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any of the improvements on any land, or the value of any other thing shall be deemed to be a statement of opinion only and shall not be evidence of the value in question."

Pending
appeals.

15. The provisions relating to appeals against valuations of the Principal Act in force immediately prior to the date of the passing of this Act shall be deemed to continue in force as if this Act had never been passed in respect of any and every appeal against a valuation made by the Valuer-General instituted before but not finally determined as at the date of the passing of this Act.

LANDLORD AND TENANT.

6 ELIZ. II.
No. 35.
THE
LANDLORD
AND TENANT
ACTS
AMENDMENT
ACT OF 1957.

An Act to Amend "The Landlord and Tenant Acts, 1948 to 1954," in certain particulars.

[ASSENTED TO 17TH DECEMBER, 1957.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. (1.) This Act may be cited as "*The Landlord and Tenant Acts Amendment Act of 1957.*"

Principal
Act.

(2.) *"*The Landlord and Tenant Acts, 1948 to 1954,*" are in this Act referred to as the Principal Act.

Collective
title.

(3.) The Principal Act and this Act may be collectively cited as "*The Landlord and Tenant Acts, 1948 to 1957.*"

New s. 4A
inserted.

2. The following section is inserted after section four of the Principal Act:—

Certain
premises
excluded
from
operation
of the Act.

"[4A.] (1.) The provisions of this Act other than this section shall not apply—

(a) To any premises leased for the first time after the first day of December, one thousand nine hundred and fifty-seven; or

(b) To any premises leased after the first day of December, one thousand nine hundred and fifty-seven, and which were not leased at any time during the period of three years ending on that date.

* 12 G. 6 No. 31 and amending Acts.

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(2.) The provisions of Part III. of this Act shall not apply to any premises (being premises other than those referred to in subsection one hereof) leased after the first day of December, one thousand nine hundred and fifty-seven, where the parties to that lease have agreed in writing that Part III. of this Act shall not apply to such lease:

Certain premises excluded from Part III. of the Act.

Provided that any such agreement shall be for the purpose of that lease of the said premises only and for no other lease of the said premises.

(3.) Notwithstanding anything in any Act, rule, custom, or agreement express or implied to the contrary, if a lessee of a dwelling-house (other than a lessee for a fixed term) to whom this section applies duly pays the rent of a dwelling-house leased by him and otherwise performs the conditions of his lease, the lessor shall not be entitled to determine the lease without giving to the lessee at least twenty-eight days previous notice to quit:

Notice to quit.

Provided that nothing herein shall prejudice or affect any lease wherein a longer notice to quit than twenty-eight days is provided for."

3. Section seven of the Principal Act is amended by repealing the definition of " Holiday Premises " and inserting, in lieu of that repealed definition, the following definition :—

Amendment of s. 7.

" " Holiday premises "—Any dwelling-house which—

Holiday premises.

(a) Since the first day of March, one thousand nine hundred and forty-five (or, if not existing on that day, since the day on which it was first leased) has ordinarily been leased for holiday purposes only ; and

(b) (If existing on the date of the passing of **" The Landlord and Tenant Acts Amendment Act of 1957 "*) was not then leased for purposes other than holiday purposes,

but does not include any such premises which at any time after the date of the passing of **" The Landlord and Tenant Acts Amendment Act of 1957,"*—

(i.) Are ordinarily leased for purposes other than holiday purposes ; or

* This Act.

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- (ii.) Are leased to or occupied by any lessee for a continuous period exceeding three months."

Amendments
of s. 16.

4. (1.) Section sixteen of the Principal Act is amended—

(i.) By repealing in subsection two thereof the words "tenth day of February, one thousand nine hundred and forty-two" wherever they occur therein and by inserting, in lieu of those repealed words, the words "the first day of July, one thousand nine hundred and forty-eight".

(ii.) By repealing subsection three thereof and inserting, in lieu of that repealed subsection, the following subsection :—

"(3.) The Court shall, in fixing the fair rent of any dwelling-house, pursuant to this section, disregard the effect on the capital value of that dwelling-house, of the National Security (Economic Organisation) Regulations of the Commonwealth or Part V.—Land Sales, of **" The Profiteering Prevention Act of 1948 "*."

Commence-
ment of
section.

(2.) This section shall come into force on the first day of March, one thousand nine hundred and fifty-eight.

Power to
increase
rental.

5. The following section is inserted after section 20B of the Principal Act :—

"[20c.] (1.) A lessor of any dwelling-house existing on the tenth day of February, one thousand nine hundred and forty-two, may, after the first day of March, one thousand nine hundred and fifty-eight, subject to the express provisions of any lease of the premises for a fixed term which has not expired, by notice in writing served on the lessee, require that after the expiration of fourteen days from the service of that notice the rent of the dwelling-house which has been fixed prior to the first day of March, one thousand nine hundred and fifty-eight, under—

(i.) The provisions of section thirteen of this Act; or

(ii.) A determination under this Part,
shall be increased to such an amount as is specified in the notice not being more than twenty per centum in excess of the rent so fixed prior to the first day of March, one thousand nine hundred and fifty-eight.

* 12 G. 6 No. 34.

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Upon the expiration of the said period of fourteen days the amount so specified shall (subject to subsection two hereof) be the fair rent of the premises for all the purposes of this Act and notwithstanding that the date from which such increase shall take effect does not coincide with the last day of the period of the tenancy.

(2.) The fair rent of any dwelling-house as varied under this section shall for the purpose of the provisions of this Act (excepting the provisions of section twenty-three of this Act) be deemed to be fixed under a determination under this Part, but any variation of the fair rent by the lessor under this section shall be deemed not to be a determination for the purpose of section twenty-three of this Act."

6. Section twenty-three of the Principal Act is amended by repealing the words, figures and quotation marks " "*The Landlord and Tenant Act Amendment Act of 1948* " " where they twice occur in paragraph (i.) and inserting, in lieu of those repealed words and figures, the words, figures and quotation marks " "*The Landlord and Tenant Acts Amendment Act of 1957* " ". Amendment of s. 23.

7. Section forty-one of the Principal Act is amended— Amendments of s. 41.

(i.) By inserting after subsection four the two following subsections 4A and 4B :—

" (4A.) Where for any sufficient cause the service of any notice to quit cannot be effected, a court having jurisdiction to hear and determine the matter of recovery of possession of those premises may, upon an affidavit showing grounds, make such order for substituted or other service or substitution for service of notice by advertisement or otherwise as it may deem proper. Substituted service—notice to quit.

(4B.)—

(i.) Where a lessee of prescribed premises has died and probate or letters of administration of his estate have not been granted, any notice to quit which might have been given to the legal personal representative of the deceased lessee had probate or letters of

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administration of his estate been granted may be given by affixing the same to the premises and

- (a) Where any person or persons are apparently residing in or in occupation of the premises—by delivering the notice to any of such persons apparently over the age of sixteen years ;
 - (b) In any other case—by giving notice of the same twice in a daily newspaper circulating in the district in which the premises are situated.
- (ii.) Where any proceedings for an order for the recovery of possession of any prescribed premises are taken in reliance of any notice to quit given in the manner provided in subparagraph (a) of paragraph (i.) of this subsection, any occupant of the premises or other person claiming an interest therein shall be entitled to be heard in the proceedings. The contesting of any such proceedings shall not of itself be regarded as an act of administration or as intermeddling in the estate of the deceased lessee or as constituting the person so contesting any such proceedings executor *de son tort* of the deceased lessee.
- (iii.) Nothing in this subsection shall effect the right of a lessor to give notice to quit otherwise than as provided in this subsection.”
- (ii.) By repealing the words “or demolition” where they occur in paragraph (m) of subsection five thereof and by inserting, in lieu of those repealed words, the words “demolition or removal” ;
- (iii.) By adding to subsection five the following paragraphs :—

Further
prescribed
grounds—
notice to
quit.

“(p)—

- (i.) That the lessee, without just cause or excuse has parted with possession of the premises being a dwelling-house without the consent or approval of the lessor ; or
- (ii.) That the lessee, without just cause or excuse not having parted with possession of the premises being a dwelling-house, has, without the consent or approval of

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the lessor ceased for a period exceeding three months to be a *bona fide* occupant of the premises ;

- (q) Where the premises are let as a shop or business premises and have been converted by the lessee without the consent of the lessor, either express or implied, from a shop or business premises into a dwelling-house."

(iv.) By repealing subparagraph (i.) of paragraph (a) of subsection seven and by renumbering subparagraphs (ii.) and (iii.) of the said paragraph (a) as subparagraphs (i.) and (ii.) respectively.

8. Section forty-five of the Principal Act is amended by inserting— Amendment of s. 45.

(a) After the word " not " first occurring the words " except by leave of the Court " ;

(b) After the word " specified " the words " or of which particulars have not been given ".

9. The following section is inserted after section sixty-two of the Principal Act :— New s. 62A inserted.

" [62A.] Where the Public Curator of Queensland has, before or after the passing of this Act, leased a dwelling-house— Dwelling-house of mentally sick person.

(a) Forming part of the estate of a person who at the time when the lease was granted was a mentally sick person within the meaning of * " *The Mental Hygiene Act of 1938* " ; and

(b) Which was the residence of such person before he became a mentally sick person within the meaning of that Act,

the provisions of this Part of this Act shall not, in respect of that lease, apply to the dwelling-house."

10. The following section numbered 64A is inserted after section sixty-four of the Principal Act, namely :— New s. 64A inserted.

" [64A.] (1.) A lessor of holiday premises may make application to the registrar at Brisbane for a certificate that the premises referred to therein are holiday premises for the purposes of this Act. Certificate as to holiday premises.

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(2.) The applicant shall furnish such information in relation to the application as the aforementioned registrar requires.

(3.) The registrar shall grant a certificate in the prescribed form or refuse the application.

(4.) The registrar shall revoke any certificate on proof to his satisfaction that the subject premises were not or have ceased to be holiday premises within the meaning of that term as defined in subsection one of section seven of this Act.

(5.) Any lessor or intending lessor affected by any grant, refusal or revocation of a certificate by a registrar under this section may appeal therefrom to the Fair Rents Court. Such appeal shall be by way of endorsement on the application for the certificate by the registrar at the request of the owner or lessor or proposed lessor, or by notice in writing to attend before a Fair Rents Court without any further application within seven days after the grant, refusal or revocation complained of, or such further time as may be allowed by the said Court or registrar. Unless otherwise ordered there shall be one clear day between service of the notice of appeal and the day of hearing.

(6.) Notwithstanding any other provisions of this Act and without prejudice thereto, any dwelling-house which, before or after the passing of **"The Landlord and Tenant Acts Amendment Act of 1957,"* was or is holiday premises, shall not cease to be holiday premises by reason only that a certificate under this section has not been granted and in force.

(7.) A certificate granted and in force under this section shall, in any proceedings under or for the purposes of this Act or †*"The Summary Ejectment Act of 1867,"* be *primâ facie* evidence that the premises described therein are holiday premises within the meaning of this Act."

* This Act.

† 31 V. No. 27.