



ANALYSIS

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1961, No. 66

An Act to amend the Tenancy Act 1955

[18 November 1961

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

1. Short Title—This Act may be cited as the Tenancy Amendment Act 1961, and shall be read together with and deemed part of the Tenancy Act 1955* (hereinafter referred to as the principal Act).

2. New tenancies—The principal Act is hereby amended by inserting, after section 6, the following section:

“6A. (1) Subject to subsection (2) of this section, where an agreement has been entered into at any time after the passing of the Tenancy Amendment Act 1961 for the letting of any dwellinghouse or property, this Act shall not apply to the dwellinghouse or property or any part thereof in respect of that tenancy:

“Provided that this subsection shall not apply—

“(a) Where the tenant under the agreement was the tenant of the whole or part of the premises at the

*1957 Reprint, Vol. 15, p. 527
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passing of the Tenancy Amendment Act 1961, and remained the tenant of the whole or part of the premises until the agreement was entered into; or

“(b) Where the tenant under the agreement is a person who became the tenant of the whole or part of the premises under section 45 of this Act and remained the tenant of the whole or part of the premises until the agreement was entered into.

“(2) Notwithstanding the provisions of subsection (1) of this section, where any tenant held a tenancy of any dwelling-house or property at the twenty-ninth day of September, nineteen hundred and sixty-one, under an agreement approved under section 10 of this Act, or at that date was continuing, after the expiration of a tenancy granted under such an agreement, to occupy the premises on the same terms and conditions and at the same rent or at any other rent lawfully payable for the premises, the provisions of this Act shall cease to apply to the letting of that dwellinghouse or property or any part thereof on the expiration of a period of three years from the passing of the Tenancy Amendment Act 1961 or on a Rents Officer certifying in writing that he is satisfied that that tenant has vacated the dwellinghouse or property of his own volition (whichever is the sooner), and meanwhile the provisions of this Act, other than Part IV and sections 45, 46, and 47, shall apply to the letting of that dwellinghouse or property or any part thereof.

“(3) For the purposes of subsection (2) of this section, where a tenant has been evicted, or has yielded up possession following the making of an order for possession, or has yielded up possession following the service on him by his landlord, after the twenty-ninth day of September, nineteen hundred and sixty-one, of a notice to quit, he shall be deemed not to have vacated the premises of his own volition. In every other case he shall be deemed to have vacated the premises of his own volition.”

3. New tenancies of dwellinghouses not let during three months before commencement of principal Act—(1) Section 7 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

“(2) Notwithstanding anything in the definition of the term ‘dwellinghouse’ in subsection (1) of section 2 of this Act, where a dwellinghouse was let at any time during the said period of three months its identity shall not be deemed for the purposes of this section to have been changed by the fact

that, at any time after the date of the commencement of this Act (whether before or after the commencement of this subsection), the dwellinghouse has been let with furniture or other chattels (if let unfurnished during the said period) or has been let without furniture or other chattels or with different furniture or chattels (if let with furniture or other chattels during the said period).”

(2) Nothing in subsection (2) of section 7 of the principal Act, as added by subsection (1) of this section, shall affect the rights of the parties under any judgment given in any Court before the passing of this Act, or under any judgment given on appeal from any such judgment, whether the appeal is commenced before or after the passing of this Act.

4. Exemption of properties—The principal Act is hereby amended by inserting, after section 8, the following section:
“8A. This Act shall not apply to any property after the expiration of three years from the date of the passing of the Tenancy Amendment Act 1961.”

5. Properties let for four years or more—The principal Act is hereby amended by repealing section 9, and substituting the following section:

“9. Where an agreement has been entered into at any time after the date of the commencement of this Act for the letting of any property for a term of not less than four years, this Act shall not apply to the premises or any part thereof in respect of that tenancy or, unless the parties otherwise agree, at any time while the tenant continues after the expiration of the tenancy (where the tenancy expired after the date of the passing of the Tenancy Amendment Act 1961) to occupy the premises on the same terms and conditions.”

6. Basic rent—(1) Section 18 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Notwithstanding anything in the definitions of the terms ‘dwellinghouse’ and ‘property’ in subsection (1) of section 2 of this Act, for the purpose of determining the basic rent the identity of a dwellinghouse or property shall not be deemed to be changed or to have ever been changed by the fact that the dwellinghouse or property has sometimes been let with furniture or chattels and at other times without furniture or chattels or with different furniture or chattels, or by the fact that the tenant has the right to the use in common

with any other person of any other premises or, as the case may be, of any other part of the premises of which the dwellinghouse or property forms part.”

(2) Nothing in subsection (2) of section 18 of the principal Act, as substituted by subsection (1) of this section, shall affect the rights of the parties under any judgment given in any Court before the passing of this Act, or under any judgment given on appeal from any such judgment, whether the appeal is commenced before or after the passing of this Act.

7. Fair rent of dwellinghouses—(1) Section 21 of the principal Act is hereby amended by repealing subsections (2) and (3), and substituting the following subsections:

“(2) Subject to the following provisions of this section, the fair rent fixed as aforesaid in the case of a dwellinghouse shall not exceed a rent based on the capital value of the dwellinghouse as shown in the district valuation roll for the time being in force, and including an allowance to cover outgoings:

“Provided that any such fair rent shall not, until the expiration of a period of three years from the date of the passing of the Tenancy Amendment Act 1961, exceed by more than thirty shillings a week the fair rent that could have been fixed in respect of that dwellinghouse immediately before the passing of that Act.

“(3) Nothing in the proviso to subsection (2) of this section shall limit the fair rent fixed in respect of a dwellinghouse where the tenant of that dwellinghouse at the passing of the Tenancy Amendment Act 1961 was a tenant who held his tenancy under an agreement approved under section 10 of this Act, or who at the passing of that Act was continuing, after the expiration of a tenancy granted under such an agreement, to occupy the dwellinghouse on the same terms and conditions and at the same rent or at any other rent lawfully payable for the dwellinghouse.”

(2) Section 21 of the principal Act is hereby further amended by adding to subsection (6), the following proviso:

“Provided that any of those resulting amounts may be adjusted in accordance with the provisions of the proviso to subsection (2) and of subsection (3) of this section, and where any such amount is so adjusted the adjusted amount shall be the fair rent of the dwellinghouse to which it relates.”

(3) Notwithstanding the amendments made by subsections (1) and (2) of this section, the fair rent fixed in respect of any dwellinghouse purchased after the twenty-second day of

February, nineteen hundred and fifty, and let to a new tenant on or after the tenth day of December, nineteen hundred and fifty-one and after that purchase, shall not in any case be less than the fair rent that could have been fixed in respect of that dwellinghouse if this Act had not been passed.

8. Grounds for recovery of possession of dwellinghouse—

(1) Section 36 of the principal Act is hereby amended by inserting, after paragraph (d), the following paragraph:

“(dd) In the case of a dwellinghouse, that the premises are reasonably required for occupation as a dwellinghouse by a son or daughter or son in law or daughter in law of the landlord:”.

(2) Section 36 of the principal Act is hereby further amended by inserting, after paragraph (j), the following paragraph:

“(jj) In the case of a dwellinghouse that forms part of the same building as a dwellinghouse occupied by the landlord, that the landlord or the wife or husband of the landlord is aged or infirm and that the premises are reasonably required by the landlord for occupation by a person or persons who are to look after the aged or infirm person:”.

(3) Section 37 of the principal Act is hereby amended by inserting, after subsection (5), the following subsection:

“(5A) Subsection (1) of this section shall not apply to any application for an order in respect of any dwellinghouse on the ground specified in paragraph (jj) of section 36 of this Act where the landlord has served on the tenant not less than three months' notice of his intention to make application on that ground.”

(4) Section 38 of the principal Act is hereby amended by omitting from subsection (1) the words “paragraphs (d)”, and substituting the words “paragraphs (d), (dd)”.

(5) Section 42 of the principal Act is hereby amended by omitting from subsection (1) the words “paragraphs (d), (e), (f), (g), (h), (i), (j), and (k)”, and substituting the words “paragraphs (d), (dd), (e), (f), (g), (h), (i), (j), (jj), and (k)”.