

TENANCY AMENDMENT (No. 2) BILL

EXPLANATORY NOTE

THIS Bill makes further amendments to the Tenancy Act 1948.

Clause 2 provides that the amount of any premium paid for a tenancy or renewal of a tenancy of any business property may be taken into account in fixing the fair rent, to the extent that the Court deems fair and equitable, having regard to the conditions of the tenancy. Section 20 of the principal Act provides that in the case of certain leases where a premium was lawfully paid before 15 December 1942 the premium is to be taken into account as if it were part of the rent and spread over the term from day to day. As section 7 of the Tenancy Amendment Act 1950 now permits premiums for all tenancies of business properties, this clause makes general provision in place of the original section 20, which is to be repealed by *subclause (3)*.

Clause 3 provides that where a business property and a dwellinghouse are let together the fair rent of each portion is to be assessed separately, and the total is to be the fair rent of the whole of the premises.

Clause 4 provides in effect that, where the fair rent of a dwellinghouse or business property is fixed by agreement made between the landlord and tenant with the approval of a Rents Officer, it is to continue in force for all subsequent tenancies until a new fair rent is fixed by order of the Court or a subsequent agreement is made with the approval of a Rents Officer.

Clause 5 enables a landlord to obtain possession of part of his own house which has been let as a separate dwelling where he requires the premises in order to enable his own or his wife's aged parents to live with him, or where the landlord is an aged parent and requires to have a son or daughter or son-in-law or daughter-in-law to live with him. Applications under this provision will be determined by the Court in its discretion, having regard to the relative hardship of the parties. *Subclause (2)* applies the provisions of section 30 of the principal Act, prohibiting the landlord from reletting or selling the premises within two years after recovering possession, unless he first obtains an authorizing order from a Magistrate's Court.

Clause 6 enables the administrator of the estate of a deceased landlord to obtain possession of a business property or dwellinghouse in order to wind up the estate, if he provides suitable alternative accommodation for the tenant. In such cases the question of hardship is not to arise.

Clause 7 provides that possession of a dwellinghouse or business property may be recovered from a tenant on the ground that the premises are reasonably required by the landlord for removal to another site, if the Court thinks fit to make an order after being satisfied that alternative accommodation is or will be available for the tenant.

Clause 8: Section 26 of the principal Act enables the Court to authorize a landlord of a dwellinghouse to determine the tenancy in respect of any surplus land required by the landlord for building purposes. This clause extends the powers of the Court so that it may authorize surplus land to be re-occupied by the landlord for sale for building purposes, as well as for building on it himself.

Clause 9 requires a landlord who has obtained possession of a dwellinghouse or business property, and applies to the Court for an order authorizing him to sell or relet the premises within the prescribed period of two years, to give seven days' notice of the application to the nearest Rents Officer. The clause also authorizes the Rents Officer to appear on any such application.

Clause 10 provides that the restrictions imposed by the principal Act on the recovery of possession are not to apply to future leases of business premises for five years or more. Such leases will still be subject to the rent restrictions imposed by the principal Act.

Clause 11 exempts from the principal Act—

- (a) All new blocks of self-contained flats erected after the passing of the Bill; and
 - (b) All buildings converted into two or more self-contained flats after the passing of the Bill.
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Hon. Mr Sullivan

TENANCY AMENDMENT (No. 2)

ANALYSIS

Title.		7. Recovery of possession of dwellinghouse or property for removal to another site.
1. Short Title.		8. Recovery of excess land for sale for building purposes.
2. Premiums may be taken into account in fixing fair rent of properties. Repeal.		9. Notice to be served on Rents Officer of application for authorizing order for letting of premises after possession recovered for landlord's own occupation.
3. Fair rents to be assessed separately when property and dwellinghouse let together.		10. Part III not to apply to leases of properties for five years or more.
4. Duration of agreement fixing fair rent.		11. Principal Act not to apply to new flats.
5. Recovery of possession of dwellinghouse for landlord's aged parents.		
6. Recovery of possession by administrator of deceased landlord to wind up estate.		

A BILL INTITULED

AN ACT to amend the Tenancy Act 1948.

Title.

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 Tenancy Amendment Act (No. 2) 1953, and shall be read together with and deemed part of the Tenancy Act 1948 (hereinafter referred to as the principal Act).

Short Title.

1948, No. 76

10 2. (1) Section nine of the principal Act (as amended by section two of the Tenancy Amendment Act 1953) is hereby further amended by inserting, after subsection three A, the following subsection:

Premiums may be taken into account in fixing fair rent of properties. 1953, No. 8

“(3B) On the hearing of any application to fix the fair rent of any property under this section, the amount of any premium paid or payable in consideration of the grant or renewal of the tenancy may be taken into account to the extent that the Court deems fair and equitable, having regard to the conditions of the tenancy.” 5

(2) This section shall not apply where the premium was paid before the passing of this Act.

Repeal.

(3) Section twenty of the principal Act is hereby repealed. 10

Fair rents to be assessed separately when property and dwellinghouse let together.

3. Section nine of the principal Act is hereby amended by adding the following subsection:

“(5) Where a property and a dwellinghouse are for the time being let under the same tenancy, the fair rent of the property and the fair rent of the dwellinghouse shall be determined separately, and the sum of the separate rents shall be deemed to be the fair rent of the premises let under the tenancy.” 15

Duration of agreement fixing fair rent.

4. Section sixteen of the principal Act is hereby amended by omitting from subsection one the words “while the agreement remains in force”. 20

Recovery of possession of dwellinghouse for landlord's aged parents.

5. (1) Section twenty-four of the principal Act is hereby amended by inserting in subsection one, after paragraph (e), the following paragraph: 25

“(ee) In the case of a dwellinghouse that forms part of the same building as a dwellinghouse occupied by the landlord, that the premises are reasonably required by the landlord to enable the aged parents or parent of the landlord or of the wife or husband of the landlord to live with the landlord or (where the landlord is an aged parent) to enable a son or daughter or son-in-law or daughter-in-law of the landlord to live with the landlord:” 30 35

1950, No. 28

(2) Section thirty of the principal Act (as amended by subsection three of section eight and subsection two of section nineteen of the Tenancy Amendment Act 1950) is hereby further amended as follows: 40

(a) By inserting in subsection one, after the word “paragraphs”, the expression “(ee)”:

(b) By omitting the words “beneficiary, employee, or purchaser” where they first occur in subsection one, and substituting the words “other person represented as requiring possession”: 45

(c) By omitting the words “ landlord, beneficiary, employee, or purchaser ” where they occur in subsection one and in the proviso thereto, and substituting in each case the words “ landlord or other person represented as requiring possession ”.

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(3) The Tenancy Amendment Act 1950 is hereby consequentially amended by repealing paragraph (b) of subsection three of section eight and paragraph (b) of subsection two of section nineteen.

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6. (1) Section twenty-four of the principal Act (as amended by paragraph (b) of subsection one of section nineteen of the Tenancy Amendment Act 1950) is hereby further amended by adding to subsection one the following paragraph:

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“(n) That the landlord is the administrator within the meaning of the Administration Act 1952 of the estate of the deceased former landlord, and that the premises are reasonably required by the landlord for sale for the purpose of distributing the estate:”.

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(2) Section twenty-four of the principal Act (as amended by section ten of the Tenancy Amendment Act 1950) is hereby further amended by adding the following subsection:

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“(6) Subsection two of this section shall not apply to any application for an order on the ground specified in paragraph (n) of subsection one of this section.”

(3) Section twenty-five of the principal Act is hereby amended by inserting in subsection two, after the words “ or in paragraph (m)”, the words “ or in paragraph (n)”.

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(4) Section nineteen of the Tenancy Amendment Act 1950 is hereby consequentially amended by repealing paragraph (b) of subsection one.

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7. Section twenty-four of the principal Act is hereby amended by adding to paragraph (m) of subsection one the words “ or for removal to another site ”.

8. Section twenty-six of the principal Act is hereby amended by adding to paragraph (b) of subsection two the words “ or for sale for building purposes ”.

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1950, No. 28

Recovery of possession by administrator of deceased landlord to wind up estate.

1952, No. 56

1950, No. 28

Recovery of possession of dwellinghouse or property for removal to another site.

Recovery of excess land for sale for building purposes.

Notice to be served on Rents Officer of application for authorizing order for letting of premises after possession recovered for landlord's own occupation.

Part III not to apply to leases of properties for five years or more.

Principal Act not to apply to new flats.

9. Section thirty of the principal Act is hereby amended by adding the following subsection:

“(5) A copy of every application for an authorizing order under subsection four of this section shall, at least seven clear days before the day fixed for the hearing, be posted or delivered by or on behalf of the applicant to the office of the Rents Officer nearest to the Court in which the application is made. A Rents Officer may appear and be heard, adduce evidence, and examine and cross-examine witnesses on any such application.”

10. The principal Act is hereby amended by inserting, after section forty-eight D (as inserted by section six of the Tenancy Amendment Act 1950), the following section:

“48E. Where an agreement has been entered into at any time after the commencement of this section for the letting of any property for a term of not less than five years, Part III and sections forty-one, forty-two, and forty-three of this Act shall not apply to the premises or to any part thereof in respect of that tenancy”.

11. The principal Act is hereby amended by inserting, after section forty-eight E (as inserted by the *last preceding* section), the following section:

“48F. (1) Where a building comprising two or more self-contained flats is erected after the date of the commencement of this section, this Act shall not apply to the building or to any of the flats comprised in it in respect of any tenancy for which an agreement is entered into after that date.

“(2) Where a building is converted into two or more self-contained flats after the date of the commencement of this section, this Act shall not apply to the building or to any of the flats comprised in it in respect of any tenancy for which an agreement is entered into after that date.

“(3) For the purposes of this section—

“(a) A building shall be deemed to be erected or converted when the erection or conversion is completed:

“(b) A flat shall be deemed to be self-contained notwithstanding that the tenant may have a right to the use, in common with any other person, of any other part of the building for the purposes of access or rubbish disposal or for laundry purposes.”