

## New Zealand.



### ANALYSIS

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| 1. Short Title.  | 6. Principal Act extended to apply where part of premises used for business purposes. |
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| 3. Principal Act extended to apply to all dwellinghouses. Consequential repeals. | 8. Tenancies of dwellinghouses binding on mortgagees.                                 |
| 4. Restriction on raising rent. Repeals.   | 9. Prohibiting refusal to let dwellinghouse to applicant with children.               |
| 5. Section 7 of principal Act (as to maximum fair rent) amended.                 | 10. Special provisions as to servicemen.  |

1942, No. 19

AN ACT to amend the Fair Rents Act, 1936.

Title.

[26th October, 1942

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

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| 1. This Act may be cited as the Fair Rents Amendment Act, 1942, and shall be read together with and deemed part of the Fair Rents Act, 1936 (hereinafter referred to as the principal Act). | Short Title.<br>1936, No. 14          |
| 2. (1) The principal Act shall continue in force until the expiration of one year from the termination of the present war, and shall then expire.   | Duration of principal Act extended.   |
| (2) The Fair Rents Amendment Act, 1941, is hereby repealed.   | Consequential repeal.<br>1941, No. 11 |

Principal Act extended to apply to all dwelling-houses.

Consequential repeals.  
1939, No. 43

Restriction on raising rent.

**3.** (1) The principal Act shall apply with respect to every dwellinghouse that on the passing of this Act or at any time thereafter is let as a dwellinghouse.

(2) Section three of the principal Act and sections three and four of the Fair Rents Amendment Act, 1939, are hereby repealed.

**4.** (1) For the purposes of the principal Act the expression "the basic rent" means—

(a) With reference to a dwellinghouse let as such on the first day of September, nineteen hundred and forty-two, the rent payable as on that date:

(b) With reference to a dwellinghouse that was not let as such on that date, the rent that was last payable before that date or, in the case of any premises first let as a dwellinghouse after that date, the rent first payable in respect thereof.

(2) Any increase in the basic rent of any dwellinghouse to which the principal Act applies that has been made since the first day of September, nineteen hundred and forty-two, and before the passing of this Act, and any increase in the basic rent of any such dwellinghouse that is made after the passing of this Act shall, notwithstanding anything to the contrary in any agreement, be irrecoverable.

(3) Nothing in the foregoing provisions of this section shall be deemed to render irrecoverable any rent payable in respect of any dwellinghouse for any period if a fair rent has been fixed in accordance with the principal Act in respect of the dwellinghouse for that period, and the rent charged does not exceed the fair rent so fixed.

Repeals.

1939, No. 43

(4) Section five of the principal Act and section six of the Fair Rents Amendment Act, 1939, are hereby repealed. The repeal of those sections shall not make recoverable in respect of any period before the passing of this Act any increase in the rent of any dwellinghouse which would have been irrecoverable by virtue of those sections or either of them if they had not been repealed.

Section 7 of principal Act (as to maximum fair rent) amended.

**5.** (1) Section seven of the principal Act is hereby amended by omitting from subsection two the words "as defined for the purposes of section five hereof, or

the rent (if any) payable as on the twenty-seventh day of November, nineteen hundred and thirty-five (whichever is the less)", and also by omitting from the same subsection the words " or other ".

(2) In the case of any dwellinghouse to which the principal Act applied immediately before the passing of this Act, any fair rent that is fixed under the principal Act at any time after the passing of this Act shall not exceed the fair rent that would have been fixed in respect of the dwellinghouse if this Act had not been passed.

6. (1) The application of the principal Act to any dwellinghouse shall not be excluded by reason only that part of the premises is used as a shop or office or for business, trade, or professional purposes.

Principal Act extended to apply where part of premises used for business purposes. See Reprint of Statutes, Vol. IV, p. 234

(2) Section two of the principal Act is hereby amended by repealing paragraph (b) thereof, and substituting the following paragraph:—

“(b) Any licensed premises within the meaning of the Licensing Act, 1908.”

7. (1) Where at any time after the passing of this Act any person (hereinafter referred to as the sub-tenant) is in possession of any dwellinghouse to which the principal Act applies as a result of the subletting of it to him by a tenant with the express or implied consent of the landlord, and the tenancy of the tenant is determined, whether as the result of an order for possession or ejection or by expiry or surrender or otherwise, the sub-tenant shall, subject to the provisions of the principal Act, be deemed to become the tenant of the landlord in respect of the dwellinghouse on the same terms as he would have held from the tenant if the tenancy had continued.

Protection of sub-tenants.

(2) For the purposes of this section the subletting of any dwellinghouse (whether before or after the passing of this Act) shall be deemed to have been consented to by the landlord—

(a) Where the dwellinghouse forms part of a building 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 a building that at the commencement of the tenancy was 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 a building that has during the tenancy been adapted by the landlord or with his consent for the purpose of being let as two or more separate flats or apartments:

(d) In any other case, in the absence of proof to the contrary.

(3) Nothing in this section shall be construed to restrict or take away any rights of any sub-tenant of a tenant in any case where, whether before or after the passing of this Act, the tenant has surrendered his tenancy.

Tenancies of dwellinghouses binding on mortgagees.

8. Notwithstanding anything to the contrary in any Act or rule of law, every tenancy of a dwellinghouse to which the principal Act applies shall, subject to the provisions of the principal Act, be binding on every mortgagee of the dwellinghouse (whether alone or together with any other premises), and on every person claiming under or through any such mortgagee, whether the tenancy has commenced or is deemed to have commenced before or after the passing of this Act or before or after the creation of the mortgage, and whether or not the mortgagee has consented to the tenancy.

Prohibiting refusal to let dwellinghouse to applicant with children.

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

(a) Refuses, or procures any person to refuse, to let a dwellinghouse to any person on the ground that it is intended that a child shall live in the dwellinghouse:

(b) Instructs any other person not to let, or states his intention (whether by advertisement or otherwise) not to let, a dwellinghouse to any person if it is intended that a child shall live in the dwellinghouse.

(2) In any prosecution for an offence under this section, where it is proved that a person has refused, or procured any person to refuse, to let a dwellinghouse to any person, the burden of proving that the

refusal was for some reason other than that it was intended that a child should live in the dwellinghouse shall be on the defendant.

10. (1) For the purposes of the principal Act,—  
 “Serviceman” means a serviceman within the meaning of Part I of the Rehabilitation Act, 1941; and includes a discharged serviceman within the meaning of that Part:

Special provisions as to servicemen. 1941, No. 25

“Dependant”, in relation to a serviceman, includes his father, mother, stepfather, step-mother, mother-in-law, brother or sister of the whole or half blood, or child (including stepchild or illegitimate child) who is or, within two years from the date of an application for an order under section thirteen of the principal Act, has been wholly or partially dependent on the serviceman, whether before or after he became a serviceman. In the case of a serviceman who has died every person shall, for the purposes of this section, be deemed to be a dependant of that serviceman who would be a dependant if the serviceman were alive.

(2) Where the tenant of any dwellinghouse to which the principal Act applies is a serviceman, or the wife or widow of a serviceman, and the landlord is not a serviceman, then, notwithstanding anything to the contrary in section thirteen of the principal Act, no order for the recovery of possession of the dwellinghouse, or for the ejection of the tenant therefrom, shall be made on any ground except one or more of the grounds specified in paragraphs (a), (b), and (c) of subsection one of the said section thirteen.

(3) Where the tenant of any dwellinghouse to which the principal Act applies is a serviceman, or the wife or widow of a serviceman, or a dependant of a serviceman, and the landlord is a serviceman, nothing in section sixty-three of the Finance Act, 1937, shall apply with respect to any application for an order for the recovery of possession of the dwellinghouse, or for the ejection of the tenant therefrom, on the ground that the premises are reasonably required by the landlord for his own occupation as a dwellinghouse, in any case where the landlord has occupied the premises as

1937, No. 17

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.

1937, No. 17

(4) Where the landlord of any dwellinghouse to which the principal Act applies is a serviceman, and the tenant is not a serviceman or the wife or widow of a serviceman, or a dependant of a serviceman, nothing in subsection two of section thirteen of the principal Act or in section sixty-three of the Finance Act, 1937, shall apply with respect to any application for an order for the recovery of possession of the dwellinghouse, or for the ejectment of the tenant therefrom, on the ground that the premises are reasonably required by the landlord for his own occupation as a dwellinghouse, in any case where the landlord 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.

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