordance with the provisions of the Public Service Act, 1902, as amended by subsequent Acts, to act temporarily as Rent Controller, for a period specified in the instrument of his appointment, and a person so appointed shall have and may exercise and discharge during the term of his appointment all the powers, authorities, duties and functions conferred and imposed on the Rent Controller by this Act and shall, during such term, be deemed to be the Rent Controller for all purposes of this Act.

(2) The Controller may, by writing under his hand, delegate all or any of his powers and functions under this Act or under any order made thereunder (except this power of delegation) so that the delegated powers and functions may be exercised by the delegate.

(3)

Landlord and Tenant (Amendment).

(3) Any delegation by the Controller under this section shall be revocable in writing at will and no such delegation shall prevent the exercise of any power or function by the Controller.

12. (1) The Controller and each Fair Rents Board shall have and may exercise such powers and functions as are conferred upon him or it respectively by this Act, and may exercise those powers and functions—

Powers of
Controller
and Fair
Rents
Boards.

- (a) in relation to all prescribed premises (including goods leased therewith); or
- (b) where the Governor, by order published in the Gazette, declares that it is desirable that the powers and functions of the Controller and of Boards shall be exercisable with respect to certain prescribed premises only, or with respect to a limited class of prescribed premises only—in relation to those prescribed premises (including goods leased therewith) only or to that limited class of prescribed premises (including goods leased therewith) only.

(2) The powers and functions of a Fair Rents Board may be exercised by any Stipendiary Magistrate.

13. There shall be a clerk of each Fair Rents Board. The clerk shall be appointed under and in accordance with the provisions of the Public Service Act, 1902, as amended by subsequent Acts.

Clerks of
Fair Rents
Boards.

14. Such officers and employees as may be necessary for the administration of this Act may be appointed under and in accordance with the provisions of the Public Service Act, 1902, as amended by subsequent Acts.

Officers and
employees.

DIVISION 2.—Rent of Prescribed Premises.

15. (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 together with goods) shall not, in respect of any period after the commencement of this Act and notwithstanding any term or covenant in any lease in force at any time after the commencement of this Act, exceed the rent payable in respect

Rent of
prescribed
premises.

Landlord and Tenant (Amendment).

respect of the prescribed premises at the prescribed date (including the rent of any goods then leased therewith and the charge for any service then provided in connection with the lease), or where that rent has been increased or decreased by a determination made before the commencement of this Act under the Commonwealth Regulations and in force immediately before such commencement 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 but were leased on the first day of March, one thousand nine hundred and forty-five, or by the lessee of any such premises together with goods leased therewith, shall not, in respect of any period after the commencement of this Act, and notwithstanding any term or covenant in any lease in force at any time after the commencement of this Act, exceed the rent payable in respect of the prescribed premises at the first day of March, one thousand nine hundred and forty-five (including the rent of any goods then leased therewith and the charge for any service then provided in connection with the lease), or where that rent has been increased or decreased by a determination made before the commencement of this Act under the Commonwealth Regulations and in force immediately before such commencement the rent as so increased or decreased.

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

(4) Until any rent fixed by subsection one or subsection two of this section is increased or decreased by a determination, 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, additions, repairs 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 by the lessor or in the goods leased with the premises.

Landlord and Tenant (Amendment).

16. (1) Where the rent of any prescribed premises (or of prescribed premises together with goods) is fixed by subsection one or subsection two of section fifteen of this Act, the lessee may, if the lessor of the premises was the lessor on the prescribed date, or on the first day of March, one thousand nine hundred and forty-five, as the case may be, 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
declara-
tions as
to rent.

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

17. Where the powers conferred by this Act on the Controler or a Fair Rents Board may be exercised in relation to certain prescribed premises (including goods leased therewith) only, or to a limited class of prescribed premises (including goods leased therewith) only, the provisions of this Division shall apply to those prescribed premises (including goods leased therewith) only, or to that limited class of prescribed premises (including goods leased therewith) only.

Application
of Division.

DIVISION 3.—*Rent of Prescribed Premises other than Shared Accommodation.*

18. The lessor, or a lessee 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, of any prescribed premises other than shared accommodation (not being prescribed premises in relation to which the Controller is not authorized to exercise the powers conferred by this Part), or the owner of any such premises which are vacant, may apply in writing to

Application
to have
fair rent
fixed.

Landlord and Tenant (Amendment).

to the Controller to have the fair rent of the prescribed premises determined by the Controller.

Notice of
application.

19. (1) At least seven days prior to determining the fair rent of any prescribed premises other than shared accommodation, the Controller shall give notice of his intention to determine the fair rent of the prescribed premises to the lessor and lessee of the prescribed premises 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 two 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 other than shared accommodation in respect of which an application is made are the subject of a mortgage, 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 mortgagee, who shall be entitled to be a party to the application.

Determina-
tion of
application.

20. (1) Where an application has been made for the determination of the fair rent of any prescribed premises other than shared accommodation, 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 the prescribed premises.

(2)

Landlord and Tenant (Amendment).

(2) Subject to subsections three and four of this section, the determination 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 six per centum 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 twenty-one of this Act, 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) The determination may increase the fair rent if the Controller is satisfied that, by reason of an error or omission, an injustice has been occasioned by the last determination.

21. Subject to section twenty of this Act, in determining the fair rent the Controller shall have regard to—

Matters to
be con-
sidered.

- (a) the capital value of the premises at 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;
- (b) the annual rates and insurance premiums paid in respect of the premises;
- (c) the estimated annual cost of repairs, maintenance and renewals of the premises and fixtures thereon;
- (d) 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;
- (e) the rents of comparable premises in the locality of the premises the subject of the application;
- (f)

Landlord and Tenant (Amendment).

- (f) the rate of interest charged upon overdrafts by the Commonwealth Bank of Australia;
- (g) any services 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 an order 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.

Date of
operation of
determina-
tion.

22. (1) Every determination of the fair rent of prescribed premises other than shared accommodation made by the Controller 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.

(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 nineteen or section twenty-four of this Act.

Effect of
determina-
tion.

23. Where any fair rent has been determined by the Controller it shall, as from the date fixed under section twenty-two of this Act and 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 fixed.

24.

Landlord and Tenant (Amendment).

24. (1) The Controller may, of his own motion, after inquiry, determine the fair rent of any prescribed premises other than shared accommodation.

Controller may determine fair rent of his own motion.

(2) The Controller shall give to the lessor and lessee of the prescribed premises and to the other persons referred to in section nineteen of this Act notice of his intention to determine the fair rent of the premises, and the notice so given to the lessor shall, for the purposes of this Division, be deemed to be an application.

(3) In determining the fair rent of prescribed premises under this section, the Controller shall have the same powers as he has in connection with an application, and any determination made by the Controller shall have the same effect for all purposes as a determination made upon an application.

25. (1) This Division shall extend in relation to prescribed premises together with goods leased therewith, and any reference in this Division to prescribed premises shall, so far as applicable, include a reference to prescribed premises together with goods leased therewith.

Lease of prescribed premises together with goods.

(2) In the case of prescribed premises which are leased together with goods, the Controller may fix the fair rent of the prescribed premises irrespective of the goods or may, in his discretion, fix the fair rent of the prescribed premises together with goods leased therewith.

26. 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.

Inspection of prescribed premises.

DIVISION 4.—Rent of Shared Accommodation.

27. (1) The lessor, or the lessee 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, under a lease of shared accommodation (not being shared accommodation in relation to which

Determination of rent of shared accommodation.

Landlord and Tenant (Amendment).

which the Controller is not authorised to exercise the powers conferred by this Part), 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) The Controller shall thereupon cause the shared accommodation to be inspected for the purpose of determining the fair rent thereof.

(3) The Controller may of his own motion, from time to time, cause any shared accommodation to be inspected for the purpose of determining the fair rent thereof.

(4) 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.

(5) After an inspection of any shared accommodation has been made under subsection two or subsection three of this section, after making such inquiries and obtaining such reports (if any) as the Controller considers necessary, and after considering any representations made by the lessor (or intending lessor), and any representations made by the lessee (if any), of the shared accommodation, the Controller may determine the fair rent of the shared accommodation.

(6) 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 or, in any case in which the Controller causes any shared accommodation to be inspected pursuant to subsection three of this section, not earlier than the date of such inspection.

(7) In determining the fair rent of any shared accommodation the Controller shall have regard to the matters specified in section twenty-one of this Act.

(8)

Landlord and Tenant (Amendment).

(8) 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.

(9) Where any fair rent has been determined in pursuance of this section, it 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.

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

Variation in arrangement of shared accommodation to be notified.

- (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; or
- (c) the shared accommodation is leased—
 - (i) without the use of any convenience or service which was available to the tenant at the time when the determination was made; or
 - (ii) with the use of any convenience or service which was not so available,

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.

29. (1) This Division shall extend in relation to shared accommodation together with goods leased therewith, and any reference in this Division to shared accommodation shall, so far as applicable, include a reference to shared accommodation together with goods leased therewith.

Rent of shared accommodation and goods leased therewith.

Landlord and Tenant (Amendment).

(2) In the case of shared accommodation which is leased together with goods, the Controller may determine the fair rent of the shared accommodation irrespective of the goods or may, in his discretion, determine the fair rent of the shared accommodation together with goods leased therewith.

DIVISION 5.—*General.*

Appeal from
determina-
tion.

30. (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-one days after the giving of the notice referred to in subsection two of section twenty-two or in subsection eight of section twenty-seven of this Act, as the case may be, by a notice in writing lodged with the clerk of the Fair Rents Board nearest to the premises (or of any other Fair Rents Board if that other Board is satisfied that hardship will not be occasioned thereby to any party to the appeal), 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 nineteen or section twenty-four of this Act, as the case may be.

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

Procedure
on appeal.

31. (1) The Board shall hear the appeal and may, having regard to the matters specified in section twenty-one of this Act, 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)

Landlord and Tenant (Amendment).

(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 one of section twenty-two or under subsection six of section twenty-seven of this Act, as the case may be.

(4) Where any fair rent 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) The Board shall furnish a copy of its determination to the Controller.

32. (1) A determination may be varied—

Variation of
determina-
tion.

(a) on application made in the same manner as an application to the Controller for a determination; or

(b) by the Controller of his own motion,

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

(2) During such period as is specified in the determination, or, if no period is so specified, during the period commencing with the date of the determination and ending twelve months after that date, an application shall not be made to vary a determination, or to determine the fair rent of prescribed premises, or of prescribed premises together with goods leased therewith, in respect of which a determination has been made, nor shall the Controller vary a determination of his own motion, except on the ground that—

(a) by an error or omission an injustice has been occasioned by the determination;

(b)

Landlord and Tenant (Amendment).

- (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 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 or additions have been made to the premises, to the goods leased therewith, or to the services supplied by the lessor, since the determination was made; or
- (f) the value of the premises, of the goods leased therewith or of the services supplied by the lessor has materially decreased or increased since the determination was made.

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

Effect of
determina-
tion.

33. (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, additions, repairs 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 by the lessor or in the goods leased with the premises.

(2)

Landlord and Tenant (Amendment).

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

34. (1) Where the fair rent of any prescribed premises or shared accommodation has been determined, the lessor shall give notice in writing to the Controller of—

Lessor to
notify
change in
services
supplied or
in nature of
occupancy.

- (a) the nature and extent of any services, not supplied at the date of the determination, which he commences to supply to any lessee; and
- (b) the fact that the prescribed premises cease or the shared accommodation ceases to be occupied by a lessee and become or becomes occupied by a lodger.

(2) A notice under this section shall be given within seven days after the matter required to be notified arises.

35. (1) A person shall not—

Premises
not to be
let at rent
exceeding
fair rent.

- (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)

Landlord and Tenant (Amendment).

(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 in an action for debt in any court of competent jurisdiction by the lessee from the lessor to whom it was paid.

(4) In any prosecution for an offence arising under this section, the averment of the prosecutor—

(a) that the prescribed premises were let to a specified person on the prescribed date; and

(b) as to the rent payable in respect of the prescribed premises at the prescribed date,

shall be prima facie evidence of the matter or matters averred.

(5) Any evidence given by a witness in support or rebuttal of a matter so averred shall be considered on its merits and the credibility and probative value of the evidence shall not be increased or diminished by reason of this section.

(6) An averment shall not be made under this section unless the Crown Solicitor, or an Assistant Crown Solicitor is satisfied that the averment is reasonably necessary for the due administration of justice and will not impose hardship upon, or occasion injustice to, the defendant and certifies in writing accordingly on the paper containing the averment.

(7) An averment shall not be evidence for the purposes of this section unless a copy of the paper containing the averment has been served on the defendant in the same manner as the process requiring his attendance before the court.

(8) Service of the copy of the paper containing the averment may be proved in the same manner as service of the process requiring the defendant's attendance before the court may be proved.

(9) Upon the hearing of an information for an offence arising under this section, the court may, if the amendments

Landlord and Tenant (Amendment).

amendments can be made without hardship or injustice to the defendant, allow such amendments to be made in the writing containing an averment as appear to it to be desirable or to be necessary to enable the real question in the dispute to be determined.

(10) If in any such case the court considers the defendant has been misled by the form of the averment, it may refuse to allow the amendments, or may, as a condition of allowing the amendments, adjourn the hearing of the case for such period as it thinks fit and may make such order as to the costs of the adjournment as it thinks proper.

36. (1) A person shall not, whether as principal or agent, or in any other capacity—

Certain
payments
prohibited.

(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, or in association with—

(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 dwelling house), 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 dwelling house); or

(ii) for information as to a tenancy, or as to the possibility or likelihood of obtaining a tenancy, of any prescribed premises

Landlord and Tenant (Amendment).

premises (including any dwelling-house); 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) 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 in an action for debt 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.

(3) Where a person has, in contravention of this section, been required to purchase or exchange any goods or goodwill, he may recover 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
representa-
tions, etc.,
prohibited.

37. (1) A person shall not 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 dwelling-house).

(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.

38.

Landlord and Tenant (Amendment).

38. (1) A person shall not refuse, or procure any person to refuse, to let a dwelling-house to any person on the ground that it is intended that a child shall live in the dwelling-house.

Refusal to let dwelling-house to applicant with family prohibited.

(2) In any prosecution for an offence arising under subsection one 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) A person shall not—

- (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 a child shall live in the dwelling-house.

(4) A person shall not, 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 a child shall live in the dwelling-house if it is let to that prospective tenant.

(5) In any prosecution for an offence arising under subsection four 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.

39. A person shall not let a dwelling-house which to his knowledge is, at the date of the letting, not in fair and tenantable repair.

Dwelling-house not to be let unless in good repair

40. Notwithstanding anything contained in this Act or in any declaration issued in pursuance of this Act, a dwelling-house shall, for the purposes of sections thirty-six, thirty-seven, thirty-eight and thirty-nine of this Act, be deemed to include holiday premises.

Premises leased for holiday purposes only.

41.

Landlord and Tenant (Amendment).

No appeal
from order
of Board.

41. Every determination of a Fair Rents Board or of the Controller shall, except as provided by this Part, be final and without appeal, and no writ of prohibition or certiorari shall lie in respect thereof.

Costs not
to be
allowed.

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

Controller
not bound
to conduct
oral hearing.

43. (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.

(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.

Summoning
of witnesses
and produc-
tion of
documents.

44. (1) The Controller, or the Stipendiary 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 books, documents or writings in his custody or control which he is required by the summons to produce.

(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.

Failure to
attend or
produce
documents.

45. (1) A person who has been served with a summons to attend the Controller or a Fair Rents Board shall not, 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.

(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

Landlord and Tenant (Amendment).

that the documents, books or writings were not relevant to the subject-matter of the proceedings before the Controller or Board.

46. A person appearing as a witness before the Controller or a Fair Rents Board shall not 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.

47. A witness before the Controller or a Fair Rents Board shall not knowingly give false testimony in any evidence given by him to the Controller or Board.

False
testimony.

48. A witness before the Controller or a Fair Rents Board shall have the same protection 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.

49. (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—

Protection
of reports
and proceed-
ings.

(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 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 the person defamed or by any other improper motive.

50. (1) A person shall not 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.

Landlord and Tenant (Amendment).

(2) The Stipendiary Magistrate constituting a Fair Rents Board shall, in relation to any contravention of subsection one 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.

51. 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 Justice of the Peace.

Information
as to fair
rent.

52. The Controller shall, 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, fixed by the Board or by the Controller.

Intervention
by Minister.

53. The Minister may, at any stage of any proceedings under this Part before a Fair Rents Board, intervene by counsel, solicitor or agent and may examine witnesses and address the Board.

Representa-
tion by
agent.

54. (1) Any person who is a party to proceedings under this Part or who may be affected by the result of any such proceedings, may appear in person or may be represented by counsel or a solicitor or by an agent authorised in writing in that behalf, who may examine witnesses and address the Board or Controller on that person's behalf.

(2) No counsel, solicitor or agent representing a person in proceedings under this Part shall demand or take by way of fees for work done by him in relation to such proceedings any sum in excess of the sum prescribed by the regulations and applicable to him.

Records
of rent.

55. (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 or of any previous like record, relating to a period not earlier than the prescribed date, in respect of the prescribed

Landlord and Tenant (Amendment).

prescribed premises shall, when requested by any tenant 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 tenant or authorised officer, as the case may be.

(3) The lessor shall, by himself or his agent, produce the records at the hearing of any proceedings under this Part in respect of the prescribed premises and the records 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 false in a material particular.

(5) A request under this section may be made orally or in writing.

56. The person receiving any payment of rent of 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.

57. (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.

(2) Where any prescribed premises (or prescribed premises together with goods) were leased at the prescribed date, the lessor at the prescribed date shall, on demand in writing by 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) at the prescribed date.

(3)

Landlord and Tenant (Amendment).

(3) Where any prescribed premises were not in existence, or were not leased, on the prescribed date, but were leased on the first day of March, one thousand nine hundred and forty-five, the lessor at the first day of March, one thousand nine hundred and forty-five, shall, on demand in writing by 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) at the first day of March, one thousand nine hundred and forty-five.

Certificate
as to fair
rent.

58. (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 by the Controller or a Fair Rents Board), and specifying the amount thereof, shall be evidence of the matters certified to.

(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.

Service of
notices.

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

(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 Part 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)

Landlord and Tenant (Amendment).

(3) Where any notice or other document is required or permitted by this Part 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.

60. (1) Any notice or other document required or permitted by this Part 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.

(2) Any notice or other document required or permitted by this Part 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 Part 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.

61. (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 be refunded to the person by whom the payment was made. Courts may order refund of amounts overpaid.

(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 sees fit, include
in

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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 final judgment of that court.

PART III.

RECOVERY OF POSSESSION OF PRESCRIBED PREMISES.

Restriction
on eviction.

62. (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 ejectment 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 was 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) 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 sixty-three of this Act, and that period of notice has expired.

(4) Service of the 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)

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- (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 twelve months—of not less than fourteen days; and
 - (ii) 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 in writing 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

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- 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, body or authority carrying on a hospital, or a trustee for such a person, body or authority, 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)

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- (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 being a dwelling-house by virtue of an assignment or transfer which the lessor has not consented to or approved;
 - (o) that the lessee has sub-let the premises being a dwelling-house or some part of the dwelling-house by a sub-lease which has not been consented to or approved by the lessor; or
 - (p) that the lessee has parted with the possession of the premises being a dwelling-house without the consent or approval of the lessor.
- (6) (a) In subsection five 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.
- (b) In paragraphs (n), (o) and (p) of subsection five of this section, “dwelling-house” does not include the premises of any lodging-house or boarding-house.
- (7) Notice to quit on a ground specified in paragraph (n) or paragraph (o) of subsection five 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

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March, one thousand nine hundred and forty-seven, 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.

(8) Notice to quit on the ground specified in paragraph (p) of subsection five of this section shall not be given—

(a) where the lessee parted with the possession of the premises before the twenty-first day of July, one thousand nine hundred and forty-eight;

(b) where the lease is for a fixed term—unless that term has expired;

(c) in the case of a periodic lease—unless the period which was current at the date on which the parting with possession took place has expired; or

(d) where the lease contains any covenant against assigning, transferring or sub-letting by the lessee.

Period of
notice to
quit.

63. (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.

(2) Nothing in subsection one 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 paragraph (c), (d), (e) or (f) of subsection

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subsection five of section sixty-two of this Act 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.

64. A lessor shall not, after the lessee has made an application for a determination, or after he has received from the Controller notice of his intention to determine the fair rent, except with the consent of the Controller, give a notice to quit on any ground specified in paragraph (f), (g), (h), (i), (j), (k) or (l) of subsection five of section sixty-two of this Act until after the expiration of six months after the making of a determination on the application or in pursuance of the notice, but if a determination has not been made 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.

Notice to quit not to be given within six months after determination.

A 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 commencement of this Act.

65. (1) A person who has, either before or after the commencement of this Act, become the lessor of prescribed premises being a dwelling-house or part of a dwelling-house, by purchase thereof, shall not, 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 five of section sixty-two

Notice to quit where dwelling-house sold.

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sixty-two of this Act to any person who was a lessee of the prescribed premises at the date of the agreement for the purchase.

(2) A lessor of prescribed premises, being a dwelling-house or part thereof, shall not give a notice to quit on the ground specified in paragraph (1) of subsection five of section sixty-two of this Act 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.

66. A notice to quit shall specify the ground relied upon and shall give the particulars thereof and, in the proceedings, the lessor shall not except by leave of court be entitled to rely upon any ground not so specified or upon any matter particulars of which have not been given.

Notice to
quit to
terminate
lease.

67. A notice to quit given in accordance with the provisions of section sixty-two of this Act 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.

68. (1) Where a lessor has taken proceedings in any court to recover possession of any prescribed premises from the lessee and the court has (whether before or after the commencement of this Act) 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.

Competent
courts.

69. (1) For the purposes of section sixty-two of this Act courts of petty sessions, and those courts only, shall be courts of competent jurisdiction.

(2)

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(2) The jurisdiction of a court of petty sessions under this section shall not be exercised except by a Stipendiary Magistrate.

(3) The provisions of sections twenty-six and twenty-seven of the Landlord and Tenant Act of 1899, shall not apply in any case where an order for the recovery of possession of any prescribed premises has been made under this Part.

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

Court to
consider
hardship.

- (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 five of section sixty-two of this Act—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 or may, on such conditions (if any) as it thinks fit, refuse to make the order notwithstanding that one or more of the prescribed grounds has been established.

(2) Notwithstanding anything contained in this section, an order for the recovery of possession of any prescribed premises, being a dwelling-house, from any person on any of the grounds specified in paragraphs (g), (i), (l) or (m) of subsection five of section sixty-two of this Act shall not be made unless the court is satisfied that

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that suitable accommodation provided by the lessor in lieu of the prescribed premises, is immediately available for the occupation of the person occupying the prescribed premises.

Provided that this subsection shall not apply in any case where—

- (a) the lessor is a protected person within the meaning of Regulation thirty of the National Security (War Service Moratorium) Regulations and the lessee is not a protected person within the meaning of those Regulations; or
- (b) the court is satisfied that the lessor is required by law to reconstruct or demolish the dwelling-house and possession thereof is sought by him for that purpose; or
- (c) the court is satisfied that the lessee has sub-let or has parted with the possession of the dwelling-house, and that he was not, at the date of service of the notice to quit, a bona fide occupant of the dwelling-house or any part thereof.

Provided further that this subsection shall not apply in the case of proceedings for the recovery of possession of prescribed premises, being a dwelling-house, where the proceedings are taken on any of the grounds specified in paragraph (g) or paragraph (i) of subsection five of section sixty-two of this Act and the lessor was the owner of the dwelling-house on the twenty-first day of July one thousand nine hundred and forty-eight, or has since that date become the owner thereof pursuant to a contract of purchase entered into on or before that date.

In this subsection “National Security (War Service Moratorium) Regulations” means the Regulations having that title as in force for the time being under the Defence (Transitional Provisions) Act, 1946-1947, of the Parliament of the Commonwealth.

(3) Where the application is made on either of the grounds specified in paragraphs (n) and (o) of subsection five of section sixty-two of this Act, the court shall not refuse, in the exercise of the discretion vested in

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in it by subsection one 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.

(4) On the hearing of an application specified in subsection three 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.

71. (1) In respect of any proceedings referred to in section seventy of this Act, the court may—

Power to
stay
proceedings
or orders.

(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 specified in any such order;

or

(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 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.

(2) In this section—

- (a) a reference to an order shall include a reference to an order made before the commencement of this Act under Regulation sixty-three of the Commonwealth Regulations;

(b)

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- (b) a reference to a warrant shall include a reference to a warrant issued before the commencement of this Act under the Commonwealth Regulations for the execution of an order made under Regulation sixty-three of those Regulations.

Certain applications to operate as stay of execution.

72. (1) An application to stay or suspend the execution of, or to vary, discharge or rescind, any order referred to in section seventy-one of this Act, or to postpone the date for recovery of possession 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.

(2) Notwithstanding anything contained in paragraph (c) of section seventy-one of this Act, 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 seventy of this Act, the court has refused to grant an application of any of the kinds referred to in subsection one 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.

Hearing in chambers.

73. 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.

Appeals.

74. (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 sixty-nine of this Act.

(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.

75.

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75. No order (other than an order made under this Part or under the Commonwealth Regulations) made by any court for the recovery by the lessor of possession of any prescribed premises (or of any goods leased therewith) or for the ejectment of the lessee shall be enforceable.

Ejectment orders not enforceable unless made under this Act.

76. 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 three of section sixty-one of this Act, shall apply, mutatis mutandis, to and in respect of any order for the payment of any sum under this section.

Court may order compensation for misrepresentation.

77. (1) (a) If a notice to quit has been given on the ground specified in paragraph (h), (i), (j) or (k) of subsection five of section sixty-two of this Act 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 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.

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

(b) If a notice to quit has been given on the ground specified in paragraph (g) of subsection five of section sixty-two of this Act, 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 has been made on 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.

(c)

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(c) If a notice to quit has been given on the ground specified in paragraph (m) of subsection five of section sixty-two of this Act, and the premises in respect of which the notice was given have been vacated in accordance with the notice, or if an order for recovery of possession of the premises has been made on 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 the reconstruction or demolition referred to in the said paragraph (m) has been carried out.

(d) In this subsection—

- (i) a reference to a notice to quit shall include a reference to a notice to quit given before the commencement of this Act;
- (ii) a reference to a vacation of premises shall include a reference to a vacation of premises before the commencement of this Act; and
- (iii) a reference to an order for the recovery of possession of premises shall include a reference to any such order made under the Commonwealth Regulations before the commencement of this Act.

(2) Nothing in subsection one 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 the ground specified in paragraph (h), (i) or (k), 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)

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(3) A transaction entered into in contravention of subsection one 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.

78. Where an order is in force declaring that it is desirable that the powers and functions of the Controller and of Fair Rents Boards shall be exercisable with respect to certain prescribed premises only, or with respect to a limited class of prescribed premises only, the provisions of this Part shall apply only with respect to the prescribed premises, or limited class of prescribed premises, referred to in the order.

Application
to limited
class of
premises.

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

Enforce-
ment of
orders.

80. Where notice to quit any prescribed premises has been given, whether before or after the commencement of this Act—

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;

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

81. (1) A person shall not, without the consent of the lessee of prescribed premises, or without reasonable cause (proof whereof shall lie upon the defendant), do, or cause to be done, any act, or omit, or cause to be omitted, any act whereby the ordinary use or enjoyment by

Persons not
to interfere
with use or
enjoyment
of premises.

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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.

(2) Where the lessor, or any agent or servant of the lessor, has been convicted of an offence arising under subsection one 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.

Protection
of sub-
lessees.

82. (1) Where—

- (a) a lessor has either before or after the commencement of this Act consented to or approved a sub-lease of any prescribed premises or any part thereof by the lessee, or a lessee has either before or after such commencement 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 such commencement, 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 on any of the grounds specified in paragraphs (a) to (f) of subsection five of section sixty-two of this Act; or
 - (ii) the surrender of his lease by the lessee,
the

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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—

- (c) the date on which the lessor gave notice to quit to the lessee; or
- (d) 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 one 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 five of section sixty-two of this Act, 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, 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, every person who is a sub-lessee of such premises or any part thereof shall be entitled to be heard.

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Protection
of certain
persons in
possession
of premises.

83. Where—

- (a) the tenancy of any prescribed premises is terminated by virtue of the provisions of this Act or of the Commonwealth Regulations;
- (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,

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 in accordance with the provisions of this Act as if he were a lessee of the premises.

Costs not
to be
allowed.

84. 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.

Intervention
of Minister.

85. The Minister may, at any stage of any proceedings in relation to which this Part applies, intervene by counsel, solicitor or agent and may examine witnesses and address the court.

Exclusion of
premises
let for a
short term
from operation
of Part
III.

86. (1) The lessor or former lessor under a lease, or the proposed lessor under a proposed lease, of any prescribed premises for a fixed term not exceeding six 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.

(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

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is specified in the certificate, from the operation of the provisions of this Part and the premises shall be excluded accordingly.

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

(b) Any certificate issued under sub-regulation three of Regulation seventy-eight of the Commonwealth Regulations shall be deemed to have been issued under subsection three of this section.

87. (1) (a) 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.

Exclusion of certain subdivided premises, &c., from operation of Part III.

(b) Any certificate issued under Regulation seventy-nine of the Commonwealth Regulations shall be deemed to have been issued under this section.

(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)

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(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.

PART IV.—MISCELLANEOUS.

Threats and
boycotts
prohibited.

88. (1) A person shall not, 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.

(2) The owner of any prescribed premises, and the agent of any such owner, shall not refuse, or procure any person to refuse, to lease the premises to any other person

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person who desires to lease the same if the reason for that refusal was the fact that that 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 two 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) A person shall not 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.

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

Contracting out prohibited.

90. A person shall not 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, and whether directly or indirectly, defeating, evading, or preventing the operation of, this Act in any respect.

Contracts to evade Act prohibited.

91. (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.

Transactions not invalidated.

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

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Information
to be
furnished
on request.

92. (1) The Controller or an authorised officer may require a 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) A person shall not, 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) A person shall not 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.

Powers of
entry and
inspection.

93. The Controller or an authorised officer may, for the purposes of this Act, enter on and inspect any land or premises.

94.

Landlord and Tenant (Amendment).

94. 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. Proof of instruments.

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

(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 shall be liable—

- (a) if a body corporate—to a penalty not exceeding two hundred pounds;
- (b) if any other person—to a penalty not exceeding one hundred pounds, or to imprisonment for a term not exceeding six months, or to both such penalty and imprisonment.

(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 to the pecuniary penalty or imprisonment or both provided by this section in the case of such an offence by a person other than a body corporate accordingly, 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.

96. (1) The Governor may make regulations not inconsistent with this Act 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 this Act. Regulations.

(2) The regulations may impose a penalty not exceeding one hundred pounds for any breach thereof.

(3)

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(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified therein;
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

Regulations
may
transfer
powers of
Controller to
Fair Rents
Boards.

97. (1) In addition to the powers conferred by section ninety-six of this Act, the Governor may from time to time by regulations, declare that on a date specified in the regulations, the powers authorities duties and functions conferred and imposed on the Controller by this Act shall be transferred to and shall thereafter be exercised and discharged by Fair Rents Boards as prescribed in the regulations.

(2) Regulations made under this section may—

- (a) apply generally to all powers authorities duties and functions of the Controller, or particularly to such powers authorities duties and functions of the Controller as are prescribed in the regulations;
- (b) apply generally to all premises in respect of which he is authorised by this Act to exercise and discharge any of his powers authorities duties and functions, or particularly to any class of such premises as may be specified in the regulations;
- (c) apply generally throughout the State, or particularly within such parts of the State as are specified in the regulations.

(3)

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(3) Regulations made under this section may include provisions for modifying and adapting the provisions of this Act in such manner and to such extent as may be necessary or convenient to give effect to any transfer to Fair Rents Boards of the powers authorities duties and functions of the Controller effected by the regulations and to enable Fair Rents Boards to exercise and discharge the same.

(4) Every determination made by a Fair Rents Board in the exercise of powers transferred to it by regulations made under this section shall be final and without appeal, and no writ of prohibition or certiorari shall lie in respect thereof.

(5) The provisions of subsection three of section ninety-six of this Act shall apply to and in respect of regulations made under this section.

98. All proceedings for offences against this Act or the regulations shall be disposed of in a summary manner before a court of petty sessions holden before a Stipendiary Magistrate sitting alone. Proceedings
for offences.

99. (1) This Act with the exception of section two shall expire on the thirty-first day of December, one thousand nine hundred and forty-nine. Expiration
of Act.

(2) The expiry of this Act shall not affect the previous operation thereof or the validity of any action taken thereunder or any penalty incurred in respect of any contravention of or failure to comply with this Act or any proceeding or remedy in respect of any such penalty or punishment.

In the name and on behalf of His Majesty I assent to this Act.

J. NORTHCOTT,
Governor.

Government House,
Sydney, 13th August, 1948.

