

CHAPTER 185.

LANDLORD AND TENANT.

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CHAPTER 185.

LANDLORD AND TENANT.

An Ordinance to regulate the relationship between Landlord and Tenant and to amend the existing law with respect thereto. ^{26 of 1947.}

[30TH SEPTEMBER, 1947.]

1. This Ordinance may be cited as the Landlord and Tenant Ordinance. ^{Short title.}

2. In this Ordinance, unless the context otherwise requires— ^{Interpreta-}

“agent” means a person authorised by a landlord to let any land or buildings, or to collect rent, or to levy distress, or to do any other act in relation to a tenancy;

“buildings” includes houses, rooms, flats, apartments and parts thereof;

“deed” means—

(a) an instrument so called according to the law of England; or

(b) an instrument executed in the Colony before a notary public or public notary, and registered in the Deeds Registry;

“land” includes buildings, houses and other structures and erections thereon;

“landlord” means any person who under any tenancy is, as between himself and the tenant for the time being, entitled to the rents and profits of the land or building payable under the tenancy;

“lease” includes under-lease and assignment operating as a lease or under-lease;

“lessee” in relation to a lease has the same meaning as “tenant”;

“lessor” in relation to a lease has the same meaning as “landlord”;

“rent” means the sum of money or other ascertainable consideration payable by the tenant for the possession of the land or building under a tenancy;

“tenant” means any person entitled in possession to the land or building under any contract of tenancy, whether the

interest of such tenant was acquired by original contract, assignment, operation of law or otherwise;

“tenement” means any land or buildings in possession of a tenant under a tenancy.

NATURE OF TENANCIES AND THE LAW APPLICABLE THERETO.

Definitions of various tenancies.

3. (1) A tenancy for years is a holding of land or buildings under a contract for the exclusive possession thereof for some certain number of years or other determinable period.

(2) A tenancy from year to year is a holding of land or buildings under a contract, express or implied, for the exclusive possession thereof for a term which may be determined at the end of the first year or any subsequent year of the tenancy either by the landlord or the tenant by a regular notice to quit.

(3) A tenancy for less than a year is a holding of land or buildings under a contract for the exclusive possession thereof for an indefinite period less than a year, the hiring in the absence of stipulation to the contrary, being monthly or weekly according to the circumstances of each case.

(4) A tenancy at will is a holding of land or buildings under a contract for the exclusive possession thereof to hold at the will of the landlord.

(5) A tenancy on sufferance is a holding of land or buildings in exclusive possession by a person who, without the assent or dissent of the person entitled to possession, wrongfully continued in possession of the same after his right to the possession thereof expired.

Tenancies in the Colony, and the law applicable thereto.

4. (1) It is hereby declared that the tenancies defined in section 3 of this Ordinance comprise, and have always since the 1st January, 1917, comprised, the relationships between landlord and tenant in this Colony and that every such tenancy, as the case may be, had and, subject to the provisions of this Ordinance, shall continue to have in this Colony such and the same qualities and incidents as it has by the common law of England.

(2) It is further declared that the common law of England relating to the said respective tenancies has, since the 1st January, 1917, applied in this Colony, and subject to the provisions of this Ordinance, shall continue to apply to and to govern the said tenancies.

CAPACITY FOR LETTING AND TAKING ON HIRE LAND AND BUILDINGS.

5. (1) Capacity to enter into an agreement for a lease or to enter into any of the tenancies defined in this Ordinance is regulated by the general law concerning capacity to contract or to dispose of and acquire property.

General contract law to govern capacity to enter into tenancies.

(2) All persons not under legal disability may grant leases for such terms as are consistent with their right, title or interest in the land or buildings, and all persons under no legal incapacity may hold leases.

PROVISIONS RELATING TO LEASES.

6. (1) Every lease for more than three years from the making thereof, and every lease for a term of less than three years with the right in the lessee at his option to prolong it to a period exceeding three years from the date thereof, shall be by deed signed and sealed by the parties, and every such lease not made by such deed shall have the force and effect of an agreement for a lease only.

Leases for more than 3 years to be by deed, and other leases to be in writing.

(2) Every lease for a term of three years or less shall be in writing and shall be signed by the lessor and the lessee, or by their respective agents thereunto lawfully authorised in writing.

(3) Every agreement for a lease made in writing or orally under which the person to become lessee went into possession of the land or buildings, shall take effect and be construed as a tenancy from year to year from the date of the entry into possession and until the lease has been actually executed.

(4) The provisions of subsections (2) and (4) of section 14 of the Deeds Registry Ordinance shall apply with respect to every lease not a long lease.

Cap. 32.

(5) Nothing in this Ordinance shall affect the provisions of section 14 of the Deeds Registry Ordinance relating to a long lease.

7. Every lease shall contain—

(a) a statement of the date, the names, the addresses and occupations of the parties;

(b) the recitals (if any), the operative words, the description of the parcels leased;

(c) the duration of the lease;

(d) the reservation of the rent;

Form of lease.

- (e) the covenants (if any);
- (f) any provisions for re-entry for non-payment of the rent or non-observance of covenants;
- (g) the determination of the lease by notice before the expiration thereof (if so intended).

Voluntary waste and accidental fires.

8. (1) A lessee shall not make voluntary waste of the land or buildings held under the tenancy without the permission of the lessor, and if he does so the lessee shall be liable to pay damages to the lessor.

(2) No action shall be brought by any landlord against any tenant on or in whose land or buildings any fire shall accidentally begin in respect of any damage suffered by him in consequence thereof:

Provided that this subsection shall take effect in so far only as a contrary intention is not expressed in any contract or agreement made between landlord and tenant.

Person holding over after expiration of tenancy.

9. In case any tenant for years or from year to year shall wilfully hold over any land or buildings after the termination or determination of the tenancy, and after demand made and notice in writing given for delivering the possession thereof to the person entitled to possession of the land or buildings, the person so holding over shall, for and during the time he shall so hold over or keep the person entitled out of possession, pay to the person so kept out of possession double the yearly rent which was payable under the tenancy to be recovered by action in the proper court.

Forfeiture of leases for breach of covenant other than for non-payment of rent.

10. (1) A right of re-entry or forfeiture under any proviso or stipulation in a lease for a breach of any covenant or condition in the lease shall not be enforceable, by action or otherwise, unless and until the lessor serves on the lessee a notice—

- (a) specifying the particular breach complained of; and
- (b) if the breach is capable of remedy, requiring the lessee to remedy the breach; and
- (c) in any case, requiring the lessee to make compensation in money for the breach,

and the lessee fails, within reasonable time thereafter, to remedy the breach, if it is capable of remedy, and to make reasonable compensation in money, to the satisfaction of the lessor, for the breach.

(2) Where a lessor is proceeding, by action or otherwise, to enforce such a right of re-entry or forfeiture, the lessee may, in

the lessor's action, if any, or in any action brought by himself, apply to the court for relief, and the court may grant or refuse relief, as the court, having regard to the proceedings and conduct of the parties under the foregoing provisions of this section and to all the other circumstances, thinks fit, and in case of relief may grant it on such terms, if any, as to costs, expenses, damages, compensation, penalty or otherwise, including the granting of an injunction to restrain any like breach in the future, as the court, in the circumstances of each case, thinks fit.

(3) A lessor shall be entitled to recover as a debt due to him from a lessee, and in addition to damages (if any), all reasonable costs and expenses properly incurred by the lessor in the employment of a solicitor and surveyor or valuer, or otherwise, in reference to any breach giving rise to a right of re-entry or forfeiture which, at the request of the lessee, is waived by the lessor, or from which the lessee is relieved, under the provisions of this Ordinance.

(4) Where a lessor is proceeding by action or otherwise to enforce a right of re-entry or forfeiture under any covenant, proviso or stipulation in a lease, or for non-payment of rent, the court may, on application by any person claiming as under-lessee any interest in the tenement or part thereof, either in the lessor's action (if any) or in any action brought by such person for that purpose, make any order vesting, for the whole term of the lease or any less term, the land or buildings comprised in the lease or part thereof in any person entitled as under-lessee to any interest in such land or buildings upon such conditions as to execution of any deed or other document, payment of rent, costs, expenses, damages, compensation, giving security, or otherwise, as the court in the circumstances of each case may think fit, but in no case shall any such under-lessee be entitled to require a lease to be granted to him for any longer term than he had under his original sub-lease.

(5) This section does not apply to a condition for forfeiture on the insolvency of the lessee or on the taking in execution of the lessee's interest if contained in a lease of—

(a) a house used or intended to be used as a hotel or spirit shop, or

(b) a house let as a dwelling-house, with the use of any furniture, books, work of art or other chattels not being in the nature of fixtures; or

(c) any property with respect to which the personal qualifications of the tenant are of importance for the preservation of the value or character of the property, or on the ground

of neighbourhood to the lessor, or to any person holding under him.

(6) This section shall have effect notwithstanding any stipulation to the contrary.

Forfeiture
for non-
payment of
rent.

11. (1) In the case of any action for a forfeiture brought for non-payment of rent, the Supreme Court or a judge thereof shall have power to give relief in a summary manner, and subject to the same terms and conditions in all respects as to payment of rent, costs and otherwise as could formerly have been imposed in the Court of Chancery in England, and if the lessee, his executors, administrators or assigns are so relieved they shall hold the tenement according to the terms of the lease and without the necessity of any new lease.

(2) Nothing in this section shall affect the principles of equity applicable to re-entry or forfeiture or relief in the case of non-payment of rent.

Waiver of
a covenant
in a lease.

12. (1) Where any actual waiver by a lessor or the persons deriving title under him of the benefit of any covenant or condition in any lease is proved to have taken place in any particular instance, such waiver shall not be deemed to extend to any instance, or to any breach of covenant or condition save that to which such waiver especially relates, nor operate as a general waiver of the benefit of any such covenant or condition.

(2) This section applies unless a contrary intention appears and extends to waivers effected after the 1st January, 1917.

PROVISIONS RELATING TO TENANCIES GENERALLY.

Vesting of
land and
buildings in
possession.

13. The doctrine of *interesse termini* in the common law of England shall have no application in this Colony, and every tenant shall be deemed to have entered into possession of the land or buildings intended to be let as from the date fixed for the commencement of the tenancy, if the same were in the possession of the landlord at the time of entering into the contract for a tenancy.

Things
privileged
from distress.

14. Without prejudice to any rule of common law relating to things privileged from distress for rent, the following goods and chattels shall be exempt from distress for rent—

(a) the wearing apparel and bedding of the tenant or his family and, to the value of twenty dollars, the tools and implements of his trade:

Provided that, in respect of such exemption from distress, the privilege shall not extend to any case where the lease, term or interest of the tenant has expired, and possession of the tenement in respect of which the rent is claimed has been demanded and the distress is made not earlier than seven days after such demand; and

(b) in the case of a tenancy relating to land used for agricultural or grazing purposes—

(i) agricultural or other machinery which is the property of a person other than the tenant, and is on the tenement under an agreement with the tenant for the hire or use thereof in the conduct of his business;

(ii) livestock which is the property of a person other than the tenant and is on the tenement solely for breeding purposes; and

(iii) if there be other sufficient distress on the tenement, livestock on the tenement which is the property of a person other than the tenant, and has been taken in by the tenant to be fed at a fair price:

Provided that, in respect of the exemption from distress referred to in paragraph (b) (iii) of this section, if such livestock is so distrained by reason of other sufficient distress not being found, there shall not be recovered by that distress a sum exceeding the amount of the sum agreed to be paid for the feeding, or any part thereof which remains unpaid.

15. (1) The doctrine of the common law, *quicquid solo plantatur, solo cedit*, shall have no application in this Colony to tenant's fixtures of any kind, and all such fixtures affixed to a tenement by a tenant and any building erected by him thereon for which he is not under any law or otherwise entitled to compensation, and which is not so affixed or erected in pursuance of some obligation in that behalf or instead of some fixture or building belonging to the landlord, shall be the property of and be removable by the tenant before or after the termination of the tenancy:

Fixtures, etc.,
of tenant.

Provided that—

(a) before the removal of any fixture or building, the tenant shall pay all rent owing by him and shall perform or satisfy all other his obligations to the landlord in respect of the tenement;

(b) in the removal of any fixture or building, the tenant shall not do any avoidable damage to any other building or to any part of the tenement;

(c) immediately after the removal of any fixture or building the tenant shall make good all damage occasioned to any other building or to any part of the tenement by the removal;

(d) the tenant shall not remove any fixture or building without giving one month's previous notice in writing to the landlord of his intention to remove it;

(e) at any time before the expiration of the notice of removal, the landlord, by notice in writing given by him to the tenant, may elect to purchase any fixture or building comprised in the notice of removal, and any fixture or building thus elected to be purchased shall be left by the tenant, and shall become the property of the landlord, who shall pay to the tenant the fair value thereof to an incoming tenant of the tenement, and any difference as to the value shall be settled by the magistrate of the judicial district in which the tenement lies on application made by either the landlord or the tenant.

(2) The proviso to subsection (1) of this section, shall not apply to fixtures and buildings removed before the commencement of this Ordinance, but subject thereto the provisions of this section shall have effect and be deemed always to have had effect as from the 1st January, 1917.

Attornment.

16. (1) Where land or a building is subject to a lease the conveyance or assignment of a reversion in the land or building expectant on the determination of the lease shall be valid without any attornment of the lessee:

Provided that nothing in this subsection—

(a) shall affect the validity of any payment of rent by the lessee to the person making the conveyance or transfer before notice of such conveyance or transfer is given to him by the person entitled thereunder; or

(b) shall render the lessee liable for any breach of covenant to pay rent, on account of his failure to pay rent to the person entitled under the conveyance or transfer before such notice is given to the lessee.

(2) An attornment by the lessee in respect of any land or building to a person claiming to be entitled to the interest in the land or building of the lessor, if made without the consent of the lessor, shall be void:

Provided that this subsection shall not apply to an attornment—

(a) made pursuant to a judgment of a court of competent jurisdiction; or

(b) to any person rightfully deriving title under the lessor.
