

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Friday, the 29th Day of August 1975

PROPERTY LAW AMENDMENT BILL

Proposed Amendments

Hon. Dr FINLAY, in Committee, to move the following amendments:

Clause 4: To add to the definition of the term "lease" in the proposed section 104A (1), on page 5, the following paragraph:

“(d) A lease to which Part II of the Unit Titles Act 1972 for the time being applies.

To add to the proposed section 104A, on page 5, the following subsection:

“(3) For the purposes of sections 104D and 104E of this Act, ‘Court’ means a Magistrate’s Court, and any Magistrate’s Court shall have jurisdiction to hear and determine an application made under either of those sections accordingly.”

To insert in line 15 on page 7, after the word “health”, the words “, and to the provision of safeguards against and means of warning and escape in case of fire,”.

To insert in line 12 on page 8, after the word “health”, the words “, and to the provision of safeguards against and means of warning and escape in case of fire,”.

Clause 6: To add to the proposed section 107, on page 10, the following paragraph:

“(c) That whenever the rent or any part thereof is in arrear he may levy the same by distress:
“Provided that this power shall not be implied in any lease of a dwellinghouse.”

Clause 7: To omit from lines 28 and 29 on page 10 the words “the whole or any part of”.

To omit from line 9 on page 11 the word “also”, and substitute the words “in every case”.

Clause 10: To insert in line 41 on page 15, after the words “a notice”, the words “in writing”.

To insert in line 16 on page 18, after the words “the state of”, the words “repair of”.

To insert in line 42 on page 20, after the words “a notice”, the words “in writing”.

To add the following further proposed section:

“116M. Notices may be given in prescribed form—(1) Any notice required to be given by a lessor of a dwellinghouse to the lessee or by the lessee of a dwellinghouse to the lessor under any of the provisions of sections 116A to 116L of this Act may be given in the prescribed form.

“(2) For the purposes of subsection (1) of this section the Governor-General may from time to time by Order in Council prescribe forms of notices to be given by lessors of dwellinghouses to lessees and by lessees of dwellinghouses to lessors under any of the said provisions of this Act.

Clause 11: To add to subsection (4) of the proposed section 129c, on page 30, the following proviso:

“Provided that, except for the purpose referred to in paragraph (a) of this subsection, the Court shall not make an order under this section relating to any tree the preservation of which is the subject of a requirement lawfully made by a local authority under any of the provisions of the Town and Country Planning Act 1953, the Municipal Corporations Act 1954, or the Counties Act 1956.

EXPLANATORY NOTE

The first amendment excludes from the definition of the term “lease” leases in respect of which a unit plan has been deposited under the Unit Titles Act 1972.

The second amendment provides that applications for consent to lease a dwellinghouse otherwise than subject to the implied covenants relating to habitability are to be heard by a Magistrate’s Court rather than by the Supreme Court.

The third and fourth amendments provide that the Court is not to allow the leasing of a dwellinghouse unless it meets fire safety requirements, as well as those relating to public health.

The amendment to *clause 6* reinstates the implied power to levy distress in all but residential leases.

The amendments to *clause 7* are minor drafting amendments.

The first and third amendments to *clause 10* require notices given under the proposed sections 116E (3) and 116I (5) to be in writing.

The second amendment is a minor drafting amendment, while the third provides that notices to be given by lessors and lessees of dwellinghouses under *sections 116A to 116L* may be given in the prescribed form.

The amendment to *clause 11* provides that no order may be made under the proposed section 129c in respect of a tree the preservation of which has been required by a local authority under the Town and Country Planning Act 1953, the Municipal Corporations Act 1954, and the Counties Act 1956.
