

LANDLORD AND TENANT (AMENDMENT) BILL, 1953.

EXPLANATORY NOTE.

CERTAIN of the benefits conferred on an ex-serviceman or an ex-service woman or his or her dependants by the Landlord and Tenant (Amendment) Act, 1948-1952, apply only where the ex-serviceman or ex-service woman concerned has been discharged from the Defence Force, or has ceased to be engaged on war service, for a period not exceeding the prescribed period. Under the provisions of that Act the period may be extended from time to time by proclamation and is at present fixed at nine years.

The objects of this Bill are—

- (a) to provide that the prescribed period for the purposes of the Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, shall in future be nine years or twice the period of war service of the ex-serviceman or ex-service woman concerned, whichever is the greater;
- (b) to remove doubts about the effect of declaring prescribed premises to be "special premises" for the purposes of that Act;
- (c) to enable the Controller to exclude from the operation of that Act premises which are not holiday premises by reason only that they have been leased since 15th December, 1952, for a period exceeding eight weeks;
- (d) to enable an order to be made under section 62A of that Act in relation to certain notices to quit given before the making of the order;
- (e) to remove the limitation placed by section 100 of that Act upon the power of the Court to make an order for recovery of possession of prescribed premises when the order is sought upon the ground set out in section 62 (5) (r) of that Act;
- (f) to clarify certain other provisions of that Act.

[CONFIDENTIAL]

(Rough Draft for Consideration Only.)

No. , 1953.

A BILL

To alter the definition of “prescribed period” in section ninety-nine of the Landlord and Tenant (Amendment) Act, 1948-1952; to make further provision in respect of “special premises” and holiday premises; for these and other purposes to amend the said Act; and for purposes connected therewith.

BE it enacted by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of
 5 the same, as follows:—

1. (1) This Act may be cited as the “Landlord and Tenant (Amendment) Act, 1953”.

Short title
and
citation.

53991

—(2)

(2)

Landlord and Tenant (Amendment).

(2) The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts and by this Act, may be cited as the Landlord and Tenant (Amendment) Act, 1948-1953.

5 **2.** (1) The Landlord and Tenant (Amendment) Act, 1948, as amended by subsequent Acts, is amended— Amendment of Act No. 25, 1948.

10 (a) (i) by inserting at the end of subsection one of section 6A the words "and may also by that order declare that each and every part of those prescribed premises which is at any time while the order has force or effect the subject of a separate agreement or arrangement whether oral or in writing of leave and license for the use of that part shall be 'special premises' for the purposes of this Act"; Sec. GA. (Special premises.)

15 (ii) by inserting next after the same subsection the following new subsection:—

20 (1A) (a) Any order made under subsection one of this section before the commencement of the Landlord and Tenant (Amendment) Act, 1953, and having force or effect immediately before such commencement, declaring that any prescribed premises shall be "special premises" for the purposes of this Act shall have effect and shall be deemed always to have had effect as though that order had also declared that each and every part of those prescribed premises which is at any time while the order has force or effect the subject of a separate agreement or arrangement whether oral or in writing of leave and license for the use of that part shall be "special premises" for the purposes of this Act.

35 (b) A person shall not, by reason of the enactment of paragraph (a) of this subsection, be guilty of an offence against this Act in respect of anything done or omitted

Landlord and Tenant (Amendment).

- 5 omitted to be done by him before the commencement of the Landlord and Tenant (Amendment) Act, 1953, if he would not have been so guilty had that paragraph not been enacted.
- 10 (iii) by omitting from paragraphs (a) and (b) of subsection two of the same section the words "any prescribed premises" wherever occurring and by inserting in lieu thereof the words "the 'special premises'";
- 15 (iv) by omitting from paragraph (b) of the same subsection the words "any such premises" and by inserting in lieu thereof the words "the 'special premises'";
- 20 (v) by inserting in paragraph (a) of subsection three of the same section after the words "prescribed premises" the words and symbols "(not being prescribed premises that are declared to be 'special premises' under subsection one or subsection (1A) of this section)";
- 25 (b) (i) by inserting in subsection one of section seven after the words "one thousand nine hundred and forty-five" the words "and before the commencement of the Landlord and Tenant (Amendment) Act, 1952"; Sec. 7. (Holiday premises.)
- 30 (ii) by inserting in the same subsection after the words "three months" the words "or that they have at some time after the commencement of the Landlord and Tenant (Amendment) Act, 1952, been leased to or occupied by a lessee for a continuous period exceeding eight weeks";
- 35 (c) (i) by inserting at the end of paragraph (a) of subsection one of section 62A the words Sec. 62A. (Judge may bar lessor's right to take proceedings.) "and also, if any such notice to quit has been given in relation to the transfer or assignment before the making of the order, that the notice to quit so given shall be void and of no effect";
- 40 (ii)

Landlord and Tenant (Amendment).

5 (ii) by inserting at the end of paragraph (b) of the same subsection the words “and also, if any such notice to quit has been given in relation to the sub-lease before the making of the order, that the notice to quit so given shall be void and of no effect”;

(iii) by inserting next after the same subsection the following new subsections:—

10 (1A) In any proceedings by a lessee before a District Court judge pursuant to paragraph (c) of subsection one of this section, the judge may, in addition to making the order referred to in that paragraph, order that any notice to quit given
15 in relation to the premises concerned in the proceedings shall be void and of no effect, if the judge is not satisfied that the ground specified in the notice is true in fact.

20 (1B) Where an order has been granted under paragraph (c) of subsection one of this section the lessor of the premises the subject of the order shall not give to the lessee any notice to quit within one month
25 after the making of the order.

Nothing in this subsection affects the operation of paragraph (a) of subsection three of this section.

30 (iv) by inserting at the end of subsection three of the same section the following new paragraph:—

(b) An order under this section that any notice to quit shall be void and of no effect shall have effect according to its tenor.

(d)

Landlord and Tenant (Amendment).

(d) by omitting paragraph (a) of the first proviso to subsection two of section seventy and by inserting in lieu thereof the following paragraph:—

Sec. 70.
(Court to consider hardship.)

5 (a) the lessor (not being himself a lessee of the dwelling-house under a concurrent lease) is a protected person within the meaning of Part V of this Act and the lessee is not a protected person within the meaning of that Part or is not a person in receipt of age pension under the Social Services Consolidation Act 1947-1951 of the Parliament of the Commonwealth; or;

15 (e) by inserting in paragraph (b) of subsection four of section eighty-six after the words "this Part" the words "and Part V of this Act";

Sec. 86.
(Exclusion of premises let for a short term from operation of Part III and Part V.)

20 (f) by omitting from subsection one of section ninety-nine the definition of "prescribed period" and by inserting in lieu thereof the following definition:—

Sec. 99.
(Definitions.)

25 "prescribed period", in relation to a person who has been a member of the Defence Force engaged on war service during the present war or in connection with any naval, military or air operations conducted by or on behalf of the United Nations Organisation, means a period not exceeding nine years or twice the period during which he was so engaged on war service, whichever is the greater.

30 In this definition "war service" does not include any war service served by a person after the fifteenth day of August, one thousand nine hundred and forty-five, in any war in which His Late Majesty King George VI became engaged

35

Landlord and Tenant (Amendment).

5 engaged on or after the third day of September, one thousand nine hundred and thirty-nine, but does include war service served after the fifteenth day of August, one thousand nine hundred and forty-five, by a person in connection with—

10 (a) any naval, military or air operations conducted by or on behalf of the United Nations Organisation;

15 (b) any naval, military or air operations which are prescribed naval, military or air operations for the purposes of the definition of "present war";

(g) by omitting from section one hundred the word and symbols "or (q)" and by inserting in lieu thereof the word and symbols "(q) or (r)".

20 (2) The amendment made by paragraph (d) of subsection one of this section shall be deemed to have commenced on the fifteenth day of December, one thousand nine hundred and fifty-two. (Limitation on power of court to make order for recovery of possession.)

