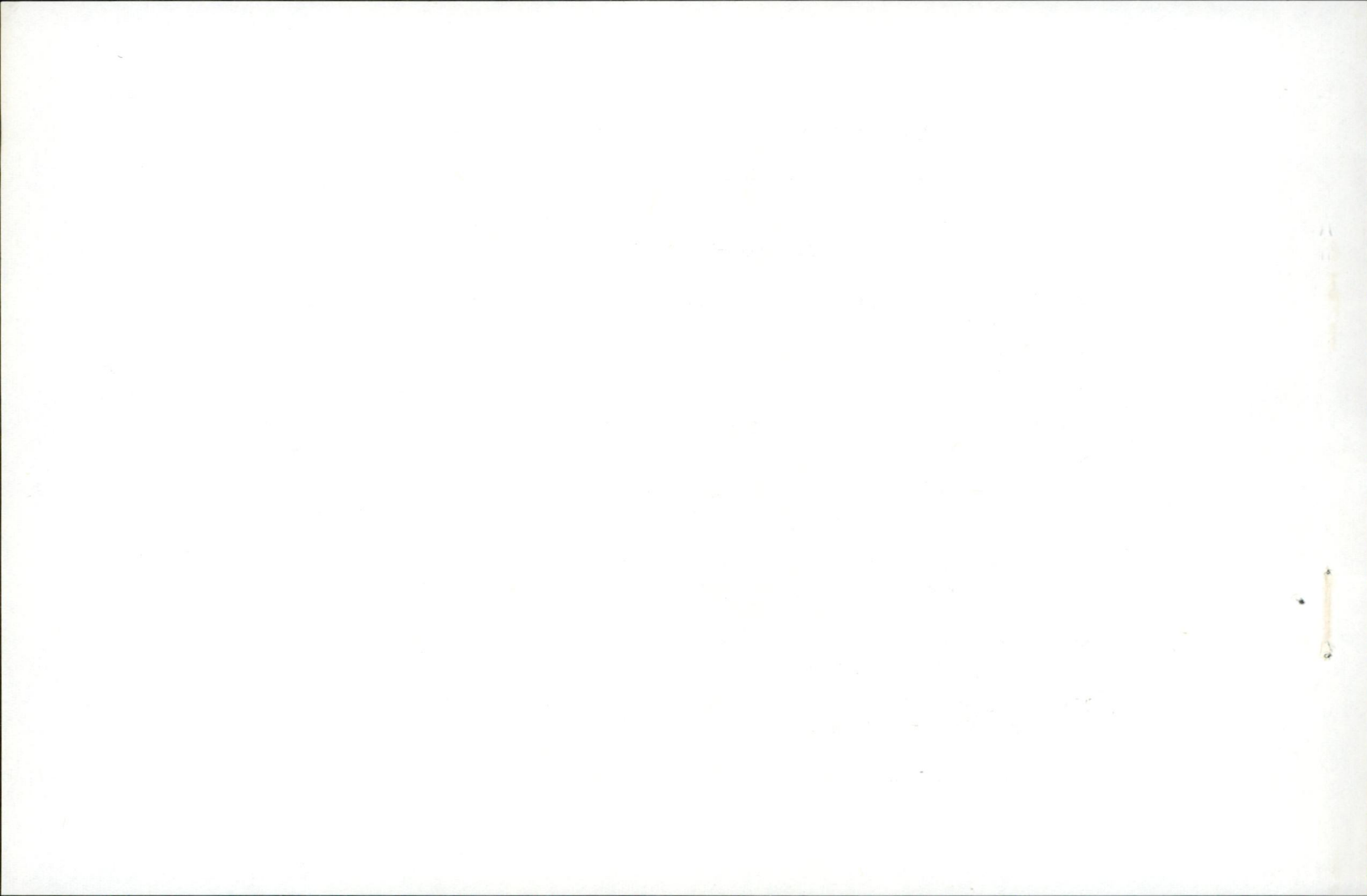


LANDLORD AND TENANT (AMENDMENT) BILL

Schedule of Amendments referred to in Legislative Council's Message of 6 October, 1966

- No. 1.—Pages 2–3, clause 2. *Omit* all words on line 7, page 2, down to and including line 3 on page 3.
- No. 2.—Page 3, clause 2, lines 4 and 5. *Omit* “the same section”, *insert* “**section 5A**”.
- No. 3.—Page 3, clause 3, lines 28 to 35, inclusive. *Omit* all words on these lines.
- No. 4.—Page 9, clause 3, line 6. *Before* “injustice” *insert* “**an**”.
- No. 5.—Page 9, clause 4. *After* line 31 *insert*—
- (a) *by omitting from subsection five of section seventy the words “(d) or paragraph (f)” and by inserting in lieu thereof the words “(c) or paragraph (e)”;*
 - (b) *by omitting from paragraph (a) of subsection one of section 70A the words “subsection two” and by inserting in lieu thereof the words “subsections two and (2A)”;*
- No. 6.—Pages 9–10, clause 4. *Omit* all words on line 39, page 9, down to and including line 5 on page 10.
- No. 7.—Pages 10–11, clause 4. *Omit* all words on line 9, page 10, down to and including line 34 on page 11.



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.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 29 September, 1966.*

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

J. R. STEVENSON,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 6 October, 1966.*

New South Wales



ANNO QUINTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1966.

An Act to make further provisions with respect to the fair rent of prescribed premises; for this and other purposes to amend the Landlord and Tenant (Amendment) Act, 1948, and certain other Acts; and for purposes connected therewith.

BE it enacted by the Queen'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 : —

1. (1) This Act may be cited as the "Landlord and Tenant (Amendment) Act, 1966".

(2)

Short title
and
citation.

Landlord and Tenant (Amendment).

(2) The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts and by this Act, may be cited as the Landlord and Tenant (Amendment) Act, 1948-1966.

- 5 **2.** The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is amended—

Amendment
of Act No.
25, 1948.

(Part I.—
Preliminary.)

- (a) by omitting paragraphs (b) and (c) of subparagraph (v) of paragraph (b) of subsection one of section 5A;
- 10 (b) by omitting subparagraphs (ii) and (iii) of paragraph (c) of the same subsection;
- (c) by omitting paragraphs (b) and (c) of subparagraph (v) of paragraph () of the same subsection;
- 15 (d) by omitting paragraphs (b) and (c) of subparagraph (iv) of paragraph (e) of the same subsection;
- (e) by inserting in paragraph (a) of subparagraph (iii) of paragraph (f) of the same subsection after the word "Controller;" the word "and";
- 20 (f) by omitting paragraphs (b) and (c) of the same subparagraph;
- (g) by inserting in paragraph (a) of subparagraph (iii) of paragraph (g) of the same subsection after the word "Controller;" the word "and";
- 25 (h) by omitting paragraphs (b) and (c) of the same subparagraph;
- (i) by inserting in paragraph (a) of subparagraph (iii) of paragraph (a) of subsection (1A) of the same section after the word "Controller;" the word "or";
- 30 (j) by omitting paragraphs (b) and (c) of the same subparagraph;
- (k) by omitting subsections two and (2A) of the same section;

(1)

Landlord and Tenant (Amendment).

- (1) by omitting from subsection five of the same section the words "sections 70A and" and by inserting in lieu thereof the word "section";
- (m) by inserting next after subsection six of the same section **section 5A** the following new subsection :—
- (7) A concurrent lease—
- (a) granted after the commencement of the Landlord and Tenant (Amendment) Act, 1966, in respect of prescribed premises to which Part II, III, IV or V of this Act applies, shall be deemed not to be a lease; or
- (b) granted before that commencement, in respect of prescribed premises to which any such Part applied at the time the concurrent lease was granted, shall, on and from that commencement, be deemed not to be a lease,
- for the purposes of subparagraph (v) of paragraph (b), paragraph (c), subparagraph (v) of paragraph (d), subparagraph (iv) of paragraph (e), subparagraph (iii) of paragraph (f) or subparagraph (iii) of paragraph (g) of subsection one, or subparagraph (iii) of paragraph (a) of subsection (1A), of this section.

3. The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is further amended—

Amendment of Act No. 25, 1948.

(Part II.—Fair Rents.)

- (a) by omitting subsections two, three and four of section 17A and by inserting in lieu thereof the following subsection:—
- (2) An agreement referred to in subsection one of this section shall have no force or effect unless it is registered in the office of the Rent Controller within three months after the day on which it was entered into.

Sec. 17A.

(Fixing of fair rent of prescribed premises by agreement.)

(b) (a)

Landlord and Tenant (Amendment).

- (b) (a) (i) by omitting from subsection one of section Sec. 20.
 twenty the word "may" where firstly occur- (Determina-
 ring and by inserting in lieu thereof the word tion of
 "shall"; application.)
- 5 (ii) by inserting in the same subsection after the
 word "premises" where lastly occurring the
 words "at an amount equal to the rent of the
 10 prescribed premises at the prescribed date
 adjusted by such amount as the Board deems
 proper having regard only to the matters
 specified in section twenty-one of this Act or,
 where the prescribed premises were not leased
 at the prescribed date, at an amount equal to
 15 the rental value of the prescribed premises at
 the prescribed date adjusted in like manner";
- (iii) by omitting subsection two of the same
 section;
- (iv) by omitting from subsection three of the same
 section the words "as at the prescribed date is
 20 insufficient" and by inserting in lieu thereof the
 words "of the prescribed premises, being
 premises that were leased on the prescribed
 date, was, as at that date, insufficient";
- (v) by omitting subsection four of the same sec-
 25 tion and by inserting in lieu thereof the
 following subsection : —
- (4) In this section, "the prescribed date",
 in relation to any prescribed premises, means
 the thirty-first day of August, one thousand
 30 nine hundred and thirty-nine or, where the
 prescribed premises were not in existence on
 that date, the date on which the erection of
 the premises was completed.
- (e) (b) (i) by omitting from subsection one of section Sec. 21.
 35 twenty-one of this Act the words "Subject to (Matters
 section twenty of this Act, in" and by inserting to be
 in lieu thereof the word "In"; considered.)

(ii)

Landlord and Tenant (Amendment).

- (ii) by inserting in paragraph (e) of the same subsection after the word "rents" the words
 " , fixed by a determination in force under this Part,";
- 5 (iii) by inserting at the end of paragraph (g) of the same subsection the words "or the value of any goods leased with the premises";
- (iv) by omitting paragraph (i) of the same subsection and by inserting in lieu thereof the following paragraph :—
 10 (i) the conduct of the parties; and
- (v) by omitting paragraph (j) of the same subsection and by inserting in lieu thereof the following paragraph :—
 15 (j) the amount, if any, that the Fair Rents Board is satisfied was necessarily expended by the lessor since the prescribed date referred to in subsection four of section twenty of this Act
 20 upon the improvement or structural alteration of the premises (but not including decoration, repairs or maintenance).
- (vi) by omitting from subsection (1A) of the same section the words "Subject to section twenty of this Act a" and by inserting in lieu thereof the word "A";
 25
- (vii) by inserting next after the same subsection the following new subsection :—
 30 (1AB) In determining the fair rent of any prescribed premises a Fair Rents Board may include in the fair rent an allowance in respect of agent's collecting commission or, where an agent does not collect the rent of the prescribed
 35 premises, such amount in respect of the collection of the rent as the Board deems proper.

(viii)

Landlord and Tenant (Amendment).

(viii) by inserting next after subsection (1B) of the same section the following new subsections :—

5 (1C) Where a Fair Rents Board would, but for this subsection, increase the fair rent of any prescribed premises and the Board is of opinion that the lessee would not reasonably be able to pay the fair rent as so increased, the Board shall, in determining the amount of the increase, if any, have regard to the financial circumstances of the lessor and the lessee.

10

(1D) In determining or varying the fair rent of any prescribed premises, a Fair Rents Board shall not make any allowance—

15 (a) based on paragraph (f) of subsection one of this section in excess of such percentage of the capital value of the prescribed premises at the prescribed date referred to in subsection four of section twenty of this Act as is equal to the difference between the rate per centum of interest charged upon overdrafts by the Commonwealth Bank of Australia, or the Commonwealth Trading Bank of Australia, as the case may be, at that prescribed date and the rate per centum of interest charged upon overdrafts by the Commonwealth Trading Bank of Australia

20

25 at the date of the determination or variation; or

30

(b) based on paragraph (j) of subsection one of this section in excess of eight per centum of the amount referred to in that paragraph.

35

(1E) In determining or varying the fair rent of any prescribed premises, a Fair Rents Board shall not make any allowance by reason

Landlord and Tenant (Amendment).

reason of any change, since the prescribed date referred to in subsection four of section twenty of this Act or since any previous determination or variation or since any earlier date whatsoever, in any economic conditions affecting the community generally or a substantial part of the community.

(ix) by omitting from subsection two of the same section the words "paragraph (i) of";

10 ~~(d)~~ (c) (i) by inserting at the end of subsection three of section 24A the following new paragraph : —

In making an assessment of the fair rent of any prescribed premises under this section, the Controller shall not make any allowance for any increase in the rate of interest charged upon overdrafts by the Commonwealth Trading Bank of Australia in excess of such percentage of the capital value of the prescribed premises at the prescribed date referred to in subsection four of section twenty of this Act as is equal to the difference between the rate per centum of interest charged upon overdrafts by the Commonwealth Bank of Australia, or the Commonwealth Trading Bank of Australia, as the case may be, at the date on which the existing fair rent was determined under this Part and the rate per centum of interest charged upon overdrafts by the Commonwealth Trading Bank of Australia at the date of the assessment.

Sec. 24A.
(Determination based on increased outgoings.)

(ii) by omitting paragraph (b) of subsection seven of the same section ;

35 ~~(e)~~ (d) (i) by omitting from subsection six of section 26B the words "may determine the fair rent of the shared accommodation" and by inserting in lieu thereof the words "shall, subject to subsection eight of this section, determine the fair rent of the shared accommodation at such proportion

Sec. 26B.
(Determination of rent of shared accommodation.)

Landlord and Tenant (Amendment).

- 5 proportion as the Board deems proper of the fair rent of the prescribed premises of which the shared accommodation forms part or, where the fair rent of those prescribed premises is not the subject of a determination made under this Part, of the amount that would, in the opinion of the Board, be the fair rent of those prescribed premises if they were the subject of such a determination”;
- 10 (ii) by inserting in subsection eight of the same section after the word “Act” the words “in so far as they are applicable”;
- 15 ~~(f)~~ (e) (i) by omitting from subsection five of section twenty-seven the words “may determine the fair rent of the shared accommodation” and by inserting in lieu thereof the words “shall, subject to subsection seven of this section, determine the fair rent of the shared accommodation at such proportion as the Controller deems proper of the fair rent of the prescribed premises of which the shared accommodation forms part or, where the fair rent of those prescribed premises is not the subject of a determination made under this Part, of the amount that would, in the opinion of the Controller, be the fair rent of those prescribed premises if they were the subject of such a determination”;
- 20 (ii) by inserting in subsection seven of the same section after the word “Act” the words “in so far as they are applicable”;
- 25 ~~(g)~~ (f) by omitting subsection one of section thirty-one and by inserting in lieu thereof the following ‘sub-section : —
- 30 (1) The Board shall hear the appeal and shall, having regard to the provisions of subsection five of section twenty-seven of this Act, confirm the determination of the Controller and dismiss the appeal,
- 35

Sec. 27.
(Determina-
tion of rent
of shared
accommoda-
tion.)

Sec. 31.
(Procedure
on appeal.)

Landlord and Tenant (Amendment).

appeal, or shall determine the fair rent at such amount as, in the opinion of the Board, should have been determined by the Controller under the provisions of this Division.

- 5 ~~(h)~~ (g) (i) by omitting from paragraph (a) of subsection Sec. 32.
two of section thirty-two the words "**an in-** (Variation
justice has been occasioned by the determination" of deter-
and by inserting in lieu thereof the words "the mination.)
determination was incorrectly made";
- 10 (ii) by omitting from paragraph (c) of the same
subsection the words "an incorrect calculation,
and by reason thereof an injustice has been
occasioned by the determination" and by
inserting in lieu thereof the words "a clerical
error";
- 15 (iii) by inserting at the end of the same subsection
the following new paragraph : —
In varying the fair rent of any prescribed
premises under this section, the Fair Rents
Board shall not make any allowance based on
paragraph (e) of this subsection by reason of
any improvement or structural alteration (not
including decoration, repairs or maintenance)
of the premises in excess of eight per centum
25 of the amount, if any, that the Fair Rents
Board is satisfied was necessarily expended by
the lessor since the determination was made
upon any such improvement or structural
alteration.
- 30 4. The Landlord and Tenant (Amendment) Act, 1948, Amendment
as amended by subsequent Acts, is further amended— of Act No.
25, 1948.
(Part III.—
Recovery of
Possession
of Prescribed
Premises.)
- (a) by omitting from subsection five of section seventy Sec. 70.
the words "(d) or paragraph (f)" and by inserting in (Court to
lieu thereof the words "(c) or paragraph (e)"; consider
hardship.)
- 35 (b) by omitting from paragraph (a) of subsection one of
section 70A the words "subsection two" and by
inserting in lieu thereof the words "subsections two
and (2A)";
- (a) (i) by omitting subsection two of section seventy;
- 40 (ii) by omitting paragraph (a) of subsection (2A)
of the same section;

~~(iii)~~

Landlord and Tenant (Amendment).

- (iii) by omitting subsection (2B) of the same section;
- (iv) by omitting subsection five of the same section;
- 5 (b) by omitting section 70A;
- Sec. 70A.
(Certain dwelling-houses to be subject to this Act notwithstanding section 5A.)
- (c) by inserting in paragraph (a) of subsection four of section eighty-one after the word "sections" the word "twenty,";
- Sec. 81.
(Persons not to interfere with use or enjoyment of premises.)
- 10 (d) (i) by inserting in subparagraph (ii) of paragraph (c) of subsection one of section eighty-three after the word "years" the words "who was, at the date of the lessee's death, a protected person as defined in section ninety-nine of this Act or in receipt of a pension under the Social Services Consolidation Act 1947 (as amended by subsequent Acts) of the Parliament of the Commonwealth";
- Sec. 81.
(Protection of certain persons in possession of premises.)
- 15 (ii) by inserting at the end of the same subparagraph the word "or";
- 20 (iii) by omitting from subparagraph (iii) of the same paragraph the words "a brother or sister, or the father or mother, of the lessee" and by inserting in lieu thereof the words "the father or mother of the lessee";
- 25 (iv) by omitting from the same subparagraph the word "or" where lastly occurring;
- (v) by omitting subparagraph (iv) of the same paragraph;

Landlord and Tenant (Amendment).

- 5 (vi) by omitting from the same subsection the words "brother or sister or the father or mother, or other person" and by inserting in lieu thereof the words "or the father or mother";
- (vii) by omitting from subsection two of the same section the symbols and word ", (iii) or (iv)" and by inserting in lieu thereof the word and symbols "or (ii)";
- 10 (e) (i) by inserting in paragraph (b) of subsection one of section 33A after the word "years" the words "who was, at the date of the lessee's death, a protected person as defined in section ninety-nine of this Act or in receipt of a pension under the Social Services Consolidation Act 1947 (as amended by subsequent Acts) of the Parliament of the Commonwealth";
- 15 (ii) by inserting at the end of the same paragraph the word "or";
- 20 (iii) by omitting from paragraph (c) of the same subsection the words "a brother or sister, or the mother or father, of the lessee" and by inserting in lieu thereof the words "the father or mother of the lessee";
- 25 (iv) by omitting from the same paragraph the word "or" where lastly occurring;
- (v) by omitting paragraph (d) of the same subsection;
- 30 (vi) by omitting from the same subsection the words "brother or sister or the father or mother, or other person, as the case may be" and by inserting in lieu thereof the words "or the father or mother";

(f)(d)

Landlord and Tenant (Amendment).

(f) (d) by omitting from subsection six of section eighty-six the words "but no rent is fixed by subsection one or two of section fifteen of this Act in respect of those premises together with goods".

Sec. 86.
(Exclusion of premises from operation of Part III and Part V.)

5 5. (1) Subject to subsection two of this section, this section applies to a determination or a determination, as varied, of the fair rent of any prescribed premises that was made under the Principal Act after the sixteenth day of June, one thousand nine hundred and sixty-six and before the commencement of this Act.

Variations of determinations of fair rent of prescribed premises made after 16th June, 1966.

(2) This section does not apply to the prescribed premises known as 16 Grafton Street, Naremburn, in the State of New South Wales.

15 (3) A lessee of any prescribed premises that are the subject of a determination, or a determination, as varied, to which this section applies may, within three months after the commencement of this Act, apply—

20 (a) where the prescribed premises are not shared accommodation or are shared accommodation situated wholly outside the Metropolitan Area—to a Fair Rents Board; or

(b) where the prescribed premises are shared accommodation situated within or partly within and partly outside the Metropolitan Area—to the Controller, 25 for that determination, or that determination, as varied, to be varied or further varied in accordance with subsection four of this section.

30 (4) Where an application in respect of any prescribed premises is made to a Fair Rents Board or the Controller in accordance with the provisions of this section and the Board or the Controller, as the case may be, is satisfied—

(a) that the premises are the subject of a determination or a determination, as varied, to which this section applies; and
35 (b) that that determination, or that determination, as varied, included an allowance by reason of any change,

Landlord and Tenant (Amendment).

change, since the prescribed date referred to in subsection four of section twenty of the Principal Act, as amended by this Act, or since any previous determination or variation of a determination or
5 since any earlier date whatsoever, in any economic conditions affecting the community generally or a substantial part of the community,

the Board or the Controller shall vary the fair rent of the prescribed premises by reducing it by the amount that, in its
10 or his opinion, was included by way of that allowance.

(5) A variation of the fair rent of any prescribed premises made under subsection four of this section shall have effect as on and from the date on which the determination or the determination, as varied, to which this section applies,
15 came into force in relation to the prescribed premises and any rent of the prescribed premises paid by the lessee since that date in excess of the fair rent of those premises as varied under subsection four of this section may be recovered in an action for debt in any court of competent jurisdiction by the
20 lessee from the lessor to whom the rent was paid or may be offset by the lessee against any rent payable by him to the lessor in respect of those premises.

Any amount offset by a lessee under this subsection shall, for the purposes of this Act, be deemed to have been paid by
25 him to the lessor.

(6) Subject to this section, the provisions of Part II of the Principal Act, as amended by this Act, so far as applicable, apply, mutatis mutandis, to and in respect of variations made under this section.

30 (7) In this section, "Principal Act" means the Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts enacted before the commencement of this Act.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1966
[15c]

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.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 29 September, 1966.*

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

Clerk of the Parliaments.
*Legislative Council Chamber,
Sydney, October, 1966.*

New South Wales



ANNO QUINTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1966.

An Act to make further provisions with respect to the fair rent of prescribed premises; for this and other purposes to amend the Landlord and Tenant (Amendment) Act, 1948, and certain other Acts; and for purposes connected therewith.

BE it enacted by the Queen'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 :—

1. (1) This Act may be cited as the "Landlord and Tenant (Amendment) Act, 1966".

(2)

Short title
and
citation.

Landlord and Tenant (Amendment).

(2) The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts and by this Act, may be cited as the Landlord and Tenant (Amendment) Act, 1948-1966.

- 5 2. The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is amended—

Amendment
of Act No.
25, 1948.

(Part I.—
Preliminary.)

- (a) by omitting paragraphs (b) and (c) of subpara-
graph (v) of paragraph (b) of subsection one of
section 5A;
- 10 (b) by omitting subparagraphs (ii) and (iii) of para-
graph (c) of the same subsection;
- (c) by omitting paragraphs (b) and (c) of subparagraph
(v) of paragraph () of the same subsection;
- 15 (d) by omitting paragraphs (b) and (c) of subpara-
graph (iv) of paragraph (e) of the same subsection;
- (e) by inserting in paragraph (a) of subparagraph (iii)
of paragraph (f) of the same subsection after the
word "Controller;" the word "and";
- 20 (f) by omitting paragraphs (b) and (c) of the same
subparagraph;
- (g) by inserting in paragraph (a) of subparagraph (iii)
of paragraph (g) of the same subsection after the
word "Controller;" the word "and";
- 25 (h) by omitting paragraphs (b) and (c) of the same
subparagraph;
- (i) by inserting in paragraph (a) of subparagraph (iii)
of paragraph (a) of subsection (1A) of the same
section after the word "Controller;" the word "or";
- 30 (j) by omitting paragraphs (b) and (c) of the same
subparagraph;
- (k) by omitting subsections two and (2A) of the same
section;

(+)

Landlord and Tenant (Amendment).

- (1) by omitting from subsection five of the same section the words "sections 70A and" and by inserting in lieu thereof the word "section";
- (m) by inserting next after subsection six of the same section **section 5A** the following new subsection :—
- (7) A concurrent lease—
- (a) granted after the commencement of the Landlord and Tenant (Amendment) Act, 1966, in respect of prescribed premises to which Part II, III, IV or V of this Act applies, shall be deemed not to be a lease; or
- (b) granted before that commencement, in respect of prescribed premises to which any such Part applied at the time the concurrent lease was granted, shall, on and from that commencement, be deemed not to be a lease,
- for the purposes of subparagraph (v) of paragraph (b), paragraph (c), subparagraph (v) of paragraph (d), subparagraph (iv) of paragraph (e), subparagraph (iii) of paragraph (f) or subparagraph (iii) of paragraph (g) of subsection one, or subparagraph (iii) of paragraph (a) of subsection (1A), of this section.

3. The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is further amended—

Amendment of Act No. 25, 1948.
(Part II.—Fair Rents.)

- (a) by omitting subsections two, three and four of section 17A and by inserting in lieu thereof the following subsection:—
- (2) An agreement referred to in subsection one of this section shall have no force or effect unless it is registered in the office of the Rent Controller within three months after the day on which it was entered into.

Sec. 17A.
(Fixing of fair rent of prescribed premises by agreement.)

(b) (a)

Landlord and Tenant (Amendment).

- (b) (a) (i) by omitting from subsection one of section twenty the word "may" where firstly occurring and by inserting in lieu thereof the word "shall"; Sec. 20. (Determination of application.)
- 5 (ii) by inserting in the same subsection after the word "premises" where lastly occurring the words "at an amount equal to the rent of the prescribed premises at the prescribed date adjusted by such amount as the Board deems proper having regard only to the matters specified in section twenty-one of this Act or, where the prescribed premises were not leased at the prescribed date, at an amount equal to the rental value of the prescribed premises at the prescribed date adjusted in like manner";
- 10 (iii) by omitting subsection two of the same section;
- 15 (iv) by omitting from subsection three of the same section the words "as at the prescribed date is insufficient" and by inserting in lieu thereof the words "of the prescribed premises, being premises that were leased on the prescribed date, was, as at that date, insufficient";
- 20 (v) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection : —
- 25 (4) In this section, "the prescribed date", in relation to any prescribed premises, means the thirty-first day of August, one thousand nine hundred and thirty-nine or, where the prescribed premises were not in existence on that date, the date on which the erection of the premises was completed.
- 30 (e) (b) (i) by omitting from subsection one of section twenty-one of this Act the words "Subject to section twenty of this Act, in" and by inserting in lieu thereof the word "In"; Sec. 21. (Matters to be considered.)

(ii)

Landlord and Tenant (Amendment).

- (ii) by inserting in paragraph (e) of the same subsection after the word "rents" the words "fixed by a determination in force under this Part,";
- 5 (iii) by inserting at the end of paragraph (g) of the same subsection the words "or the value of any goods leased with the premises";
- (iv) by omitting paragraph (i) of the same subsection and by inserting in lieu thereof the following paragraph : —
- 10 (i) the conduct of the parties; and
- (v) by omitting paragraph (j) of the same subsection and by inserting in lieu thereof the following paragraph : —
- 15 (j) the amount, if any, that the Fair Rents Board is satisfied was necessarily expended by the lessor since the prescribed date referred to in subsection four of section twenty of this Act
- 20 upon the improvement or structural alteration of the premises (but not including decoration, repairs or maintenance).
- (vi) by omitting from subsection (1A) of the same section the words "Subject to section twenty of this Act a" and by inserting in lieu thereof the word "A";
- 25 (vii) by inserting next after the same subsection the following new subsection : —
- 30 (1AB) In determining the fair rent of any prescribed premises a Fair Rents Board may include in the fair rent an allowance in respect of agent's collecting commission or, where an agent does not collect the rent of the prescribed
- 35 premises, such amount in respect of the collection of the rent as the Board deems proper.
- (viii)

Landlord and Tenant (Amendment).

(viii) by inserting next after subsection (1B) of the same section the following new subsections :—

5 (1C) Where a Fair Rents Board would, but for this subsection, increase the fair rent of any prescribed premises and the Board is of opinion that the lessee would not reasonably be able to pay the fair rent as so increased, the Board shall, in determining the amount of the increase, if any, have regard to the financial circumstances of the lessor and the lessee.

10 (1D) In determining or varying the fair rent of any prescribed premises, a Fair Rents Board shall not make any allowance—

15 (a) based on paragraph (f) of subsection one of this section in excess of such percentage of the capital value of the prescribed premises at the prescribed date referred to in subsection four of section twenty of this Act as is equal to the difference between the rate per centum of interest charged upon overdrafts by the Commonwealth Bank of Australia, or the Commonwealth Trading Bank of Australia, as the case may be, at that prescribed date and the rate per centum of interest charged upon overdrafts by the Commonwealth Trading Bank of Australia at the date of the determination or variation; or

25 (b) based on paragraph (j) of subsection one of this section in excess of eight per centum of the amount referred to in that paragraph.

30 (1E) In determining or varying the fair rent of any prescribed premises, a Fair Rents Board shall not make any allowance by reason

Landlord and Tenant (Amendment).

reason of any change, since the prescribed date referred to in subsection four of section twenty of this Act or since any previous determination or variation or since any earlier date whatsoever, in any economic conditions affecting the community generally or a substantial part of the community.

(ix) by omitting from subsection two of the same section the words "paragraph (i) of";

10 ~~(d)~~ (c) (i) by inserting at the end of subsection three of section 24A the following new paragraph : —

Sec. 24A.
(Determina-
tion based
on increased
out-
goings.)

In making an assessment of the fair rent of any prescribed premises under this section, the Controller shall not make any allowance for any increase in the rate of interest charged upon overdrafts by the Commonwealth Trading Bank of Australia in excess of such percentage of the capital value of the prescribed premises at the prescribed date referred to in subsection four of section twenty of this Act as is equal to the difference between the rate per centum of interest charged upon overdrafts by the Commonwealth Bank of Australia, or the Commonwealth Trading Bank of Australia, as the case may be, at the date on which the existing fair rent was determined under this Part and the rate per centum of interest charged upon overdrafts by the Commonwealth Trading Bank of Australia at the date of the assessment.

(ii) by omitting paragraph (b) of subsection seven of the same section;

35 ~~(e)~~ (d) (i) by omitting from subsection six of section 26B the words "may determine the fair rent of the shared accommodation" and by inserting in lieu thereof the words "shall, subject to sub-
section eight of this section, determine the fair rent of the shared accommodation at such proportion

Sec. 26B.
(Determina-
tion of rent
of shared
accommoda-
tion.)

Landlord and Tenant (Amendment).

- 5 proportion as the Board deems proper of the fair rent of the prescribed premises of which the shared accommodation forms part or, where the fair rent of those prescribed premises is not the subject of a determination made under this Part, of the amount that would, in the opinion of the Board, be the fair rent of those prescribed premises if they were the subject of such a determination”;
- 10 (ii) by inserting in subsection eight of the same section after the word “Act” the words “in so far as they are applicable”;
- 15 ~~(f)~~ (e) (i) by omitting from subsection five of section Sec. 27. twenty-seven the words “may determine the fair rent of the shared accommodation” and by inserting in lieu thereof the words “shall, subject to subsection seven of this section, determine the fair rent of the shared accommodation at such proportion as the Controller deems proper of the fair rent of the prescribed premises of which the shared accommodation forms part or, where the fair rent of those prescribed premises is not the subject of a determination made under this Part, of the amount that would, in the opinion of the Controller, be the fair rent of those prescribed premises if they were the subject of such a determination”;
- 20 (ii) by inserting in subsection seven of the same section after the word “Act” the words “in so far as they are applicable”;
- 25 ~~(g)~~ (f) by omitting subsection one of section thirty-one and by inserting in lieu thereof the following sub- Sec. 31. section : — (Procedure on appeal.)
- 30 (1) The Board shall hear the appeal and shall, having regard to the provisions of subsection five of section twenty-seven of this Act, confirm the determination of the Controller and dismiss the
- 35 appeal,

Landlord and Tenant (Amendment).

appeal, or shall determine the fair rent at such amount as, in the opinion of the Board, should have been determined by the Controller under the provisions of this Division.

- 5 ~~(h)~~ (g) (i) by omitting from paragraph (a) of subsection Sec. 32.
 two of section thirty-two the words “an injustice has been occasioned by the determination” (Variation of determination.)
 and by inserting in lieu thereof the words “the determination was incorrectly made”;

- 10 (ii) by omitting from paragraph (c) of the same subsection the words “an incorrect calculation, and by reason thereof an injustice has been occasioned by the determination” and by inserting in lieu thereof the words “a clerical error”;

- 15 (iii) by inserting at the end of the same subsection the following new paragraph : —

In varying the fair rent of any prescribed premises under this section, the Fair Rents Board shall not make any allowance based on paragraph (e) of this subsection by reason of any improvement or structural alteration (not including decoration, repairs or maintenance) of the premises in excess of eight per centum of the amount, if any, that the Fair Rents Board is satisfied was necessarily expended by the lessor since the determination was made upon any such improvement or structural alteration.

- 30 4. The Landlord and Tenant (Amendment) Act, 1948, Amendment of Act No. 25, 1948.
 as amended by subsequent Acts, is further amended—

- (a) by omitting from subsection five of section seventy the words “(d) or paragraph (f)” and by inserting in lieu thereof the words “(c) or paragraph (e)”;
- 35 (b) by omitting from paragraph (a) of subsection one of section 70A the words “subsection two” and by inserting in lieu thereof the words “subsections two and (2A)”;
- (a) (i) by omitting subsection two of section seventy;
- 40 (ii) by omitting paragraph (a) of subsection (2A) of the same section;

~~(iii)~~

Landlord and Tenant (Amendment).

- (iii) by omitting subsection (2B) of the same section;
- (iv) by omitting subsection five of the same section;
- 5 (b) by omitting section 70A;
- Sec. 70A.
(Certain dwelling-houses to be subject to this Act notwithstanding section 5A.)
- (c) by inserting in paragraph (a) of subsection four of section eighty-one after the word "sections" the word "twenty,";
- Sec. 81.
(Persons not to interfere with use or enjoyment of premises.)
- 10 (d) (i) by inserting in subparagraph (ii) of paragraph (c) of subsection one of section eighty-three after the word "years" the words "who was, at the date of the lessee's death, a protected person as defined in section ninety-nine of this Act or in receipt of a pension under the Social Services Consolidation Act 1947 (as amended by subsequent Acts) of the Parliament of the Commonwealth";
- Sec. 81.
(Protection of certain persons in possession of premises.)
- 15 (ii) by inserting at the end of the same subparagraph the word "or";
- 20 (iii) by omitting from subparagraph (iii) of the same paragraph the words "a brother or sister, or the father or mother, of the lessee" and by inserting in lieu thereof the words "the father or mother of the lessee";
- 25 (iv) by omitting from the same subparagraph the word "or" where lastly occurring;
- (v) by omitting subparagraph (iv) of the same paragraph;

Landlord and Tenant (Amendment).

- (vi) by omitting from the same subsection the words "brother or sister or the father or mother, or other person" and by inserting in lieu thereof the words "or the father or mother";
- (vii) by omitting from subsection two of the same section the symbols and word ", (iii) or (iv)" and by inserting in lieu thereof the word and symbols "or (ii)";
- (e) (i) by inserting in paragraph (b) of subsection Sec. 81A one of section 83A after the word "years" the words "who was, at the date of the lessee's death, a protected person as defined in section ninety-nine of this Act or in receipt of a pension under the Social Services Consolidation Act 1947 (as amended by subsequent Acts) of the Parliament of the Commonwealth";
- (ii) by inserting at the end of the same paragraph the word "or";
- (iii) by omitting from paragraph (c) of the same subsection the words "a brother or sister, or the mother or father, of the lessee" and by inserting in lieu thereof the words "the father or mother of the lessee";
- (iv) by omitting from the same paragraph the word "or" where lastly occurring;
- (v) by omitting paragraph (d) of the same subsection;
- (vi) by omitting from the same subsection the words "brother or sister or the father or mother, or other person, as the case may be" and by inserting in lieu thereof the words "or the father or mother";

(f)(d)

Landlord and Tenant (Amendment).

(f) (d) by omitting from subsection six of section eighty-six Sec. 86.
the words "but no rent is fixed by subsection one (Exclusion
or two of section fifteen of this Act in respect of of premises
those premises together with goods". from opera-
tion of
Part III and
Part V.)

5 5. (1) Subject to subsection two of this section, this Variations
section applies to a determination or a determination, as of deter-
varied, of the fair rent of any prescribed premises that was minations
made under the Principal Act after the sixteenth day of June, of fair rent
one thousand nine hundred and sixty-six and before the of prescribed
10 commencement of this Act. premises
made after
16th June,
1966.

(2) This section does not apply to the prescribed
premises known as 16 Grafton Street, Naremburn, in the
State of New South Wales.

(3) A lessee of any prescribed premises that are the
15 subject of a determination, or a determination, as varied, to
which this section applies may, within three months after the
commencement of this Act, apply—

(a) where the prescribed premises are not shared
accommodation or are shared accommodation
20 situated wholly outside the Metropolitan Area—to
a Fair Rents Board; or

(b) where the prescribed premises are shared accom-
modation situated within or partly within and partly
outside the Metropolitan Area—to the Controller,
25 for that determination, or that determination, as varied, to
be varied or further varied in accordance with subsection
four of this section.

(4) Where an application in respect of any prescribed
premises is made to a Fair Rents Board or the Controller in
30 accordance with the provisions of this section and the Board
or the Controller, as the case may be, is satisfied—

(a) that the premises are the subject of a determination
or a determination, as varied, to which this section
applies; and

35 (b) that that determination, or that determination, as
varied, included an allowance by reason of any
change,

Landlord and Tenant (Amendment).

change, since the prescribed date referred to in subsection four of section twenty of the Principal Act, as amended by this Act, or since any previous determination or variation of a determination or since any earlier date whatsoever, in any economic conditions affecting the community generally or a substantial part of the community,

the Board or the Controller shall vary the fair rent of the prescribed premises by reducing it by the amount that, in its or his opinion, was included by way of that allowance.

(5) A variation of the fair rent of any prescribed premises made under subsection four of this section shall have effect as on and from the date on which the determination or the determination, as varied, to which this section applies, came into force in relation to the prescribed premises and any rent of the prescribed premises paid by the lessee since that date in excess of the fair rent of those premises as varied under subsection four of this section may be recovered in an action for debt in any court of competent jurisdiction by the lessee from the lessor to whom the rent was paid or may be offset by the lessee against any rent payable by him to the lessor in respect of those premises.

Any amount offset by a lessee under this subsection shall, for the purposes of this Act, be deemed to have been paid by him to the lessor.

(6) Subject to this section, the provisions of Part II of the Principal Act, as amended by this Act, so far as applicable, apply, mutatis mutandis, to and in respect of variations made under this section.

(7) In this section, "Principal Act" means the Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts enacted before the commencement of this Act.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1966

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.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 29 September, 1966.*

New South Wales



ANNO QUINTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1966.

An Act to make further provisions with respect to the fair rent of prescribed premises; for this and other purposes to amend the Landlord and Tenant (Amendment) Act, 1948, and certain other Acts; and for purposes connected therewith.

BE it enacted by the Queen'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 :—

1. (1) This Act may be cited as the "Landlord and Tenant (Amendment) Act, 1966".

Short title
and
citation.
(2)

Landlord and Tenant (Amendment).

(2) The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts and by this Act, may be cited as the Landlord and Tenant (Amendment) Act, 1948-1966.

5 2. The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is amended—

Amendment
of Act No.
25, 1948.
(Part I.—
Preliminary.)

- (a) by omitting paragraphs (b) and (c) of subparagraph (v) of paragraph (b) of subsection one of section 5A;
- 10 (b) by omitting subparagraphs (ii) and (iii) of paragraph (c) of the same subsection;
- (c) by omitting paragraphs (b) and (c) of subparagraph (v) of paragraph (d) of the same subsection;
- 15 (d) by omitting paragraphs (b) and (c) of subparagraph (iv) of paragraph (e) of the same subsection;
- (e) by inserting in paragraph (a) of subparagraph (iii) of paragraph (f) of the same subsection after the word "Controller;" the word "and";
- 20 (f) by omitting paragraphs (b) and (c) of the same subparagraph;
- (g) by inserting in paragraph (a) of subparagraph (iii) of paragraph (g) of the same subsection after the word "Controller;" the word "and";
- 25 (h) by omitting paragraphs (b) and (c) of the same subparagraph;
- (i) by inserting in paragraph (a) of subparagraph (iii) of paragraph (a) of subsection (1A) of the same section after the word "Controller;" the word "or";
- 30 (j) by omitting paragraphs (b) and (c) of the same subparagraph;
- (k) by omitting subsections two and (2A) of the same section;

(1)

Landlord and Tenant (Amendment).

- (1) by omitting from subsection five of the same section the words "sections 70A and" and by inserting in lieu thereof the word "section";
- (m) by inserting next after subsection six of the same section the following new subsection :—
- (7) A concurrent lease—
- (a) granted after the commencement of the Landlord and Tenant (Amendment) Act, 1966, in respect of prescribed premises to which Part II, III, IV or V of this Act applies, shall be deemed not to be a lease; or
- (b) granted before that commencement, in respect of prescribed premises to which any such Part applied at the time the concurrent lease was granted, shall, on and from that commencement, be deemed not to be a lease,
- for the purposes of subparagraph (v) of paragraph (b), paragraph (c), subparagraph (v) of paragraph (d), subparagraph (iv) of paragraph (e), subparagraph (iii) of paragraph (f) or subparagraph (iii) of paragraph (g) of subsection one, or subparagraph (iii) of paragraph (a) of subsection (1A), of this section.

3. The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is further amended—

Amendment of Act No. 25, 1948.
(Part II.—Fair Rents.)

- (a) by omitting subsections two, three and four of section 17A and by inserting in lieu thereof the following subsection :—
- (2) An agreement referred to in subsection one of this section shall have no force or effect unless it is registered in the office of the Rent Controller within three months after the day on which it was entered into.

Sec. 17A.
(Fixing of fair rent of prescribed premises by agreement.)

(b)

Landlord and Tenant (Amendment).

- (b) (i) by omitting from subsection one of section twenty the word "may" where firstly occurring and by inserting in lieu thereof the word "shall"; Sec. 20. (Determination of application.)
- 5 (ii) by inserting in the same subsection after the word "premises" where lastly occurring the words "at an amount equal to the rent of the prescribed premises at the prescribed date adjusted by such amount as the Board deems proper having regard only to the matters specified in section twenty-one of this Act or, where the prescribed premises were not leased at the prescribed date, at an amount equal to the rental value of the prescribed premises at the prescribed date adjusted in like manner";
- 10 (iii) by omitting subsection two of the same section;
- 15 (iv) by omitting from subsection three of the same section the words "as at the prescribed date is insufficient" and by inserting in lieu thereof the words "of the prescribed premises, being premises that were leased on the prescribed date, was, as at that date, insufficient";
- 20 (v) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection :—
- 25 (4) In this section, "the prescribed date", in relation to any prescribed premises, means the thirty-first day of August, one thousand nine hundred and thirty-nine or, where the prescribed premises were not in existence on that date, the date on which the erection of the premises was completed.
- 30 (c) (i) by omitting from subsection one of section twenty-one of this Act the words "Subject to section twenty of this Act, in" and by inserting in lieu thereof the word "In"; Sec. 21. (Matters to be considered.)
- 35

(ii)

Landlord and Tenant (Amendment).

- (ii) by inserting in paragraph (e) of the same subsection after the word "rents" the words
"fixed by a determination in force under this Part,";
- 5 (iii) by inserting at the end of paragraph (g) of the same subsection the words "or the value of any goods leased with the premises";
- (iv) by omitting paragraph (i) of the same subsection and by inserting in lieu thereof the following paragraph :—
- 10 (i) the conduct of the parties; and
- (v) by omitting paragraph (j) of the same subsection and by inserting in lieu thereof the following paragraph :—
- 15 (j) the amount, if any, that the Fair Rents Board is satisfied was necessarily expended by the lessor since the prescribed date referred to in subsection four of section twenty of this Act upon the improvement or structural alteration of the premises (but not including decoration, repairs or maintenance).
- 20
- (vi) by omitting from subsection (1A) of the same section the words "Subject to section twenty of this Act a" and by inserting in lieu thereof the word "A";
- 25
- (vii) by inserting next after the same subsection the following new subsection :—
- 30 (1AB) In determining the fair rent of any prescribed premises a Fair Rents Board may include in the fair rent an allowance in respect of agent's collecting commission or, where an agent does not collect the rent of the prescribed premises, such amount in respect of the collection of the rent as the Board deems proper.
- 35
- (viii)

Landlord and Tenant (Amendment).

(viii) by inserting next after subsection (1B) of the same section the following new subsections :—

5 (1C) Where a Fair Rents Board would, but for this subsection, increase the fair rent of any prescribed premises and the Board is of opinion that the lessee would not reasonably be able to pay the fair rent as so increased, the Board shall, in determining the amount of the increase, if any, have regard to the financial circumstances of the lessor and the lessee.

10 (1D) In determining or varying the fair rent of any prescribed premises, a Fair Rents Board shall not make any allowance—

15 (a) based on paragraph (f) of subsection one of this section in excess of such percentage of the capital value of the prescribed premises at the prescribed date referred to in subsection four of section twenty of this Act as is equal to the difference between the rate per centum of interest charged upon overdrafts by the Commonwealth Bank of Australia, or the Commonwealth Trading Bank of Australia, as the case may be, at that prescribed date and the rate per centum of interest charged upon overdrafts by the Commonwealth Trading Bank of Australia at the date of the determination or variation; or

30 (b) based on paragraph (j) of subsection one of this section in excess of eight per centum of the amount referred to in that paragraph.

35 (1E) In determining or varying the fair rent of any prescribed premises, a Fair Rents Board shall not make any allowance by reason

Landlord and Tenant (Amendment).

5 reason of any change, since the prescribed date referred to in subsection four of section twenty of this Act or since any previous determination or variation or since any earlier date whatsoever, in any economic conditions affecting the community generally or a substantial part of the community.

(ix) by omitting from subsection two of the same section the words "paragraph (i) of";

10 (d) (i) by inserting at the end of subsection three of section 24A the following new paragraph : — Sec. 24A. (Determination based on increased outgoings.)

15 In making an assessment of the fair rent of any prescribed premises under this section, the Controller shall not make any allowance for any increase in the rate of interest charged upon overdrafts by the Commonwealth Trading Bank of Australia in excess of such percentage of the capital value of the prescribed premises at the prescribed date referred to in subsection four of section twenty of this Act as is equal to the difference between the rate per centum of interest charged upon overdrafts by the Commonwealth Bank of Australia, or the Commonwealth Trading Bank of Australia, as the case may be, at the date on which the existing fair rent was determined under this Part and the rate per centum of interest charged upon overdrafts by the Commonwealth Trading Bank of Australia at the date of the assessment.

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25

30

(ii) by omitting paragraph (b) of subsection seven of the same section;

35 (e) (i) by omitting from subsection six of section 26B the words "may determine the fair rent of the shared accommodation" and by inserting in lieu thereof the words "shall, subject to subsection eight of this section, determine the fair rent of the shared accommodation at such proportion" Sec. 26B. (Determination of rent of shared accommodation.)

Landlord and Tenant (Amendment).

- 5 proportion as the Board deems proper of the fair rent of the prescribed premises of which the shared accommodation forms part or, where the fair rent of those prescribed premises is not the subject of a determination made under this Part, of the amount that would, in the opinion of the Board, be the fair rent of those prescribed premises if they were the subject of such a determination”;
- 10 (ii) by inserting in subsection eight of the same section after the word “Act” the words “in so far as they are applicable”;
- (f) (i) by omitting from subsection five of section twenty-seven the words “may determine the fair rent of the shared accommodation” and by inserting in lieu thereof the words “shall, subject to subsection seven of this section, determine the fair rent of the shared accommodation at such proportion as the Controller deems proper of the fair rent of the prescribed premises of which the shared accommodation forms part or, where the fair rent of those prescribed premises is not the subject of a determination made under this Part, of the amount that would, in the opinion of the Controller, be the fair rent of those prescribed premises if they were the subject of such a determination”;
- 15 (Determination of rent of shared accommodation.)
- 20
- 25
- 30 (ii) by inserting in subsection seven of the same section after the word “Act” the words “in so far as they are applicable”;
- (g) by omitting subsection one of section thirty-one and by inserting in lieu thereof the following subsection : —
- 35 (1) The Board shall hear the appeal and shall, having regard to the provisions of subsection five of section twenty-seven of this Act, confirm the determination of the Controller and dismiss the appeal,
- Sec. 27.
- Sec. 31.
- (Procedure on appeal.)

Landlord and Tenant (Amendment).

appeal, or shall determine the fair rent at such amount as, in the opinion of the Board, should have been determined by the Controller under the provisions of this Division.

- 5 (h) (i) by omitting from paragraph (a) of subsection two of section thirty-two the words "injustice has been occasioned by the determination" and by inserting in lieu thereof the words "the determination was incorrectly made";
- 10 (ii) by omitting from paragraph (c) of the same subsection the words "an incorrect calculation, and by reason thereof an injustice has been occasioned by the determination" and by inserting in lieu thereof the words "a clerical error";
- 15 (iii) by inserting at the end of the same subsection the following new paragraph : —
- In varying the fair rent of any prescribed premises under this section, the Fair Rents Board shall not make any allowance based on paragraph (e) of this subsection by reason of any improvement or structural alteration (not including decoration, repairs or maintenance) of the premises in excess of eight per centum of the amount, if any, that the Fair Rents Board is satisfied was necessarily expended by the lessor since the determination was made upon any such improvement or structural alteration.
- 20
- 25

30 4. The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is further amended—

Amendment of Act No. 25, 1948. (Part III.—Recovery of Possession of Prescribed Premises.)

- (a) (i) by omitting subsection two of section seventy;
- (ii) by omitting paragraph (a) of subsection (2A) of the same section;

Sec. 70.

(Court to consider hardship.)

(iii)

Landlord and Tenant (Amendment).

- (iii) by omitting subsection (2B) of the same section;
- (iv) by omitting subsection five of the same section;
- 5 (b) by omitting section 70A; Sec. 70A.
(Certain dwelling-houses to be subject to this Act notwithstanding section 5A.)
- (c) by inserting in paragraph (a) of subsection four of Sec. 81.
section eighty-one after the word "sections" the (Persons not to interfere with use or enjoyment of premises.)
word "twenty,";
- 10 (d) (i) by inserting in subparagraph (ii) of paragraph Sec. 83.
(c) of subsection one of section eighty-three (Protection of certain persons in possession of premises.)
after the word "years" the words "who was, at the date of the lessee's death, a protected person as defined in section ninety-nine of this Act or in receipt of a pension under the Social Services Consolidation Act 1947 (as amended by subsequent Acts) of the Parliament of the Commonwealth";
- 15 (ii) by inserting at the end of the same subparagraph the word "or";
- 20 (iii) by omitting from subparagraph (iii) of the same paragraph the words "a brother or sister, or the father or mother, of the lessee" and by inserting in lieu thereof the words "the father or mother of the lessee";
- 25 (iv) by omitting from the same subparagraph the word "or" where lastly occurring;
- (v) by omitting subparagraph (iv) of the same paragraph;
- (vi)

Landlord and Tenant (Amendment).

- 5 (vi) by omitting from the same subsection the words "brother or sister or the father or mother, or other person" and by inserting in lieu thereof the words "or the father or mother";
- (vii) by omitting from subsection two of the same section the symbols and word ", (iii) or (iv)" and by inserting in lieu thereof the word and symbols "or (iii)";
- 10 (e) (i) by inserting in paragraph (b) of subsection Sec. 83A. one of section 83A after the word "years" the words "who was, at the date of the lessee's death, a protected person as defined in section ninety-nine of this Act or in receipt of a pension under the Social Services Consolidation Act 1947 (as amended by subsequent Acts) of the Parliament of the Commonwealth"; (Protection of member of the family of deceased lessee.)
- 15 (ii) by inserting at the end of the same paragraph the word "or";
- 20 (iii) by omitting from paragraph (c) of the same subsection the words "a brother or sister, or the mother or father, of the lessee" and by inserting in lieu thereof the words "the father or mother of the lessee";
- 25 (iv) by omitting from the same paragraph the word "or" where lastly occurring;
- (v) by omitting paragraph (d) of the same subsection;
- 30 (vi) by omitting from the same subsection the words "brother or sister or the father or mother, or other person, as the case may be" and by inserting in lieu thereof the words "or the father or mother";

(f)

Landlord and Tenant (Amendment).

- (f) by omitting from subsection six of section eighty-six the words "but no rent is fixed by subsection one or two of section fifteen of this Act in respect of those premises together with goods".
5. (1) Subject to subsection two of this section, this section applies to a determination or a determination, as varied, of the fair rent of any prescribed premises that was made under the Principal Act after the sixteenth day of June, one thousand nine hundred and sixty-six and before the commencement of this Act.
- (2) This section does not apply to the prescribed premises known as 16 Grafton Street, Naremburn, in the State of New South Wales.
- (3) A lessee of any prescribed premises that are the subject of a determination, or a determination, as varied, to which this section applies may, within three months after the commencement of this Act, apply—
- (a) where the prescribed premises are not shared accommodation or are shared accommodation situated wholly outside the Metropolitan Area—to a Fair Rents Board; or
- (b) where the prescribed premises are shared accommodation situated within or partly within and partly outside the Metropolitan Area—to the Controller, for that determination, or that determination, as varied, to be varied or further varied in accordance with subsection four of this section.
- (4) Where an application in respect of any prescribed premises is made to a Fair Rents Board or the Controller in accordance with the provisions of this section and the Board or the Controller, as the case may be, is satisfied—
- (a) that the premises are the subject of a determination or a determination, as varied, to which this section applies; and
- (b) that that determination, or that determination, as varied, included an allowance by reason of any change,

Sec. 86.
(Exclusion
of premises
from opera-
tion of
Part III and
Part V.)

Variations
of deter-
minations
of fair rent
of prescribed
premises
made after
16th June,
1966.

Landlord and Tenant (Amendment).

change, since the prescribed date referred to in subsection four of section twenty of the Principal Act, as amended by this Act, or since any previous determination or variation of a determination or
5 since any earlier date whatsoever, in any economic conditions affecting the community generally or a substantial part of the community,

the Board or the Controller shall vary the fair rent of the prescribed premises by reducing it by the amount that, in its
10 or his opinion, was included by way of that allowance.

(5) A variation of the fair rent of any prescribed premises made under subsection four of this section shall have effect as on and from the date on which the determination or the determination, as varied, to which this section applies,
15 came into force in relation to the prescribed premises and any rent of the prescribed premises paid by the lessee since that date in excess of the fair rent of those premises as varied under subsection four of this section may be recovered in an action for debt in any court of competent jurisdiction by the
20 lessee from the lessor to whom the rent was paid or may be offset by the lessee against any rent payable by him to the lessor in respect of those premises.

Any amount offset by a lessee under this subsection shall, for the purposes of this Act, be deemed to have been paid by
25 him to the lessor.

(6) Subject to this section, the provisions of Part II of the Principal Act, as amended by this Act, so far as applicable, apply, mutatis mutandis, to and in respect of variations made under this section.

30 (7) In this section, "Principal Act" means the Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts enacted before the commencement of this Act.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1966

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No. , 1966.

A BILL

To make further provisions with respect to the fair rent of prescribed premises; for this and other purposes to amend the Landlord and Tenant (Amendment) Act, 1948, and certain other Acts; and for purposes connected therewith.

[MR MADDISON—20 *September*, 1966.]

BE it enacted by the Queen'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 :—

1. (1) This Act may be cited as the "Landlord and Tenant (Amendment) Act, 1966".

(2)

Short title
and
citation.

Landlord and Tenant (Amendment).

(2) The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts and by this Act, may be cited as the Landlord and Tenant (Amendment) Act, 1948–1966.

5 **2.** The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is amended—

Amendment
of Act No.
25, 1948.
(Part I.—
Preliminary.)

- (a) by omitting paragraphs (b) and (c) of subparagraph (v) of paragraph (b) of subsection one of section 5A;
10
- (b) by omitting subparagraphs (ii) and (iii) of paragraph (c) of the same subsection;
- (c) by omitting paragraphs (b) and (c) of subparagraph (v) of paragraph (d) of the same subsection;
- (d) by omitting paragraphs (b) and (c) of subparagraph (iv) of paragraph (e) of the same subsection;
15
- (e) by inserting in paragraph (a) of subparagraph (iii) of paragraph (f) of the same subsection after the word “Controller;” the word “and”;
- (f) by omitting paragraphs (b) and (c) of the same subparagraph;
20
- (g) by inserting in paragraph (a) of subparagraph (iii) of paragraph (g) of the same subsection after the word “Controller;” the word “and”;
- (h) by omitting paragraphs (b) and (c) of the same subparagraph;
25
- (i) by inserting in paragraph (a) of subparagraph (iii) of paragraph (a) of subsection (1A) of the same section after the word “Controller;” the word “or”;

(j)

Landlord and Tenant (Amendment).

- (j) by omitting paragraphs (b) and (c) of the same subparagraph;
- (k) by omitting subsections two and (2A) of the same section;
- 5 (l) by omitting from subsection five of the same section the words "sections 70A and" and by inserting in lieu thereof the word "section";
- (m) by inserting next after subsection six of the same section the following new subsection :—
- 10 (7) A concurrent lease, granted after the commencement of the Landlord and Tenant (Amendment) Act, 1966, in respect of prescribed premises to which Part II, III, IV or V of this Act applies shall not be deemed to be a lease for the purposes
- 15 of subparagraph (v) of paragraph (b), paragraph (c), subparagraph (v) of paragraph (d), subparagraph (iv) of paragraph (e), subparagraph (iii) of paragraph (f) or subparagraph (iii) of paragraph (g) of subsection one, or subparagraph (iii) of
- 20 paragraph (a) of subsection (1A), of this section.

3. The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is further amended—

Amendment
of Act No.
25, 1948.
(Part II.—
Fair Rents.)

- (a) by omitting subsections two, three and four of section 17A and by inserting in lieu thereof the following subsection :—

Sec. 17A.
(Fixing of
fair rent of
prescribed
premises by
agreement.)

- (2) An agreement referred to in subsection one of this section shall have no force or effect unless it is registered in the office of the Rent Controller within three months after the day on which it was entered into.

(b)

Landlord and Tenant (Amendment).

- (b) (i) by omitting from subsection one of section Sec. 20.
 twenty the word "may" where firstly occur- (Determina-
 ring and by inserting in lieu thereof the word tion of
 "shall"; application.)
- 5 (ii) by inserting in the same subsection after the
 word "premises" where lastly occurring the
 words "at an amount equal to the rent of the
 10 prescribed premises at the prescribed date
 adjusted by such amount as the Board deems
 proper having regard to the provisions of sec-
 tion twenty-one of this Act or, where the
 prescribed premises were not leased at the
 15 prescribed date, at an amount equal to the
 rental value of the prescribed premises at the
 prescribed date adjusted in like manner";
- (iii) by omitting subsection two of the same
 section;
- (iv) by omitting from subsection three of the same
 section the words "as at the prescribed date is
 20 insufficient" and by inserting in lieu thereof the
 words "of the prescribed premises, being
 premises that were leased on the prescribed
 date, was, as at that date, insufficient";
- (v) by omitting subsection four of the same sec-
 25 tion and by inserting in lieu thereof the
 following subsection : —
- (4) In this section, "the prescribed date",
 in relation to any prescribed premises, means
 the thirty-first day of August, one thousand
 30 nine hundred and thirty-nine or, where the
 prescribed premises were not in existence on
 that date, the date on which the erection of
 the premises was completed.
- (c) (i) by omitting from subsection one of section Sec. 21.
 35 twenty-one of this Act the words "Subject to (Matters
 section twenty of this Act, in" and by inserting to be
 in lieu thereof the word "In"; considered.)

(ii)

Landlord and Tenant (Amendment).

- (ii) by inserting in paragraph (e) of the same subsection after the word "rents" the words
 " , fixed by a determination in force under this Part,";
- 5 (iii) by omitting paragraph (i) of the same subsection and by inserting in lieu thereof the following paragraph :—
 - (i) the conduct of the parties; and
- 10 (iv) by omitting paragraph (j) of the same subsection and by inserting in lieu thereof the following paragraph :—
 - (j) where the prescribed premises are a dwelling-house, the amount, if any, that the Fair Rents Board is satisfied was necessarily expended by the lessor since the prescribed date referred to in subsection four of section twenty of this Act upon the improvement or structural alteration of the dwelling-house (but not including decoration, repairs or maintenance).
- 15
- 20
- (v) by omitting from subsection (1A) of the same section the words "Subject to section twenty of this Act a" and by inserting in lieu thereof the word "A";
- 25
- (vi) by inserting next after subsection (1B) of the same section the following new subsections :—
 - (1C) Where a Fair Rents Board would, but for this subsection, increase the fair rent of any prescribed premises and the Board is of opinion that the lessee would not reasonably be able to pay the fair rent as so increased, the Board shall, in determining the amount of the increase, if any, have regard to the financial circumstances of the lessor and the lessee.
- 30
- 35

(1D)

Landlord and Tenant (Amendment).

(1D) In determining or varying the fair rent of any prescribed premises, a Fair Rents Board shall not make any allowance—

5 (a) based on paragraph (f) of subsection
one of this section in excess of such
percentage of the capital value of the
prescribed premises at the prescribed
10 date referred to in subsection four of
section twenty of this Act as is equal
to the difference between the rate per
centum of interest charged upon over-
drafts by the Commonwealth Bank of
Australia, or the Commonwealth
15 Trading Bank of Australia, as the case
may be, at that prescribed date and
the rate per centum of interest
charged upon overdrafts by the Com-
monwealth Trading Bank of Australia
20 at the date of the determination or
variation; or

(b) based on paragraph (j) of subsection
one of this section in excess of eight
per centum of the amount referred to
in that paragraph.

25 (1E) In determining or varying the fair rent
of any prescribed premises, a Fair Rents
Board shall not, notwithstanding any other
provision of this Part other than subsection
one of this section, make any allowance by
30 reason of any change, since the prescribed
date referred to in subsection four of section
twenty of this Act or since any previous
determination or variation or since any earlier
date whatsoever, in any economic conditions
35 affecting the community generally or a substan-
tial part of the community.

(vii) by omitting from subsection two of the same
section the words "paragraph (i) of";

(d)

Landlord and Tenant (Amendment).

- (d) (i) by inserting at the end of subsection three of section 24A the following new paragraph : —

Sec. 24A.
(Determina-
tion based
on increased
out-
goings.)

5 In making an assessment of the fair rent of
any prescribed premises under this section, the
Controller shall not make any allowance for
any increase in the rate of interest charged
upon overdrafts by the Commonwealth
Trading Bank of Australia in excess of such
10 percentage of the capital value of the
prescribed premises at the prescribed date
referred to in subsection four of section twenty
of this Act as is equal to the difference
between the rate per centum of interest charged
15 upon overdrafts by the Commonwealth Bank
of Australia, or the Commonwealth Trading
Bank of Australia, as the case may be, at the
date on which the existing fair rent was deter-
mined under this Part and the rate per centum
20 of interest charged upon overdrafts by the
Commonwealth Trading Bank of Australia at
the date of the assessment.

- (ii) by omitting paragraph (b) of subsection seven
of the same section;

25 (e) (i) by omitting from subsection six of section 26B
the words "may determine the fair rent of the
shared accommodation" and by inserting in
lieu thereof the words "shall, subject to sub-
section eight of this section, determine the fair
rent of the shared accommodation at such
30 proportion as the Board deems proper of the
fair rent of the prescribed premises of which
the shared accommodation forms part or,
where the fair rent of those prescribed premises
is not the subject of a determination made
35 under this Part, of the amount that would, in
the opinion of the Board, be the fair rent
of those prescribed premises if they were the
subject of such a determination";

Sec. 26B.
(Determina-
tion of rent
of shared
accommoda-
tion.)

(ii)

Landlord and Tenant (Amendment).

- (ii) by inserting in subsection eight of the same section after the word "Act" the words "in so far as they are applicable";
- 5 (f) (i) by omitting from subsection five of section twenty-seven the words "may determine the fair rent of the shared accommodation" and by inserting in lieu thereof the words "shall, subject to subsection seven of this section, determine the fair rent of the shared accommodation at such proportion as the Controller deems proper of the fair rent of the prescribed premises of which the shared accommodation forms part or, where the fair rent of those prescribed premises is not the subject of a determination made under this Part, of the amount that would, in the opinion of the Controller, be the fair rent of those prescribed premises if they were the subject of such a determination";
- 10
- 15
- 20 (ii) by inserting in subsection seven of the same section after the word "Act" the words "in so far as they are applicable";
- (g) by omitting subsection one of section thirty-one and by inserting in lieu thereof the following subsection : —
- 25
- (1) The Board shall hear the appeal and shall, having regard to the provisions of subsection five of section twenty-seven of this Act, confirm the determination of the Controller and dismiss the appeal, or shall determine the fair rent at such amount as, in the opinion of the Board, should have been determined by the Controller under the provisions of this Division.
- 30
- (h) (i) by omitting from paragraph (a) of subsection two of section thirty-two the words "injustice has been occasioned by the determination"
- 35

Sec. 27.
(Determination of rent of shared accommodation.)

Sec. 31.
(Procedure on appeal.)

Sec. 32.
(Variation of determination.)

and

Landlord and Tenant (Amendment).

and by inserting in lieu thereof the words "the determination was incorrectly made";

5 (ii) by omitting from paragraph (c) of the same subsection the words "an incorrect calculation, and by reason thereof an injustice has been occasioned by the determination" and by inserting in lieu thereof the words "a clerical error";

10 (iii) by inserting at the end of the same subsection the following new paragraph :—

15 In varying the fair rent of any prescribed premises, being a dwelling-house, under this section, the Fair Rents Board shall not make any allowance based on paragraph (e) of this subsection by reason of any improvement or structural alteration (not including decoration, repairs or maintenance) of the premises in excess of eight per centum of the amount, if any, that the Fair Rents Board is satisfied was necessarily expended by the lessor since
20 the determination was made upon any such improvement or structural alteration.

4. The Landlord and Tenant (Amendment) Act, 1948, Amendment of Act No. 25, 1948.—
as amended by subsequent Acts, is further amended—

(Part III.—
Recovery of
Possession
of Prescribed
Premises.)

25 (a) (i) by omitting subsection two of section seventy;
(ii) by omitting paragraph (a) of subsection (2A) of the same section;
(iii) by omitting subsection (2B) of the same section;
30 (iv) by omitting subsection five of the same section;

Sec. 70.
(Court to
consider
hardship.)

(b)

Landlord and Tenant (Amendment).

(b) by omitting section 70A;

Sec. 70A.
(Certain dwelling-houses to be subject to this Act notwithstanding section 5A.)

(c) by inserting in paragraph (a) of subsection four of section eighty-one after the word "sections" the word "twenty,";

Sec. 81.
(Persons not to interfere with use or enjoyment of premises.)

- 5 (d) (i) by inserting in subparagraph (ii) of paragraph (c) of subsection one of section eighty-three after the word "years" the words "who was, at the date of the lessee's death, a protected person as defined in section ninety-nine of this Act or in receipt of a pension under the Social Services Consolidation Act 1947 (as amended by subsequent Acts) of the Parliament of the Commonwealth";
- 10
- 15 (ii) by inserting at the end of the same subparagraph the word "or";
- (iii) by omitting from subparagraph (iii) of the same paragraph the words "a brother or sister, or the father or mother, of the lessee" and by inserting in lieu thereof the words "the father or mother of the lessee";
- 20
- (iv) by omitting from the same subparagraph the word "or" where lastly occurring;
- (v) by omitting subparagraph (iv) of the same paragraph;
- 25 (vi) by omitting from the same subsection the words "brother or sister or the father or mother, or other person" and by inserting in lieu thereof the words "or the father or mother";

(vii)

Landlord and Tenant (Amendment).

- (vii) by omitting from subsection two of the same section the symbols and word “, (iii) or (iv)” and by inserting in lieu thereof the word and symbols “or (iii)”;
- 5 (e) (i) by inserting in paragraph (b) of subsection Sec. 83A.
one of section 83A after the word “years” the (Protection
words “who was, at the date of the lessee’s of member
death, a protected person as defined in section of the
ninety-nine of this Act or in receipt of a family
pension under the Social Services Consolida- of deceased
tion Act 1947 (as amended by subsequent lessee.)
Acts) of the Parliament of the Common-
wealth”;
- 10 (ii) by inserting at the end of the same paragraph
the word “or”;
- 15 (iii) by omitting from paragraph (c) of the same
subsection the words “a brother or sister, or
the mother or father, of the lessee” and by
inserting in lieu thereof the words “the father
or mother of the lessee”;
- 20 (iv) by omitting from the same paragraph the word
“or” where lastly occurring;
- (v) by omitting paragraph (d) of the same
subsection;
- 25 (vi) by omitting from the same subsection the words
“brother or sister or the father or mother, or
other person, as the case may be” and by
inserting in lieu thereof the words “or the
father or mother”;
- 30 (f) by omitting from subsection six of section eighty-six Sec. 86.
the words “but no rent is fixed by subsection one (Exclusion
or two of section fifteen of this Act in respect of of premises
those premises together with goods”. from opera-
tion of
Part III and
Part V.)

Landlord and Tenant (Amendment).

5. (1) Subject to subsection two of this section, this section applies to a determination or a determination, as varied, of the fair rent of any prescribed premises that was made under the Principal Act after the sixteenth day of June, one thousand nine hundred and sixty-six and before the commencement of this Act.

Variations
of deter-
minations
of fair rent
of prescribed
premises
made after
16th June,
1966.

(2) This section does not apply to the prescribed premises known as 16 Grafton Street, Naremburn, in the State of New South Wales.

(3) A lessee of any prescribed premises that are the subject of a determination, or a determination, as varied, to which this section applies may, within three months after the commencement of this Act, apply—

(a) where the prescribed premises are not shared accommodation or are shared accommodation situated wholly outside the Metropolitan Area—to a Fair Rents Board; or

(b) where the prescribed premises are shared accommodation situated within or partly within and partly outside the Metropolitan Area—to the Controller,

for that determination, or that determination, as varied, to be varied or further varied in accordance with subsection four of this section.

(4) Where an application in respect of any prescribed premises is made to a Fair Rents Board or the Controller in accordance with the provisions of this section and the Board or the Controller, as the case may be, is satisfied—

(a) that the premises are the subject of a determination or a determination, as varied, to which this section applies; and

(b) that that determination, or that determination, as varied, included an allowance by reason of any change, since the prescribed date referred to in subsection four of section twenty of the Principal Act, as amended by this Act, or since any previous determination or variation of a determination or since

Landlord and Tenant (Amendment).

since any earlier date whatsoever, in any economic conditions affecting the community generally or a substantial part of the community,

the Board or the Controller shall vary the fair rent of the
5 prescribed premises by reducing it by the amount that, in its
or his opinion, was included by way of that allowance.

(5) A variation of the fair rent of any prescribed premises made under subsection four of this section shall have effect as on and from the date on which the determination
10 or the determination, as varied, to which this section applies, came into force in relation to the prescribed premises and any rent of the prescribed premises paid by the lessee since that date in excess of the fair rent of those premises as varied under subsection four of this section may be recovered in an
15 action for debt in any court of competent jurisdiction by the lessee from the lessor to whom the rent was paid.

(6) Subject to this section, the provisions of Part II of the Principal Act, as amended by this Act, so far as applicable, apply, mutatis mutandis, to and in respect of
20 variations made under this section.

(7) In this section, "Principal Act" means the Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts enacted before the commencement of this Act.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1966

LANDLORD AND TENANT (AMENDMENT) BILL, 1966

EXPLANATORY NOTE

THE object of this Bill is to amend the Landlord and Tenant (Amendment) Act, 1948, as amended (hereinafter referred to as the Principal Act) for the following purposes:—

- (a) to remove the necessity for leases under section 5A of the Principal Act to be witnessed and certified by a solicitor or a clerk of petty sessions;
- (b) to provide that certain concurrent leases of prescribed premises shall not be deemed to be leases for the purposes of certain provisions of section 5A of the Principal Act;
- (c) to remove the necessity for agreements under section 17A of the Principal Act to be witnessed and certified by a solicitor or a clerk of petty sessions;
- (d) to prescribe a different method of determining the fair rent of prescribed premises so that the fair rent of any such premises shall be the rent or rental value of the premises as at the prescribed date (i.e. 31st August, 1939, or date of completion of erection) adjusted by such amount as a Fair Rents Board deems proper having regard to the matters specified in section twenty-one of the Principal Act, as amended by the Act to give effect to this Bill;
- (e) to amend paragraph (i) of subsection one of section twenty-one of the Principal Act so as to require a Fair Rents Board, in determining the fair rent of any prescribed premises, to have regard only to the conduct of the parties;
- (f) to amend section twenty-one of the Principal Act so as—
 - (i) to require a Fair Rents Board, in determining the fair rent of any prescribed premises, to have regard in certain cases, to the financial circumstances of the parties instead of hardship;
 - (ii) to prescribe the extent to which a Fair Rents Board, in determining the fair rent of any prescribed premises, may have regard to rates of interest on overdrafts;
 - (iii) to prevent a Fair Rents Board, in determining the fair rent of any prescribed premises, from having regard to changes in economic conditions affecting the community generally or a substantial part of the community;
- (g) to amend section 24A of the Principal Act so as to prescribe the extent to which the Controller may, in assessing the fair rent of prescribed premises under that section, have regard to rates of interest on overdrafts;
- (h) to provide that the fair rent of shared accommodation shall be such proportion as a Fair Rents Board or the Controller, as the case may be, deems proper of the fair rent of the prescribed premises of which the shared accommodation forms part;
- (i) to remove the absolute obligation of the lessor to provide reasonably suitable accommodation when notice to quit has been given on a ground specified in paragraph (g), (i), (l) or (m) of subsection five of section sixty-two of the Principal Act;
- (j) to restrict the classes of persons on whom a tenancy devolves under section eighty-three or 83A of the Principal Act upon the death of the lessee;
- (k) to enable lessees of certain prescribed premises, the fair rent of which was fixed by a determination made after 16th June, 1966, and before the commencement of the Act to give effect to this Bill, to apply, within three months after that commencement, for a variation of that determination on the ground that it included an allowance by reason of any changes in any economic conditions affecting the community generally or a substantial part of the community;
- (l) to make other amendments of a consequential or ancillary nature.

PROOF

No. , 1966.

A BILL

To make further provisions with respect to the fair rent of prescribed premises; for this and other purposes to amend the Landlord and Tenant (Amendment) Act, 1948, and certain other Acts; and for purposes connected therewith.

[MR MADDISON—20 *September*, 1966.]

BE it enacted by the Queen'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 :—

1. (1) This Act may be cited as the "Landlord and Tenant (Amendment) Act, 1966".

(2)

Short title
and
citation.

Landlord and Tenant (Amendment).

(2) The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts and by this Act, may be cited as the Landlord and Tenant (Amendment) Act, 1948–1966.

5 2. The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is amended—

Amendment
of Act No.
25, 1948.

(Part I.—
Preliminary.)

- (a) by omitting paragraphs (b) and (c) of subpara-
graph (v) of paragraph (b) of subsection one of
section 5A;
- 10 (b) by omitting subparagraphs (ii) and (iii) of para-
graph (c) of the same subsection;
- (c) by omitting paragraphs (b) and (c) of subparagraph
(v) of paragraph (d) of the same subsection;
- 15 (d) by omitting paragraphs (b) and (c) of subpara-
graph (iv) of paragraph (e) of the same subsection;
- (e) by inserting in paragraph (a) of subparagraph (iii)
of paragraph (f) of the same subsection after the
word "Controller;" the word "and";
- 20 (f) by omitting paragraphs (b) and (c) of the same
subparagraph;
- (g) by inserting in paragraph (a) of subparagraph (iii)
of paragraph (g) of the same subsection after the
word "Controller;" the word "and";
- 25 (h) by omitting paragraphs (b) and (c) of the same
subparagraph;
- (i) by inserting in paragraph (a) of subparagraph (iii)
of paragraph (a) of subsection (1A) of the same
section after the word "Controller;" the word "or";

(j)

Landlord and Tenant (Amendment).

- (j) by omitting paragraphs (b) and (c) of the same subparagraph;
- (k) by omitting subsections two and (2A) of the same section;
- 5 (l) by omitting from subsection five of the same section the words "sections 70A and" and by inserting in lieu thereof the word "section";
- (m) by inserting next after subsection six of the same section the following new subsection :—
- 10 (7) A concurrent lease, granted after the commencement of the Landlord and Tenant (Amendment) Act, 1966, in respect of prescribed premises to which Part II, III, IV or V of this Act applies shall not be deemed to be a lease for the purposes
- 15 of subparagraph (v) of paragraph (b), paragraph (c), subparagraph (v) of paragraph (d), subparagraph (iv) of paragraph (e), subparagraph (iii) of paragraph (f) or subparagraph (iii) of paragraph (g) of subsection one, or subparagraph (iii) of
- 20 paragraph (a) of subsection (1A), of this section.

3. The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is further amended—

Amendment
of Act No.
25, 1948.
(Part II.—
Fair Rents.)

- (a) by omitting subsections two, three and four of section 17A and by inserting in lieu thereof the following subsection :—
- 25 (2) An agreement referred to in subsection one of this section shall have no force or effect unless it is registered in the office of the Rent Controller within three months after the day on which it was
- 30 entered into.

(b)

Landlord and Tenant (Amendment).

(b) (i) by omitting from subsection one of section Sec. 20. twenty the word "may" where firstly occur- (Determina-
ring and by inserting in lieu thereof the word application.)
"shall";

5 (ii) by inserting in the same subsection after the
word "premises" where lastly occurring the
words "at an amount equal to the rent of the
prescribed premises at the prescribed date
10 adjusted by such amount as the Board deems
proper having regard to the provisions of sec-
tion twenty-one of this Act or, where the
prescribed premises were not leased at the
prescribed date, at an amount equal to the
15 rental value of the prescribed premises at the
prescribed date adjusted in like manner";

(iii) by omitting subsection two of the same
section;

(iv) by omitting from subsection three of the same
section the words "as at the prescribed date is
20 insufficient" and by inserting in lieu thereof the
words "of the prescribed premises, being
premises that were leased on the prescribed
date, was, as at that date, insufficient";

(v) by omitting subsection four of the same sec-
tion and by inserting in lieu thereof the
25 following subsection :—

(4) In this section, "the prescribed date",
in relation to any prescribed premises, means
the thirty-first day of August, one thousand
30 nine hundred and thirty-nine or, where the
prescribed premises were not in existence on
that date, the date on which the erection of
the premises was completed.

(c) (i) by omitting from subsection one of section Sec. 21.
35 twenty-one of this Act the words "Subject to (Matters
section twenty of this Act, in" and by inserting to be
in lieu thereof the word "In"; considered.)

(ii)

Landlord and Tenant (Amendment).

- (ii) by inserting in paragraph (e) of the same subsection after the word "rents" the words
 "fixed by a determination in force under this Part,";
- 5 (iii) by omitting paragraph (i) of the same subsection and by inserting in lieu thereof the following paragraph :—
 - (i) the conduct of the parties; and
- 10 (iv) by omitting paragraph (j) of the same subsection and by inserting in lieu thereof the following paragraph :—
 - (j) where the prescribed premises are a dwelling-house, the amount, if any, that the Fair Rents Board is satisfied was necessarily expended by the lessor since the prescribed date referred to in subsection four of section twenty of this Act upon the improvement or structural alteration of the dwelling-house (but not including decoration, repairs or maintenance).
- 20 (v) by omitting from subsection (1A) of the same section the words "Subject to section twenty of this Act a" and by inserting in lieu thereof the word "A";
- 25 (vi) by inserting next after subsection (1B) of the same section the following new subsections :—
 - (1C) Where a Fair Rents Board would, but for this subsection, increase the fair rent of any prescribed premises and the Board is of opinion that the lessee would not reasonably be able to pay the fair rent as so increased, the Board shall, in determining the amount of the increase, if any, have regard to the financial circumstances of the lessor and the lessee.

(1D)

Landlord and Tenant (Amendment).

(1D) In determining or varying the fair rent of any prescribed premises, a Fair Rents Board shall not make any allowance—

5 (a) based on paragraph (f) of subsection
one of this section in excess of such
percentage of the capital value of the
prescribed premises at the prescribed
date referred to in subsection four of
10 section twenty of this Act as is equal
to the difference between the rate per
centum of interest charged upon over-
drafts by the Commonwealth Bank of
Australia, or the Commonwealth
15 Trading Bank of Australia, as the case
may be, at that prescribed date and
the rate per centum of interest
charged upon overdrafts by the Com-
monwealth Trading Bank of Australia
20 at the date of the determination or
variation; or

(b) based on paragraph (j) of subsection
one of this section in excess of eight
per centum of the amount referred to
in that paragraph.

25 (1E) In determining or varying the fair rent
of any prescribed premises, a Fair Rents
Board shall not, notwithstanding any other
provision of this Part other than subsection
one of this section, make any allowance by
30 reason of any change, since the prescribed
date referred to in subsection four of section
twenty of this Act or since any previous
determination or variation or since any earlier
date whatsoever, in any economic conditions
35 affecting the community generally or a substan-
tial part of the community.

(vii) by omitting from subsection two of the same
section the words "paragraph (i) of";

(d)

Landlord and Tenant (Amendment).

- (d) (i) by inserting at the end of subsection three of section 24A the following new paragraph : —

Sec. 24A.
(Determina-
tion based
on increased
out-
goings.)

5 In making an assessment of the fair rent of
any prescribed premises under this section, the
Controller shall not make any allowance for
any increase in the rate of interest charged
upon overdrafts by the Commonwealth
Trading Bank of Australia in excess of such
10 percentage of the capital value of the
prescribed premises at the prescribed date
referred to in subsection four of section twenty
of this Act as is equal to the difference
between the rate per centum of interest charged
15 upon overdrafts by the Commonwealth Bank
of Australia, or the Commonwealth Trading
Bank of Australia, as the case may be, at the
date on which the existing fair rent was deter-
mined under this Part and the rate per centum
20 of interest charged upon overdrafts by the
Commonwealth Trading Bank of Australia at
the date of the assessment.

- (ii) by omitting paragraph (b) of subsection seven
of the same section ;

25 (e) (i) by omitting from subsection six of section 26B
the words "may determine the fair rent of the
shared accommodation" and by inserting in
lieu thereof the words "shall, subject to sub-
30 section eight of this section, determine the fair
rent of the shared accommodation at such
proportion as the Board deems proper of the
fair rent of the prescribed premises of which
the shared accommodation forms part or,
where the fair rent of those prescribed premises
is not the subject of a determination made
35 under this Part, of the amount that would, in
the opinion of the Board, be the fair rent
of those prescribed premises if they were the
subject of such a determination";

Sec. 26B.
(Determina-
tion of rent
of shared
accommoda-
tion.)

(ii)

Landlord and Tenant (Amendment).

- (ii) by inserting in subsection eight of the same section after the word "Act" the words "in so far as they are applicable";
- (f) (i) by omitting from subsection five of section twenty-seven the words "may determine the fair rent of the shared accommodation" and by inserting in lieu thereof the words "shall, subject to subsection seven of this section, determine the fair rent of the shared accommodation at such proportion as the Controller deems proper of the fair rent of the prescribed premises of which the shared accommodation forms part or, where the fair rent of those prescribed premises is not the subject of a determination made under this Part, of the amount that would, in the opinion of the Controller, be the fair rent of those prescribed premises if they were the subject of such a determination";
- (ii) by inserting in subsection seven of the same section after the word "Act" the words "in so far as they are applicable";
- (g) by omitting subsection one of section thirty-one and by inserting in lieu thereof the following section : —
- (1) The Board shall hear the appeal and shall, having regard to the provisions of subsection five of section twenty-seven of this Act, confirm the determination of the Controller and dismiss the appeal, or shall determine the fair rent at such amount as, in the opinion of the Board, should have been determined by the Controller under the provisions of this Division.
- (h) (i) by omitting from paragraph (a) of subsection two of section thirty-two the words "injustice has been occasioned by the determination"

and

Landlord and Tenant (Amendment).

and by inserting in lieu thereof the words "the determination was incorrectly made";

- 5 (ii) by omitting from paragraph (c) of the same subsection the words "an incorrect calculation, and by reason thereof an injustice has been occasioned by the determination" and by inserting in lieu thereof the words "a clerical error";

- 10 (iii) by inserting at the end of the same subsection the following new paragraph :—

15 In varying the fair rent of any prescribed premises, being a dwelling-house, under this section, the Fair Rents Board shall not make any allowance based on paragraph (e) of this subsection by reason of any improvement or structural alteration (not including decoration, repairs or maintenance) of the premises in excess of eight per centum of the amount, if any, that the Fair Rents Board is satisfied
20 was necessarily expended by the lessor since the determination was made upon any such improvement or structural alteration.

4. The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is further amended—

Amendment
of Act No.
25, 1948.

(Part III.—
Recovery of
Possession
of Prescribed
Premises.)

- 25 (a) (i) by omitting subsection two of section seventy;
(ii) by omitting paragraph (a) of subsection (2A) of the same section;
(iii) by omitting subsection (2B) of the same section;
30 (iv) by omitting subsection five of the same section;

Sec. 70.

(Court to
consider
hardship.)

(b)

Landlord and Tenant (Amendment).

(b) by omitting section 70A;

Sec. 70A.
(Certain dwelling-houses to be subject to this Act notwithstanding section 5A.)

(c) by inserting in paragraph (a) of subsection four of section eighty-one after the word "sections" the word "twenty,";

Sec. 81.
(Persons not to interfere with use or enjoyment of premises.)

- 5 (d) (i) by inserting in subparagraph (ii) of paragraph (c) of subsection one of section eighty-three after the word "years" the words "who was, at the date of the lessee's death, a protected person as defined in section ninety-nine of this Act or in receipt of a pension under the Social Services Consolidation Act 1947 (as amended by subsequent Acts) of the Parliament of the Commonwealth";
- 10
- 15 (ii) by inserting at the end of the same subparagraph the word "or";
- (iii) by omitting from subparagraph (iii) of the same paragraph the words "a brother or sister, or the father or mother, of the lessee" and by inserting in lieu thereof the words "the father or mother of the lessee";
- 20
- (iv) by omitting from the same subparagraph the word "or" where lastly occurring;
- (v) by omitting subparagraph (iv) of the same paragraph;
- 25 (vi) by omitting from the same subsection the words "brother or sister or the father or mother, or other person" and by inserting in lieu thereof the words "or the father or mother";

(vii)

Landlord and Tenant (Amendment).

- (vii) by omitting from subsection two of the same section the symbols and word “, (iii) or (iv)” and by inserting in lieu thereof the word and symbols “or (iii)”;
- 5 (e) (i) by inserting in paragraph (b) of subsection Sec. 83A. one of section 83A after the word “years” the words “who was, at the date of the lessee’s death, a protected person as defined in section ninety-nine of this Act or in receipt of a pension under the Social Services Consolidation Act 1947 (as amended by subsequent Acts) of the Parliament of the Commonwealth”; (Protection of member of the family of deceased lessee.)
- 10
- (ii) by inserting at the end of the same paragraph the word “or”;
- 15
- (iii) by omitting from paragraph (c) of the same subsection the words “a brother or sister, or the mother or father, of the lessee” and by inserting in lieu thereof the words “the father or mother of the lessee”;
- 20
- (iv) by omitting from the same paragraph the word “or” where lastly occurring;
- (v) by omitting paragraph (d) of the same subsection;
- 25
- (vi) by omitting from the same subsection the words “brother or sister or the father or mother, or other person, as the case may be” and by inserting in lieu thereof the words “or the father or mother”;
- 30 (f) by omitting from subsection six of section eighty-six Sec. 86. the words “but no rent is fixed by subsection one or two of section fifteen of this Act in respect of those premises together with goods”. (Exclusion of premises from operation of Part III and Part V.)

Landlord and Tenant (Amendment).

5. (1) Subject to subsection two of this section, this section applies to a determination or a determination, as varied, of the fair rent of any prescribed premises that was made under the Principal Act after the sixteenth day of June, one thousand nine hundred and sixty-six and before the commencement of this Act.

Variations
of deter-
minations
of fair rent
of prescribed
premises
made after
16th June,
1966.

(2) This section does not apply to the prescribed premises known as 16 Grafton Street, Naremburn, in the State of New South Wales.

10 (3) A lessee of any prescribed premises that are the subject of a determination, or a determination, as varied, to which this section applies may, within three months after the commencement of this Act, apply—

15 (a) where the prescribed premises are not shared accommodation or are shared accommodation situated wholly outside the Metropolitan Area—to a Fair Rents Board; or

20 (b) where the prescribed premises are shared accommodation situated within or partly within and partly outside the Metropolitan Area—to the Controller,

for that determination, or that determination, as varied, to be varied or further varied in accordance with subsection four of this section.

25 (4) Where an application in respect of any prescribed premises is made to a Fair Rents Board or the Controller in accordance with the provisions of this section and the Board or the Controller, as the case may be, is satisfied—

30 (a) that the premises are the subject of a determination or a determination, as varied, to which this section applies; and

35 (b) that that determination, or that determination, as varied, included an allowance by reason of any change, since the prescribed date referred to in subsection four of section twenty of the Principal Act, as amended by this Act, or since any previous determination or variation of a determination or

since

Landlord and Tenant (Amendment).

since any earlier date whatsoever, in any economic conditions affecting the community generally or a substantial part of the community,

the Board or the Controller shall vary the fair rent of the
5 prescribed premises by reducing it by the amount that, in its
or his opinion, was included by way of that allowance.

(5) A variation of the fair rent of any prescribed premises made under subsection four of this section shall have effect as on and from the date on which the determination
10 or the determination, as varied, to which this section applies, came into force in relation to the prescribed premises and any rent of the prescribed premises paid by the lessee since that date in excess of the fair rent of those premises as varied under subsection four of this section may be recovered in an
15 action for debt in any court of competent jurisdiction by the lessee from the lessor to whom the rent was paid.

(6) Subject to this section, the provisions of Part II of the Principal Act, as amended by this Act, so far as applicable, apply, mutatis mutandis, to and in respect of
20 variations made under this section.

(7) In this section, "Principal Act" means the Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts enacted before the commencement of this Act.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1966

New South Wales



ANNO QUINTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 42, 1966.

An Act to make further provisions with respect to the fair rent of prescribed premises; for this and other purposes to amend the Landlord and Tenant (Amendment) Act, 1948, and certain other Acts; and for purposes connected therewith. [Assented to, 12th October, 1966.]

BE it enacted by the Queen'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 :—

1. (1) This Act may be cited as the "Landlord and Tenant (Amendment) Act, 1966".

(2)

Short title
and
citation.

Landlord and Tenant (Amendment).

(2) The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts and by this Act, may be cited as the Landlord and Tenant (Amendment) Act, 1948–1966.

Amendment
of Act No.
25, 1948.
(Part I.—
Preliminary.)

2. The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is amended by inserting next after subsection six of section 5A the following new subsection :—

Sec. 5A.

(Certain
premises
excluded
from operation of Act.)

(7) A concurrent lease—

- (a) granted after the commencement of the Landlord and Tenant (Amendment) Act, 1966, in respect of prescribed premises to which Part II, III, IV or V of this Act applies, shall be deemed not to be a lease; or
- (b) granted before that commencement, in respect of prescribed premises to which any such Part applied at the time the concurrent lease was granted, shall, on and from that commencement, be deemed not to be a lease,

for the purposes of subparagraph (v) of paragraph (b), paragraph (c), subparagraph (v) of paragraph (d), subparagraph (iv) of paragraph (e), subparagraph (iii) of paragraph (f) or subparagraph (iii) of paragraph (g) of subsection one, or subparagraph (iii) of paragraph (a) of subsection (1A), of this section.

Amendment
of Act No.
25, 1948.
(Part II.—
Fair Rents.)

3. The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is further amended—

Sec. 20.

(Determination of application.)

- (a) (i) by omitting from subsection one of section twenty the word “may” where firstly occurring and by inserting in lieu thereof the word “shall”;

(ii)

Landlord and Tenant (Amendment).

(ii) by inserting in the same subsection after the word "premises" where lastly occurring the words "at an amount equal to the rent of the prescribed premises at the prescribed date adjusted by such amount as the Board deems proper having regard only to the matters specified in section twenty-one of this Act or, where the prescribed premises were not leased at the prescribed date, at an amount equal to the rental value of the prescribed premises at the prescribed date adjusted in like manner";

(iii) by omitting subsection two of the same section;

(iv) by omitting from subsection three of the same section the words "as at the prescribed date is insufficient" and by inserting in lieu thereof the words "of the prescribed premises, being premises that were leased on the prescribed date, was, as at that date, insufficient";

(v) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection :—

(4) In this section, "the prescribed date", in relation to any prescribed premises, means the thirty-first day of August, one thousand nine hundred and thirty-nine or, where the prescribed premises were not in existence on that date, the date on which the erection of the premises was completed.

(b) (i) by omitting from subsection one of section Sec. 21. twenty-one of this Act the words "Subject to (Matters to be considered.) section twenty of this Act, in" and by inserting in lieu thereof the word "In";

(ii) by inserting in paragraph (e) of the same subsection after the word "rents" the words "fixed by a determination in force under this Part,";

(iii)

Landlord and Tenant (Amendment).

- (iii) by inserting at the end of paragraph (g) of the same subsection the words "or the value of any goods leased with the premises";
- (iv) by omitting paragraph (i) of the same subsection and by inserting in lieu thereof the following paragraph :—
 - (i) the conduct of the parties; and
- (v) by omitting paragraph (j) of the same subsection and by inserting in lieu thereof the following paragraph :—
 - (j) the amount, if any, that the Fair Rents Board is satisfied was necessarily expended by the lessor since the prescribed date referred to in subsection four of section twenty of this Act upon the improvement or structural alteration of the premises (but not including decoration, repairs or maintenance).
- (vi) by omitting from subsection (1A) of the same section the words "Subject to section twenty of this Act a" and by inserting in lieu thereof the word "A";
- (vii) by inserting next after the same subsection the following new subsection :—

(1AB) In determining the fair rent of any prescribed premises a Fair Rents Board may include in the fair rent an allowance in respect of agent's collecting commission or, where an agent does not collect the rent of the prescribed premises, such amount in respect of the collection of the rent as the Board deems proper.
- (viii) by inserting next after subsection (1B) of the same section the following new subsections :—
 - (1C) Where a Fair Rents Board would, but for this subsection, increase the fair rent of any prescribed premises and the Board is of
opinion

Landlord and Tenant (Amendment).

opinion that the lessee would not reasonably be able to pay the fair rent as so increased, the Board shall, in determining the amount of the increase, if any, have regard to the financial circumstances of the lessor and the lessee.

(1D) In determining or varying the fair rent of any prescribed premises, a Fair Rents Board shall not make any allowance—

- (a) based on paragraph (f) of subsection one of this section in excess of such percentage of the capital value of the prescribed premises at the prescribed date referred to in subsection four of section twenty of this Act as is equal to the difference between the rate per centum of interest charged upon overdrafts by the Commonwealth Bank of Australia, or the Commonwealth Trading Bank of Australia, as the case may be, at that prescribed date and the rate per centum of interest charged upon overdrafts by the Commonwealth Trading Bank of Australia at the date of the determination or variation; or
- (b) based on paragraph (j) of subsection one of this section in excess of eight per centum of the amount referred to in that paragraph.

(1E) In determining or varying the fair rent of any prescribed premises, a Fair Rents Board shall not make any allowance by reason of any change, since the prescribed date referred to in subsection four of section twenty of this Act or since any previous determination or variation or since any earlier

date

Landlord and Tenant (Amendment).

date whatsoever, in any economic conditions affecting the community generally or a substantial part of the community.

- (ix) by omitting from subsection two of the same section the words "paragraph (i) of";

Sec. 24A.

(Determina-
tion based
on increased
out-
goings.)

- (c) (i) by inserting at the end of subsection three of section 24A the following new paragraph :—

In making an assessment of the fair rent of any prescribed premises under this section, the Controller shall not make any allowance for any increase in the rate of interest charged upon overdrafts by the Commonwealth Trading Bank of Australia in excess of such percentage of the capital value of the prescribed premises at the prescribed date referred to in subsection four of section twenty of this Act as is equal to the difference between the rate per centum of interest charged upon overdrafts by the Commonwealth Bank of Australia, or the Commonwealth Trading Bank of Australia, as the case may be, at the date on which the existing fair rent was determined under this Part and the rate per centum of interest charged upon overdrafts by the Commonwealth Trading Bank of Australia at the date of the assessment.

- (ii) by omitting paragraph (b) of subsection seven of the same section ;

Sec. 26B.

(Determina-
tion of rent
of shared
accommoda-
tion.)

- (d) (i) by omitting from subsection six of section 26B the words "may determine the fair rent of the shared accommodation" and by inserting in lieu thereof the words "shall, subject to subsection eight of this section, determine the fair rent of the shared accommodation at such proportion as the Board deems proper of the fair rent of the prescribed premises of which the shared accommodation forms part or, where the fair rent of those prescribed premises

is

Landlord and Tenant (Amendment).

is not the subject of a determination made under this Part, of the amount that would, in the opinion of the Board, be the fair rent of those prescribed premises if they were the subject of such a determination”;

(ii) by inserting in subsection eight of the same section after the word “Act” the words “in so far as they are applicable”;

(e) (i) by omitting from subsection five of section twenty-seven the words “may determine the fair rent of the shared accommodation” and by inserting in lieu thereof the words “shall, subject to subsection seven of this section, determine the fair rent of the shared accommodation at such proportion as the Controller deems proper of the fair rent of the prescribed premises of which the shared accommodation forms part or, where the fair rent of those prescribed premises is not the subject of a determination made under this Part, of the amount that would, in the opinion of the Controller, be the fair rent of those prescribed premises if they were the subject of such a determination”;

Sec. 27.
(Determination of rent of shared accommodation.)

(ii) by inserting in subsection seven of the same section after the word “Act” the words “in so far as they are applicable”;

(f) by omitting subsection one of section thirty-one and by inserting in lieu thereof the following subsection : —

Sec. 31.
(Procedure on appeal.)

(1) The Board shall hear the appeal and shall, having regard to the provisions of subsection five of section twenty-seven of this Act, confirm the determination of the Controller and dismiss the appeal, or shall determine the fair rent at such amount as, in the opinion of the Board, should have been determined by the Controller under the provisions of this Division.

(g)

Landlord and Tenant (Amendment).

Sec. 32.
(Variation
of deter-
mination.)

- (g) (i) by omitting from paragraph (a) of subsection two of section thirty-two the words "an injustice has been occasioned by the determination" and by inserting in lieu thereof the words "the determination was incorrectly made";
- (ii) by omitting from paragraph (c) of the same subsection the words "an incorrect calculation, and by reason thereof an injustice has been occasioned by the determination" and by inserting in lieu thereof the words "a clerical error";
- (iii) by inserting at the end of the same subsection the following new paragraph :—

In varying the fair rent of any prescribed premises under this section, the Fair Rents Board shall not make any allowance based on paragraph (e) of this subsection by reason of any improvement or structural alteration (not including decoration, repairs or maintenance) of the premises in excess of eight per centum of the amount, if any, that the Fair Rents Board is satisfied was necessarily expended by the lessor since the determination was made upon any such improvement or structural alteration.

Amendment
of Act No.
25, 1948.
(Part III.—
Recovery of
Possession
of Prescribed
Premises.)

4. The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is further amended—

Sec. 70.
(Court to
consider
hardship.)

- (a) by omitting from subsection five of section seventy the words "(d) or paragraph (f)" and by inserting in lieu thereof the words "(c) or paragraph (e)";

Sec. 70A.
(Certain dwelling-
houses to be
subject to
this Act not-
withstanding
section 5A.)

- (b) by omitting from paragraph (a) of subsection one of section 70A the words "subsection two" and by inserting in lieu thereof the words "subsections two and (2A)";

(c)

Landlord and Tenant (Amendment).

- (c) by inserting in paragraph (a) of subsection four of section eighty-one after the word "sections" the word "twenty,"; Sec. 81.
(Persons not to interfere with use or enjoyment of premises.)

- (d) by omitting from subsection six of section eighty-six the words "but no rent is fixed by subsection one or two of section fifteen of this Act in respect of those premises together with goods". Sec. 86.
(Exclusion of premises from operation of Part III and Part V.)

5. (1) Subject to subsection two of this section, this section applies to a determination or a determination, as varied, of the fair rent of any prescribed premises that was made under the Principal Act after the sixteenth day of June, one thousand nine hundred and sixty-six and before the commencement of this Act. Variations of determinations of fair rent of prescribed premises made after 16th June, 1966.

(2) This section does not apply to the prescribed premises known as 16 Grafton Street, Naremburn, in the State of New South Wales.

(3) A lessee of any prescribed premises that are the subject of a determination, or a determination, as varied, to which this section applies may, within three months after the commencement of this Act, apply—

- (a) where the prescribed premises are not shared accommodation or are shared accommodation situated wholly outside the Metropolitan Area—to a Fair Rents Board; or

- (b) where the prescribed premises are shared accommodation situated within or partly within and partly outside the Metropolitan Area—to the Controller,

for that determination, or that determination, as varied, to be varied or further varied in accordance with subsection four of this section.

(4)

Landlord and Tenant (Amendment).

(4) Where an application in respect of any prescribed premises is made to a Fair Rents Board or the Controller in accordance with the provisions of this section and the Board or the Controller, as the case may be, is satisfied—

- (a) that the premises are the subject of a determination or a determination, as varied, to which this section applies; and
- (b) that that determination, or that determination, as varied, included an allowance by reason of any change, since the prescribed date referred to in subsection four of section twenty of the Principal Act, as amended by this Act, or since any previous determination or variation of a determination or since any earlier date whatsoever, in any economic conditions affecting the community generally or a substantial part of the community,

the Board or the Controller shall vary the fair rent of the prescribed premises by reducing it by the amount that, in its or his opinion, was included by way of that allowance.

(5) A variation of the fair rent of any prescribed premises made under subsection four of this section shall have effect as on and from the date on which the determination or the determination, as varied, to which this section applies, came into force in relation to the prescribed premises and any rent of the prescribed premises paid by the lessee since that date in excess of the fair rent of those premises as varied under subsection four of this section may be recovered in an action for debt in any court of competent jurisdiction by the lessee from the lessor to whom the rent was paid or may be offset by the lessee against any rent payable by him to the lessor in respect of those premises.

Any amount offset by a lessee under this subsection shall, for the purposes of this Act, be deemed to have been paid by him to the lessor.

(6) Subject to this section, the provisions of Part II of the Principal Act, as amended by this Act, so far as applicable, apply, mutatis mutandis, to and in respect of variations made under this section.

Landlord and Tenant (Amendment).

(7) In this section, "Principal Act" means the Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts enacted before the commencement of this Act.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1966

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.

ALLAN PICKERING,
Clerk of the Legislative Assembly

*Legislative Assembly Chamber,
Sydney, 11 October, 1966.*

New South Wales



ANNO QUINTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 42, 1966.

An Act to make further provisions with respect to the fair rent of prescribed premises; for this and other purposes to amend the Landlord and Tenant (Amendment) Act, 1948, and certain other Acts; and for purposes connected therewith. [Assented to, 12th October, 1966.]

BE it enacted by the Queen'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 :—

1. (1) This Act may be cited as the "Landlord and Tenant (Amendment) Act, 1966".

Short title
and
citation.
(2)

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. R. CRAWFORD,
Chairman of Committees of the Legislative Assembly

Landlord and Tenant (Amendment).

(2) The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts and by this Act, may be cited as the Landlord and Tenant (Amendment) Act, 1948-1966.

Amendment
of Act No.
25, 1948.
(Part I.—
Preliminary.)

Sec. 5A.

(Certain
premises
excluded
from opera-
tion of Act.)

2. The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is amended by inserting next after subsection six of section 5A the following new subsection :—

(7) A concurrent lease—

- (a) granted after the commencement of the Landlord and Tenant (Amendment) Act, 1966, in respect of prescribed premises to which Part II, III, IV or V of this Act applies, shall be deemed not to be a lease; or
- (b) granted before that commencement, in respect of prescribed premises to which any such Part applied at the time the concurrent lease was granted, shall, on and from that commencement, be deemed not to be a lease,

for the purposes of subparagraph (v) of paragraph (b), paragraph (c), subparagraph (v) of paragraph (d), subparagraph (iv) of paragraph (e), subparagraph (iii) of paragraph (f) or subparagraph (iii) of paragraph (g) of subsection one, or subparagraph (iii) of paragraph (a) of subsection (1A), of this section.

Amendment
of Act No.
25, 1948.
(Part II.—
Fair Rents.)

Sec. 20.

(Determina-
tion of
application.)

3. The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is further amended—

- (a) (i) by omitting from subsection one of section twenty the word “may” where firstly occurring and by inserting in lieu thereof the word “shall”;

(ii)

Landlord and Tenant (Amendment).

- (ii) by inserting in the same subsection after the word "premises" where lastly occurring the words "at an amount equal to the rent of the prescribed premises at the prescribed date adjusted by such amount as the Board deems proper having regard only to the matters specified in section twenty-one of this Act or, where the prescribed premises were not leased at the prescribed date, at an amount equal to the rental value of the prescribed premises at the prescribed date adjusted in like manner";
- (iii) by omitting subsection two of the same section;
- (iv) by omitting from subsection three of the same section the words "as at the prescribed date is insufficient" and by inserting in lieu thereof the words "of the prescribed premises, being premises that were leased on the prescribed date, was, as at that date, insufficient";
- (v) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection : —

(4) In this section, "the prescribed date", in relation to any prescribed premises, means the thirty-first day of August, one thousand nine hundred and thirty-nine or, where the prescribed premises were not in existence on that date, the date on which the erection of the premises was completed.

- (b) (i) by omitting from subsection one of section Sec. 21. twenty-one of this Act the words "Subject to (Matters to be considered.) section twenty of this Act, in" and by inserting in lieu thereof the word "In";
- (ii) by inserting in paragraph (e) of the same subsection after the word "rents" the words "fixed by a determination in force under this Part,";

(iii)

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- (iii) by inserting at the end of paragraph (g) of the same subsection the words "or the value of any goods leased with the premises";
- (iv) by omitting paragraph (i) of the same subsection and by inserting in lieu thereof the following paragraph :—
 - (i) the conduct of the parties; and
- (v) by omitting paragraph (j) of the same subsection and by inserting in lieu thereof the following paragraph :—
 - (j) the amount, if any, that the Fair Rents Board is satisfied was necessarily expended by the lessor since the prescribed date referred to in subsection four of section twenty of this Act upon the improvement or structural alteration of the premises (but not including decoration, repairs or maintenance).
- (vi) by omitting from subsection (1A) of the same section the words "Subject to section twenty of this Act a" and by inserting in lieu thereof the word "A";
- (vii) by inserting next after the same subsection the following new subsection :—
 - (1AB) In determining the fair rent of any prescribed premises a Fair Rents Board may include in the fair rent an allowance in respect of agent's collecting commission or, where an agent does not collect the rent of the prescribed premises, such amount in respect of the collection of the rent as the Board deems proper.
- (viii) by inserting next after subsection (1B) of the same section the following new subsections :—
 - (1C) Where a Fair Rents Board would, but for this subsection, increase the fair rent of any prescribed premises and the Board is of opinion

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opinion that the lessee would not reasonably be able to pay the fair rent as so increased, the Board shall, in determining the amount of the increase, if any, have regard to the financial circumstances of the lessor and the lessee.

(1D) In determining or varying the fair rent of any prescribed premises, a Fair Rents Board shall not make any allowance—

- (a) based on paragraph (f) of subsection one of this section in excess of such percentage of the capital value of the prescribed premises at the prescribed date referred to in subsection four of section twenty of this Act as is equal to the difference between the rate per centum of interest charged upon overdrafts by the Commonwealth Bank of Australia, or the Commonwealth Trading Bank of Australia, as the case may be, at that prescribed date and the rate per centum of interest charged upon overdrafts by the Commonwealth Trading Bank of Australia at the date of the determination or variation; or
- (b) based on paragraph (j) of subsection one of this section in excess of eight per centum of the amount referred to in that paragraph.

(1E) In determining or varying the fair rent of any prescribed premises, a Fair Rents Board shall not make any allowance by reason of any change, since the prescribed date referred to in subsection four of section twenty of this Act or since any previous determination or variation or since any earlier

date

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date whatsoever, in any economic conditions affecting the community generally or a substantial part of the community.

- (ix) by omitting from subsection two of the same section the words "paragraph (i) of";

Sec. 24A.
(Determina-
tion based
on increased
out-
goings.)

- (c) (i) by inserting at the end of subsection three of section 24A the following new paragraph : —

In making an assessment of the fair rent of any prescribed premises under this section, the Controller shall not make any allowance for any increase in the rate of interest charged upon overdrafts by the Commonwealth Trading Bank of Australia in excess of such percentage of the capital value of the prescribed premises at the prescribed date referred to in subsection four of section twenty of this Act as is equal to the difference between the rate per centum of interest charged upon overdrafts by the Commonwealth Bank of Australia, or the Commonwealth Trading Bank of Australia, as the case may be, at the date on which the existing fair rent was determined under this Part and the rate per centum of interest charged upon overdrafts by the Commonwealth Trading Bank of Australia at the date of the assessment.

- (ii) by omitting paragraph (b) of subsection seven of the same section ;

Sec. 26B.
(Determina-
tion of rent
of shared
accommoda-
tion.)

- (d) (i) by omitting from subsection six of section 26B the words "may determine the fair rent of the shared accommodation" and by inserting in lieu thereof the words "shall, subject to subsection eight of this section, determine the fair rent of the shared accommodation at such proportion as the Board deems proper of the fair rent of the prescribed premises of which the shared accommodation forms part or, where the fair rent of those prescribed premises

is

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is not the subject of a determination made under this Part, of the amount that would, in the opinion of the Board, be the fair rent of those prescribed premises if they were the subject of such a determination”;

- (ii) by inserting in subsection eight of the same section after the word “Act” the words “in so far as they are applicable”;
- (e) (i) by omitting from subsection five of section twenty-seven the words “may determine the fair rent of the shared accommodation” and by inserting in lieu thereof the words “shall, subject to subsection seven of this section, determine the fair rent of the shared accommodation at such proportion as the Controller deems proper of the fair rent of the prescribed premises of which the shared accommodation forms part or, where the fair rent of those prescribed premises is not the subject of a determination made under this Part, of the amount that would, in the opinion of the Controller, be the fair rent of those prescribed premises if they were the subject of such a determination”;
- (ii) by inserting in subsection seven of the same section after the word “Act” the words “in so far as they are applicable”;
- (f) by omitting subsection one of section thirty-one and by inserting in lieu thereof the following subsection : —
 - (1) The Board shall hear the appeal and shall, having regard to the provisions of subsection five of section twenty-seven of this Act, confirm the determination of the Controller and dismiss the appeal, or shall determine the fair rent at such amount as, in the opinion of the Board, should have been determined by the Controller under the provisions of this Division.

Sec. 27.
(Determina-
tion of rent
of shared
accommoda-
tion.)

Sec. 31.
(Procedure
on appeal.)

(g)

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Sec. 32.
(Variation
of deter-
mination.)

- (g) (i) by omitting from paragraph (a) of subsection two of section thirty-two the words "an injustice has been occasioned by the determination" and by inserting in lieu thereof the words "the determination was incorrectly made";
- (ii) by omitting from paragraph (c) of the same subsection the words "an incorrect calculation, and by reason thereof an injustice has been occasioned by the determination" and by inserting in lieu thereof the words "a clerical error";
- (iii) by inserting at the end of the same subsection the following new paragraph : —

In varying the fair rent of any prescribed premises under this section, the Fair Rents Board shall not make any allowance based on paragraph (e) of this subsection by reason of any improvement or structural alteration (not including decoration, repairs or maintenance) of the premises in excess of eight per centum of the amount, if any, that the Fair Rents Board is satisfied was necessarily expended by the lessor since the determination was made upon any such improvement or structural alteration.

Amendment
of Act No.
25, 1948.

(Part III.—
Recovery of
Possession
of Prescribed
Premises.)

Sec. 70.
(Court to
consider
hardship.)

Sec. 70A.
(Certain
dwelling-
houses to be
subject to
this Act not-
withstanding
section 5A.)

4. The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is further amended—

- (a) by omitting from subsection five of section seventy the words "(d) or paragraph (f)" and by inserting in lieu thereof the words "(c) or paragraph (e)";
- (b) by omitting from paragraph (a) of subsection one of section 70A the words "subsection two" and by inserting in lieu thereof the words "subsections two and (2A)";
- (c)

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- (c) by inserting in paragraph (a) of subsection four of section eighty-one after the word "sections" the word "twenty,"; (Persons not to interfere with use or enjoyment of premises.)

- (d) by omitting from subsection six of section eighty-six the words "but no rent is fixed by subsection one or two of section fifteen of this Act in respect of those premises together with goods". (Exclusion of premises from operation of Part III and Part V.)

5. (1) Subject to subsection two of this section, this section applies to a determination or a determination, as varied, of the fair rent of any prescribed premises that was made under the Principal Act after the sixteenth day of June, one thousand nine hundred and sixty-six and before the commencement of this Act. Variations of determinations of fair rent of prescribed premises made after 16th June, 1966.

(2) This section does not apply to the prescribed premises known as 16 Grafton Street, Naremburn, in the State of New South Wales.

(3) A lessee of any prescribed premises that are the subject of a determination, or a determination, as varied, to which this section applies may, within three months after the commencement of this Act, apply—

- (a) where the prescribed premises are not shared accommodation or are shared accommodation situated wholly outside the Metropolitan Area—to a Fair Rents Board; or
- (b) where the prescribed premises are shared accommodation situated within or partly within and partly outside the Metropolitan Area—to the Controller,

for that determination, or that determination, as varied, to be varied or further varied in accordance with subsection four of this section.

(4)

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(4) Where an application in respect of any prescribed premises is made to a Fair Rents Board or the Controller in accordance with the provisions of this section and the Board or the Controller, as the case may be, is satisfied—

- (a) that the premises are the subject of a determination or a determination, as varied, to which this section applies; and
- (b) that that determination, or that determination, as varied, included an allowance by reason of any change, since the prescribed date referred to in subsection four of section twenty of the Principal Act, as amended by this Act, or since any previous determination or variation of a determination or since any earlier date whatsoever, in any economic conditions affecting the community generally or a substantial part of the community,

the Board or the Controller shall vary the fair rent of the prescribed premises by reducing it by the amount that, in its or his opinion, was included by way of that allowance.

(5) A variation of the fair rent of any prescribed premises made under subsection four of this section shall have effect as on and from the date on which the determination or the determination, as varied, to which this section applies, came into force in relation to the prescribed premises and any rent of the prescribed premises paid by the lessee since that date in excess of the fair rent of those premises as varied under subsection four of this section may be recovered in an action for debt in any court of competent jurisdiction by the lessee from the lessor to whom the rent was paid or may be offset by the lessee against any rent payable by him to the lessor in respect of those premises.

Any amount offset by a lessee under this subsection shall, for the purposes of this Act, be deemed to have been paid by him to the lessor.

(6) Subject to this section, the provisions of Part II of the Principal Act, as amended by this Act, so far as applicable, apply, mutatis mutandis, to and in respect of variations made under this section.

(7)

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(7) In this section, "Principal Act" means the Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts enacted before the commencement of this Act.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 12th October, 1966.*

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