

No. 33 of 1973

AN ORDINANCE

To amend the *Landlord and Tenant Ordinance 1949-1972*,
as amended by the *Landlord and Tenant Ordinance 1973*.

I, THE GOVERNOR-GENERAL of Australia, acting with the advice of the Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1972*.

Dated this eighth day of August, 1973.

PAUL HASLICK
Governor-General.

By His Excellency's Command,

KEP ENDERBY
Minister of State for the Capital Territory.

LANDLORD AND TENANT ORDINANCE 1973

1. (1) This Ordinance may be cited as the *Landlord and Tenant Ordinance (No. 2) 1973*.^{*} Short title and citation.

(2) The *Landlord and Tenant Ordinance 1949-1972*,[†] as amended by the *Landlord and Tenant Ordinance 1973*,[‡] is in this Ordinance referred to as the Principal Ordinance.

(3) Section 1 of the *Landlord and Tenant Ordinance 1973* is amended by omitting sub-section (3).

(4) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Landlord and Tenant Ordinance 1949-1973*.

2. Section 8 of the Principal Ordinance is amended by omitting the definition of "the prescribed date" and substituting the following definition:— Interpretation.

" 'the prescribed date' means 1st January, 1973;".

3. Section 14 of the Principal Ordinance is amended—

(a) by omitting sub-sections (1), (2) and (3) and substituting the following sub-sections:— Rent of prescribed premises.

" (1) Notwithstanding any term or covenant of a lease, the rent payable, in respect of a period commencing on or after the date of commencement of the *Landlord and Tenant Ordinance (No. 2) 1973*, by the lessee of prescribed

^{*} Notified in the *Australian Government Gazette* on 9 August 1973.

[†] Ordinance No. 6, 1949, as amended by No. 10, 1952; No. 3, 1957; No. 19, 1966; and No. 36, 1972.

[‡] Ordinance No. 18, 1973.

premises (or prescribed premises together with goods) that were leased on the prescribed date, whether to the same or a different lessee, shall not exceed the rent payable in respect of the premises at the prescribed date (including the rent of any goods then leased with the premises and the charge for any service then provided in connexion with the lease).

“(2) The last preceding sub-section does not apply in relation to premises the fair rent of which has been determined by the Controller.”; and

- (b) by omitting from sub-section (4) the word and number “or (2)”.

Certain lessors to furnish statutory declarations as to rent.

4. Section 15 of the Principal Ordinance is amended by omitting sub-section (1) and substituting the following sub-sections:—

“(1) Where—

- (a) prescribed premises were leased on the prescribed date;
 (b) the fair rent of the premises has not been determined by the Controller; and
 (c) the premises were leased, whether to the same or a different lessee, on the date of commencement of the *Landlord and Tenant Ordinance (No. 2) 1973*,

the lessor shall, within twenty-eight days after the date on which that Ordinance came into operation, furnish the lessee with a statutory declaration stating the rent of the premises (or of the premises together with goods) on the prescribed date.

“(1A) Where—

- (a) prescribed premises were leased on the prescribed date;
 (b) at any time after the date of commencement of the *Landlord and Tenant Ordinance (No. 2) 1973* a person becomes the lessee of the premises; and
 (c) the fair rent of the premises has not been determined by the Controller,

the lessor shall, within seven days after the date on which that person becomes the lessee, give to that person a statutory declaration stating the rent of the premises (or of the premises together with goods) on the prescribed date.”

Determination of application.

5. Section 19 of the Principal Ordinance is amended by omitting sub-sections (2), (3) and (4).

Matters to be considered.

6. Section 20 of the Principal Ordinance is amended—

- (a) by omitting the words “Subject to the last preceding section, in” and substituting the word “In”;
 (b) by adding at the end of paragraph (h) the word “and”;
 and
 (c) by omitting paragraph (i).

7. Sections 21 and 22 of this Ordinance are repealed and the following sections inserted in their stead:—

“ 21. (1) Subject to this section, a determination of the fair rent of prescribed premises shall have effect, or shall be deemed to have had effect, on and from the date, not being a date earlier than the date of the application, fixed by the Controller. Date of operation and notice of determination.

“ (2) A determination of the fair rent of prescribed premises made on the application of a person who was the lessor of the premises on the date of the commencement of the *Landlord and Tenant Ordinance (No. 2) 1973* shall be deemed to have had effect on and from the date of commencement of that Ordinance.

“ (3) A determination of the fair rent of prescribed premises made on the application of a lessor who became the lessor of the premises after the date on which the *Landlord and Tenant Ordinance (No. 2) 1973* came into operation shall be deemed to have had effect on and from the date on which the applicant became the lessor of the premises.

“ (4) Neither of the last two preceding sub-sections applies in relation to a determination of the fair rent of premises that were leased on the prescribed date.

“ (5) Where the Controller has made a determination of the fair rent of prescribed premises, the Controller shall give to the lessor and lessee, and to any other person to whom notice has been given by the Controller under section 18 or section 23 of this Ordinance, notice in writing of the determination and of the date on and from which the determination has effect or is to be deemed to have had effect.

“ (6) The Controller shall, in a notice given under the last preceding sub-section, state whether, in making the determination to which the notice relates, he had regard to any hardship referred to in paragraph (j) of the last preceding section.

“ 22. Where a determination of the fair rent of prescribed premises is made by the Controller, the rent so determined shall, on and from the date on and from which the determination has effect or is to be deemed to have had effect, be the rent payable in respect of the premises, or the premises together with goods leased therewith, as the case may be.” Effect of determination.

8. After section 25 of the Principal Ordinance the following section is inserted:—

“ 25A. (1) Subject to this section, the person who was, on the date of commencement of the *Landlord and Tenant Ordinance (No. 2) 1973*, the lessor of premises to which this sub-section applies shall, before the expiration of a period of three months after that date, make an application in writing to the Controller to have the fair rent of the premises determined. Compulsory applications.

“ (2) The last preceding sub-section applies to prescribed premises that were leased on the date of commencement of the *Landlord and Tenant Ordinance (No. 2) 1973* but were not in existence, or were not leased, on the prescribed date.

“(3) A person who, after the date of commencement of the *Landlord and Tenant Ordinance (No. 2) 1973*, becomes the lessor of prescribed premises (not being premises that were leased on the prescribed date) shall, before the expiration of a period of twenty-eight days after the date on which he becomes the lessor of the premises, make an application in writing to the Controller to have the fair rent of the premises determined.

“(4) Neither sub-section (1) nor sub-section (3) applies to the lessor of premises the fair rent of which has been determined by the Controller.

“(5) This Ordinance applies to, and in relation to, an application made in accordance with sub-section (1) or sub-section (3) of this section as if the application had been made under section 17 of this Ordinance.”

Appeal from determination.

9. Section 30 of the Principal Ordinance is amended by omitting from sub-section (1) the word and number “sub-section (2)” and substituting the word and number “sub-section (5)”.

Variation of determinations.

10. Section 32 of the Principal Ordinance is amended by inserting after sub-section (2) the following sub-section:—

“(2A) The last preceding sub-section does not apply in relation to a determination if, in the notice given by the Controller under sub-section (5) of section 21 of this Ordinance in relation to the determination, the Controller stated that, in making the determination, he had had regard to hardship referred to in paragraph (j) of section 20 of this Ordinance.”

Premises not to be let at rent exceeding fair rent.

11. Section 35 of the Principal Ordinance is amended by adding at the end thereof the following sub-section:—

“(4) An amount that is recoverable by a lessee from a lessor under the last preceding sub-section may be deducted by that lessee from any rent payable by the lessee to that lessor within a period of six months after the date on which the amount was paid.”

Certain payments prohibited.

12. Section 36 of the Principal Ordinance is amended—

- (a) by inserting in paragraph (1) (a), after the words “(including any dwelling-house)”, the words “or business premises”;
- (b) by inserting in sub-paragraph (1) (b) (i), after the words “(including any dwelling-house)”, the words “or business premises”; and
- (c) by inserting in sub-paragraph (1) (b) (ii), after the words “(including any dwelling-house)”, the words “or business premises”.

Offences.

13. Section 96 of the Principal Ordinance is amended by omitting the words “Two hundred dollars” and substituting the words “Five hundred dollars”.