



NEW ZEALAND

ANALYSIS

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| <p>Title.</p> <p>1. Short Title.</p> <p style="text-align: center;">PART I</p> <p style="text-align: center;">GENERAL AMENDMENTS</p> <p>2. Basic rent not affected by variations in tenancies as to furniture, &c., or by subletting.</p> <p>3. Tenancy registers to be kept by landlords.</p> <p>4. Inspector of Factories may appear on applications to fix fair rent.</p> <p>5. Offence to demand or accept rent irrecoverable under principal Act.</p> <p>6. No fine or premium to be chargeable for tenancy or renewal or transfer. Repeal.</p> <p>7. Recovery of possession for occupation by one or more of several joint landlords.</p> <p>8. Recovery of possession of dwellinghouse for serviceman who vacated it to become a serviceman.</p> <p>9. Cases in which subletting deemed to be consented to by landlord.</p> | <p>10. Application of principal Act to occupation of premises by one or more persons for residential purposes, &c. Repeal.</p> <p>11. Application of principal Act where meals or food provided. Repeal.</p> <p>12. As to hardship caused to other persons by ejection of tenant.</p> <p>13. Modifying absolute protection of serviceman tenant.</p> <p style="text-align: center;">PART II</p> <p style="text-align: center;">LETTING OF UNOCCUPIED HOUSES</p> <p>14. Interpretation.</p> <p>15. Local authorities to require owners of unoccupied houses to let them.</p> <p>16. Appeals from notices.</p> <p>17. On default by owner, house may be let by State Advances Corporation.</p> <p>18. Rent to be paid to owner, less commission and expenses.</p> <p>19. House may be handed back to owner.</p> <p>20. Service of notices.</p> <p>21. Power to enter and inspect.</p> <p>22. Offences.</p> |
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1947, No. 62

AN ACT to amend the Fair Rents Act, 1936. Title.

[27th November, 1947

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Fair Rents Amendment Act, 1947, and shall be read together with and deemed part of the Fair Rents Act, 1936 (hereinafter referred to as the principal Act). Short Title.
1936, No. 14

PART I

GENERAL AMENDMENTS

Basic rent not affected by variations in tenancies as to furniture, &c., or by subletting.

2. (1) For the purpose of defining the basic rent a house or part of a house let as a separate dwelling shall be deemed to be and always to have been the same dwellinghouse, whether or not any furniture is let therewith, and whether or not the tenant has the right to the use in common with any other person of any other part of the house or building or premises.

1942, No. 19

(2) Where immediately before the passing of this Act any dwellinghouse had a basic rent that is different from its first basic rent determined in accordance with section four of the Fair Rents Amendment Act, 1942, that first basic rent shall be deemed to be restored, and the basic rent in force on the passing of this Act shall cease to be the basic rent, but shall, subject to section eight of the principal Act, be deemed to be the fair rent of the dwellinghouse as if it had been fixed for a period of one year from the passing of this Act by order of a Magistrate under section seven of the principal Act.

(3) The basic rent of any dwellinghouse as determined in accordance with section four of the Fair Rents Amendment Act, 1942, and this section shall be the basic rent for the purposes of every subletting of the dwellinghouse.

(4) Where on the passing of this Act any dwellinghouse is sublet at a rent in excess of the basic rent, that rent shall, subject to section eight of the principal Act, be deemed to be the fair rent of the dwellinghouse for the purposes of the subletting as if it had been fixed for a period of one year from the passing of this Act by order of a Magistrate under section seven of the principal Act.

Tenancy registers to be kept by landlords.

3. (1) Where any dwellinghouse was let on the first day of September, nineteen hundred and forty-two, or at any time between that date and the passing of this Act, or is let at any time after the passing of this Act, the landlord shall keep or cause to be kept in accordance with this section a register (hereinafter referred to as a tenancy register) showing in respect of each tenancy of the dwellinghouse the following particulars:—

(a) The description of the premises:

- (b) The name of each tenant, with the dates of the commencement and the termination of his tenancy:
 - (c) The rent payable by each tenant and the date and particulars of any alteration thereof:
 - (d) The basic rent of the dwellinghouse:
 - (e) Any rent deemed to be the fair rent under section two of this Act:
 - (f) Every fair rent fixed for the dwellinghouse in respect of any period wholly or partly after the first day of September, nineteen hundred and forty-two, and the dates on which it takes effect and ceases to have effect.
- (2) Every tenancy register shall be completed as far as possible forthwith after the passing of this Act or the commencement of the tenancy, whichever is the later, and any further entry required by this section to be made therein shall be made as soon as possible after the occurrence to which it relates.
- (3) Every entry in any tenancy register shall be admissible in evidence.
- (4) Every landlord shall, upon demand, produce every tenancy register required to be kept by him to a Magistrate or to an Inspector of Factories, or allow it to be inspected by any tenant of the dwellinghouse or his solicitor.
- (5) Where any person purchases or acquires or otherwise becomes entitled to the estate or interest of the landlord of any dwellinghouse that has been let as mentioned in subsection one of this section, it shall be the duty of the old landlord or his personal representative, or the person transferring the estate or interest, to transfer the tenancy register to the new landlord, and it shall be the duty of the new landlord to acquire the register accordingly and to comply with the provisions of this section in respect thereof as from the date from which he becomes entitled to that estate or interest.
- (6) Where any dwellinghouse that has been let as mentioned in subsection one of this section ceases to be let, the provisions of this section shall continue to apply to the landlord or his successor in title for the time being as if he were still a landlord.

(7) Every person who fails to comply in any respect with the provisions of this section, or makes or causes to be made in any tenancy register any false entry, commits an offence against the principal Act.

(8) Every register kept under Regulation twenty-five of the Economic Stabilization Emergency Regulations 1942 in respect of any dwellinghouse shall enure for the purposes of this section as if it had originated under this section, and accordingly shall, where necessary, be deemed to have so originated.

(9) It shall not be necessary for a tenancy register to be kept in respect of any dwellinghouse let by or on behalf of the Crown, but in every such case a memorandum showing the particulars specified in subsection one of this section shall be prepared on application by the tenant, and subsections three and four of this section shall apply to every such memorandum as if it were a tenancy register.

Serial number
1944/36
(Reprint).

Inspector of
Factories may
appear on
applications to
fix fair rent.

4. (1) Any Inspector of Factories may appear and be heard and adduce evidence on the hearing of any application to a Magistrate to fix the fair rent of any dwellinghouse.

(2) Where any such application is made after the passing of this Act the applicant shall, at least seven clear days before the day fixed for the hearing, post or deliver notice thereof to the office of the Inspector of Factories nearest to the Court in which the application is made.

Offence to
demand or
accept rent
irrecoverable
under principal
Act.

5. Every person commits an offence against the principal Act who stipulates for or demands or accepts for himself or for any other person on account of the rent of any dwellinghouse any sum that is irrecoverable by virtue of the principal Act.

No fine or
premium to be
chargeable
for tenancy or
renewal or
transfer.

6. (1) Every person commits an offence against this section who—

(a) In consideration of the grant, renewal, termination, or continuance of a tenancy of any dwellinghouse, requires or accepts, whether from the tenant or from any outgoing tenant or incoming tenant, any fine, premium, or other sum in addition to the rent:

(b) Stipulates for or demands or accepts, for himself or for any other person, any bonus, fine, premium, or other like sum in consideration of obtaining or offering to obtain or doing anything for the purpose of obtaining any dwellinghouse for the occupation of any other person:

(c) In consideration of the transfer of a tenancy of any dwellinghouse (whether directly, or by means of the creation of a new tenancy, or otherwise), in a case to which Part III of the Servicemen's Settlement and Land Sales Act, 1943, does not apply, requires or accepts from the new tenant any sum other than the rent, except such sum (if any) as may be previously approved for the purposes of this section by an Inspector of Factories: 1943, No. 16

(d) Stipulates for or demands or accepts, as a condition of the tenancy or the transfer of the tenancy of any dwellinghouse, payment for the furniture or fixtures or other effects of the dwellinghouse, or for any other chattels, of any sum in excess of the fair selling value thereof.

(2) All moneys received by any person in contravention of this section may at any time within twelve months after the date of payment be recovered by or on behalf of the person by whom they were paid as a debt due to him by the person who received the payment, and may, without prejudice to any other mode of recovery, be deducted from any rent that may be payable by the creditor to the debtor within that period of twelve months.

(3) This section is in substitution for section eleven of the principal Act, and that section is hereby accordingly repealed. Repeal.

7. Section thirteen of the principal Act is hereby amended as follows:—

(a) By omitting from paragraph (d) of subsection one the words "for his", and substituting the words "or by one or more of several joint landlords for his or their":

Recovery of possession for occupation by one or more of several joint landlords.

(b) By omitting from paragraph (f) of subsection one the words "for his", and substituting the words "or by one or more of several joint purchasers for his or their".

Recovery of possession of dwellinghouse for serviceman who vacated it to become a serviceman.
1939, No. 43

8. (1) Section thirteen of the principal Act (as amended by subsection one of section seven of the Fair Rents Amendment Act, 1939), is hereby further amended by adding to subsection one the following paragraph:—

“(j) That the premises are reasonably required for occupation as a dwellinghouse by a serviceman as defined for the purposes of this Act, and that that serviceman has occupied the premises as a dwellinghouse until he vacated them for the purpose of serving as a serviceman, whether or not his wife or any of his dependants has continued to occupy the premises for any period thereafter.”

(2) Section fifteen of the principal Act is hereby amended by inserting, after subsection three, the following subsection:—

“(3A) Where an order for possession is made upon the ground defined in paragraph (j) of subsection one of section thirteen hereof, or where possession is obtained by a representation to the effect that possession is required on that ground, neither the landlord nor the serviceman shall let the dwellinghouse, or permit any person other than the serviceman, his wife, family, and domestic servants to occupy the dwellinghouse, or sell or make any agreement for the sale of the dwellinghouse, for a period of six months after the date when possession is obtained, unless he shall have first obtained an authorizing order of a Magistrate under subsection five hereof:

“Provided that if the dwellinghouse contains more rooms than are reasonably required for the occupation of the serviceman and his wife, family, and domestic servants, the letting of any rooms that are not so required shall not be deemed to be in contravention of this subsection.”

(3) Section fifteen of the principal Act is hereby further amended as follows:—

(a) By inserting in subsection four, after the words “or subsection three”, the words “or subsection three A”:

(b) By inserting in subsection five, after the words “or subsection three”, the words “or subsection three A”.

9. (1) Section seven of the Fair Rents Amendment Act, 1942, is hereby amended by repealing paragraphs (a), (b), and (c) of subsection two, and substituting the following paragraphs:—

Cases in which subletting deemed to be consented to by landlord. 1942, No. 19

“(a) Where the dwellinghouse forms part of premises held by the tenant at the commencement of the sub-tenancy and those premises were originally designed and constructed for the purpose of being let as two or more separate flats or apartments:

“(b) Where the dwellinghouse forms part of premises held by the tenant at the commencement of the sub-tenancy, and those premises at the commencement of his tenancy were let as two or more separate flats or apartments or had been adapted for the purpose of being so let:

“(c) Where the dwellinghouse forms part of premises held by the tenant at the commencement of the sub-tenancy, and those premises had during his tenancy been adapted by the landlord or with his consent for the purpose of being let as two or more separate flats or apartments:”.

(2) The said section seven is hereby further amended by inserting, after subsection two, the following subsection:—

“(2A) For the purposes of subsection two of this section, where the tenant at the commencement of the sub-tenancy holds two or more parts of any premises under separate tenancies he shall be deemed to hold them under one tenancy commencing on the date on which the earliest of those tenancies commenced.”

Application of principal Act to occupation of premises by one or more persons for residential purposes, &c.

10. (1) Notwithstanding anything in the principal Act, where any person is granted or two or more persons are jointly or severally granted the right to occupy for residential purposes any premises that form part of a house or building, whether or not the owner provides any services for that person or those persons, then for the purposes of the principal Act the premises shall be deemed to be a dwellinghouse, and that person or those persons shall be deemed to occupy the premises as tenant or tenants under a tenancy subject in all respects to the principal Act, and where several amounts are payable by two or more persons the total of those amounts shall be deemed to be the rent of the premises.

(2) No person who occupies any premises by virtue of his being employed by the person from whom he holds the premises, and no person claiming through or under any such employed person, shall be deemed by virtue of this section to be a tenant of the premises.

Repeal.
1946, No. 40

(3) This section is in substitution for section twenty-seven of the Statutes Amendment Act, 1946, and that section is hereby accordingly repealed.

Application of principal Act where meals or food provided

11. (1) Notwithstanding anything in the principal Act, where any premises that form part of any house or building are let to a tenant for residential purposes, or are deemed by virtue of the last preceding section to be occupied under a tenancy, and the landlord provides for the tenant any meals or food, the application of the principal Act to the premises as a dwellinghouse shall be excluded if the value of the meals or food or the cost thereof to the landlord (whichever is the less) forms a substantial proportion of the total amount payable by the tenant to the landlord as rent or otherwise in respect of the tenancy, but shall not in any other case be excluded by reason of the provision of the meals or food.

Repeal.
1946, No. 40

(2) This section is in substitution for section twenty-eight of the Statutes Amendment Act, 1946, and that section is hereby accordingly repealed.

As to hardship caused to other persons by ejection of tenant.

12. Section sixty-three of the Finance Act, 1937, is hereby amended by inserting in paragraph (b) of subsection one, after the word "tenant", the words "or any other person".

13. The provisions of subsection two of section ten of the Fair Rents Amendment Act, 1942, shall not apply with respect to any dwellinghouse if the tenant is ordinarily resident in another dwellinghouse.

Modifying
absolute
protection of
serviceman
tenant.
1942, No. 19

PART II

LETTING OF UNOCCUPIED HOUSES

14. In this Part of this Act, unless the context otherwise requires,—

“ Board ” means the Board of Management of the State Advances Corporation of New Zealand:

“ House ” means any building or any part of a building that is constructed or adapted for use as a separate dwelling; but does not include—

(a) Any dwelling in which the owner or tenant thereof ordinarily resides and which is his permanent home; or

(b) Any dwelling that is ordinarily used for holiday purposes only:

“ Local authority ” means a City Council, a Borough Council, the Board of a town district not forming part of a county, a County Council, or the Board of a road district in a county in which the Counties Act, 1920, is suspended or is not in force:

“ Owner ”, in relation to any house, means the person who for the time being is entitled to the rack-rent thereof or would be so entitled if the house were let to a tenant at a rack-rent.

15. (1) Where any local authority is satisfied that any house within the district of the local authority is unoccupied and has for a period of twenty-eight days or more been unoccupied or only occasionally occupied, the local authority, if it deems it necessary having regard to the need for housing accommodation and other relevant considerations, shall cause to be served on the owner of the house a notice in writing requiring him to let the house for immediate occupation as a dwelling, either furnished or unfurnished at the option of the owner.

Interpretation.

See Reprint
of Statutes,
Vol. V, p. 180

Local
authorities to
require owners
of unoccupied
houses to let
them.

(2) Where the owner of a house has died (whether before or after the passing of this Act) no notice shall be given under this section in respect of that house until after the expiration of one year from the date of the death of the owner.

Appeals from notices.

16. (1) Within twenty-eight days after any notice under the last preceding section is served on the owner of any house, the owner or any other person having an estate or interest in the land on which the house is situated may give to the local authority notice of appeal.

(2) Every such appeal shall, unless the Court otherwise orders, be heard and determined in the Magistrate's Court nearest to the house concerned before a Magistrate alone, and the Court, for the purposes of hearing and determining the appeal, shall have all the powers vested in it in its ordinary jurisdiction.

(3) The procedure for the institution, hearing, and determination of the appeal shall be in accordance with regulations to be made under the principal Act, and, subject to those regulations or so far as they do not extend, shall be in accordance with the ordinary procedure of the Court.

(4) On any such appeal the Court may award such costs as it deems just either in favour of or against the appellant.

(5) On any such appeal the Court, having regard to all the circumstances of the case, shall give such decision as it deems just and equitable, and may cancel the notice or confirm it, and in the latter case may extend the time for complying with the notice. Subject to the right of appeal as hereinafter provided, the decision of the Court shall be final.

(6) Within seven days after the day on which any decision is given by the Magistrate's Court on any appeal under this section, the appellant or the local authority may appeal from the decision to the Supreme Court.

(7) The provisions of subsections two to five of this section shall, so far as they are applicable and with the necessary modifications, apply with respect to

appeals to the Supreme Court under this section, and the decision of the Court on any such appeal shall be final.

17. (1) Where a notice is served on the owner of any house under section fifteen of this Act and is not cancelled on appeal, and the owner fails or refuses to comply with the requirements of the notice within twenty-eight days after the service of the notice or, in the case of an appeal, within fourteen days after the determination of the appeal, or such longer period as the Court may allow, the local authority shall forthwith notify the Board of Management of the State Advances Corporation of New Zealand in writing, giving such particulars as may be prescribed by regulations or required by the Board.

On default by owner, house may be let by State Advances Corporation.

(2) The house shall thereupon become subject to Part I of the Housing Act, 1919, as if it had been acquired on behalf of His Majesty and set apart for the purposes of Part I of that Act, and, subject to the provisions of this Part of this Act, all enactments relating to the powers, functions, duties, and obligations of the State Advances Corporation of New Zealand and of the Board shall, as far as they are applicable and with any necessary modifications, apply accordingly.

See Reprint of Statutes, Vol. III, p. 798

(3) Nothing in this Part of this Act shall be deemed to authorize the Board to dispose of any such house by way of sale.

(4) The letting of any house by the Board under this Part of this Act shall be deemed to be a letting by the owner of the house, and shall take effect notwithstanding any other lease or letting or agreement to lease or let, and any such other lease, letting, or agreement shall, in so far as it is inconsistent with the letting by the Board, be of no force or effect from the date of commencement of the letting of the house under this Part of this Act.

(5) Unless the owner notifies the Board to the contrary, the letting of any house by the Board under this Part of this Act may include any furniture for the time being in the house.

(6) If the owner of any such house fails to remove therefrom any furniture or other chattels that are not to be let with the house within such time as the Board may allow in that behalf, the Board may remove the chattels and store them at the risk and expense of the owner of the house in such place as the Board thinks fit.

(7) In exercising its powers and functions under this section, the Board shall as far as practicable give effect to any reasonable representations made to it by the owner with respect to the choice of a tenant.

Rent to be paid to owner, less commission and expenses.

18. (1) The Board shall pay to the owner of any such house rent for the period during which it is subject to Part I of the Housing Act, 1919, less such commission thereon as is fixed by the Board (not exceeding five per centum) and less any moneys lawfully expended by the Board in respect of the house or any chattels found therein, whether for rates, insurance, rent, or repairs or otherwise.

(2) The rent so to be paid to the owner of any such house for any period shall be equal to the basic rent of the house under the principal Act, or, if a fair rent for the house has been fixed under that Act, shall be equal to the fair rent or, as the case may be, the latest fair rent so fixed.

(3) Subject to the foregoing provisions of this section, all rent received by the Board for any such house while it is subject to Part I of the Housing Act, 1919, shall be the property of His Majesty, and shall be paid into the Housing Account.

House may be handed back to owner.

19. (1) Subject to the provisions of this section, the Board may at any time, by notice in writing served on the owner, declare that any such house shall cease to be subject to Part I of the Housing Act, 1919, on a date to be specified in that behalf in the notice, and every such notice shall have effect according to its tenor.

(2) A notice shall not be given under this section unless the Board is satisfied that the house will be occupied as a dwelling, or that the house is not suitable or adaptable for letting or is otherwise unlettable.

(3) Except by arrangement with the owner, a notice shall not be given under this section at any time during the continuance of a tenancy created by the Board under this Part of this Act.

20. (1) Any notice required to be served on any person for the purposes of this Part of this Act may be served by delivering it to that person. Service of notices.

(2) If the person is absent from New Zealand, the notice may be delivered as aforesaid to his agent in New Zealand. If he is deceased, the notice or document may be delivered as aforesaid to his personal representatives.

(3) If the person is not known, or is absent from New Zealand and has no known agent in New Zealand, or is deceased and has no personal representatives or if for any other reason it is not practicable to deliver the notice personally the notice shall be delivered in such manner as may be directed by a Magistrate.

21. Any person authorized in that behalf by any local authority, either generally or specially, may at any reasonable hour in the daytime enter upon any premises and inspect the same for the purposes of this Part of this Act. Power to enter and inspect.

22. (1) Every person commits an offence against the principal Act who— Offences.

(a) Resists, obstructs, deceives, or attempts to deceive any local authority, Court, or person who is exercising or attempting to exercise any power or function under this Part of this Act:

(b) Being a tenant of any house by virtue of the letting thereof by the Board under this Part of this Act (whether or not a notice has been given under section nineteen of this Act), uses the premises otherwise than as a private dwelling, or defaces or injures the premises, or fails to keep or leave the premises in good repair, reasonable wear and tear and damage by fire excepted.

(2) In any proceedings for an offence under paragraph (b) of the last preceding subsection, the Court, on application by or on behalf of the owner, may assess the damage, if any, suffered by him, and may—

(a) Order that any fine or part thereof shall be paid to the owner; or

(b) Order that, in addition to or instead of any fine, the defendant shall pay to the owner the assessed amount of any damage suffered by him by reason of the offence.

(3) An order made under subsection two of this section shall be sufficient authority to the Clerk of the Court to pay the amount so ordered to be paid:

Provided that in no case shall the total amount paid exceed the amount recovered from the defendant.
