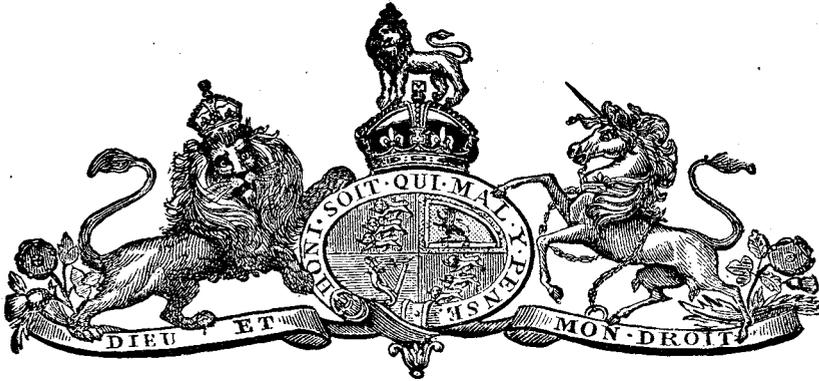


T A S M A N I A.



1909.

ANNO NONO

EDWARDI VII. REGIS,

No. 47.

ANALYSIS.

- |                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>1. Short title and incorporation.</li> <li>2. Commencement of Act.</li> <li>3. Repeal.</li> <li>4. Interpretation.</li> <li>5. Under-tenant or lodger, if distress levied, to make declaration that immediate tenant has no property in goods distrained.</li> <li>6. Penalty.</li> <li>7. Payments by under-tenant or lodger to superior landlord.</li> </ul> | <ul style="list-style-type: none"> <li>8. Exclusion of certain goods.</li> <li>9. To avoid distress.</li> <li>10. Sewing-machine, knitting-machine, type-writing machine, or mangle exempt from distress in certain cases.</li> <li>11. Exemption of certain property from distress.</li> <li>12. Procedure.</li> <li>13. Non-limitation of exemptions.</li> <li>14. Saving of rights of landlords as to existing leases, &amp;c.</li> </ul> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

\*\*\*\*\*

AN ACT to amend "The Landlord and Tenant Act, 1874," and for other purposes. A.D. 1909.

[30 December, 1909.]

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

1 This Act may be cited as "The Landlord and Tenant Act, 1909," and shall be read and incorporated with "The Landlord and Tenant Act, 1874," hereinafter called the Principal Act. Short title and incorporation.  
38 Vict. No. 12.

*Landlord and Tenant Amendment.*

A.D. 1909.

Commencement  
of Act.

Repeal.

Interpretation.

Under-tenant or  
lodger, if distress  
levied, to make  
declaration that  
immediate  
tenant has no  
property in goods  
distrained.

**2** This Act shall come into operation on the First day of *January*, One thousand nine hundred and ten.

**3** Sections Five, Six, Seven, and Eight of the Principal Act are hereby repealed.

**4**—(1.) In this Act—

“Superior landlord” includes a landlord in cases where the goods seized are not those of an under-tenant or lodger:

“Tenant” (except where occurring in Sections Eleven and Twelve) and “under-tenant” do not include a lodger.

(2.) In Sections Eleven and Twelve of this Act the expression “tenant” includes an under-tenant or lodger who by virtue of Section Seven of this Act is deemed to be an immediate tenant of the superior landlord.

**5**—(1.) If any superior landlord levies, or authorises to be levied, a distress on any goods or chattels of—

- i. Any under-tenant: or
- ii. Any lodger: or
- iii. Any other person whatsoever not being a tenant of the premises or of any part thereof, and not having any beneficial interest in any tenancy of the premises or of any part thereof—

for arrears of rent due to the superior landlord by his immediate tenant, the under-tenant, lodger, or other person aforesaid may serve the superior landlord, or the bailiff or other agent employed by him to levy such distress, with a declaration in writing made by the under-tenant, lodger, or other person aforesaid—

- i. Setting forth that the immediate tenant has no right of property or beneficial interest in the goods or chattels so distrained or threatened to be distrained upon, and that such goods or chattels are the property or in the lawful possession of the under-tenant, lodger, or other person aforesaid: and also
- ii. In the case of an under-tenant or lodger, setting forth the amount of rent (if any) then due to his immediate landlord, and the times at which future instalments of rent will become due, and the amount thereof, and containing an undertaking to pay to the superior landlord any rent so due or to become due to his immediate landlord, until the arrears of rent in respect of which the distress was levied or authorised to be levied have been paid off.

(2.) There shall be annexed to the said declaration a correct inventory, subscribed by the under-tenant, lodger, or other person aforesaid, of the goods and chattels referred to in the declaration.

(3.) If any under-tenant, lodger, or other person aforesaid makes or subscribes such declaration and inventory knowing the same or

*Landlord and Tenant Amendment.*

either of them to be untrue in any material particular, he shall be deemed guilty of a misdemeanour. A.D 1909.

**6**—(1.) If any superior landlord, or any bailiff or other agent employed by him— Penalty.

i. After being served with the beforementioned declaration and inventory: and

ii. In the case of an under-tenant or lodger, after such undertaking as aforesaid has been given, and the amount of rent (if any) then due has been paid or tendered in accordance with that undertaking—

levies or proceeds with a distress on the goods or chattels of the under-tenant, lodger, or other person aforesaid, such superior landlord, bailiff, or other agent shall be deemed guilty of an illegal distress, and the under-tenant, lodger, or other person aforesaid may apply to a justice for an order for the restoration to him of such goods.

(2.) Such application shall be heard before—

i. A police magistrate: or

ii. Any Two or more justices, in petty sessions assembled—

and such magistrate or justices shall inquire into the truth of the said declaration and inventory, and shall make such order for the recovery of the goods and chattels or otherwise as to him or them may seem just.

(3.) The superior landlord shall also be liable to an action at law at the suit of the under-tenant, lodger, or other person aforesaid, in which action the truth of the declaration and inventory may likewise be inquired into.

**7**—(1.) For the purposes of the recovery of any sums payable by an under-tenant or lodger to a superior landlord—

i. Under such an undertaking as aforesaid: or

ii. Under a notice served in accordance with Section Nine of this Act—

the under-tenant or lodger shall be deemed to be the immediate tenant of the superior landlord, and the sums payable shall be deemed to be rent.

(2.) Where the under-tenant or lodger has, in pursuance of any such undertaking or notice as aforesaid, paid any sums to the superior landlord, he may deduct the amount thereof from any rent due or which may become due from him to his immediate landlord, and any person (other than the tenant for whose rent the distress is levied or authorised to be levied) from whose rent a deduction has been made in respect of such a payment may make the like deductions from any rent due or which may become due from him to his immediate landlord.

**8** The preceding sections of this Act shall not apply to—

i. Goods belonging to the husband or wife of the tenant whose rent is in arrear: nor

Payments by  
under-tenant or  
lodger to  
superior landlord

Exclusion of  
certain goods.

*Landlord and Tenant Amendment.*

A.D. 1909.

- ii. Goods comprised in any bill of sale, hire-purchase agreement, or settlement made by such tenant : nor
- iii. Goods in the possession, order, or disposition of such tenant by the consent and permission of the true owner, under such circumstances that such tenant is the reputed owner thereof.

To avoid distress.

**9**—(1.) In cases where the rent of the immediate tenant of the superior landlord is in arrear it shall be lawful for such superior landlord to serve personally upon any under-tenant or lodger a notice in writing—

- i. Stating the amount of such arrears of rent : and
- ii. Requiring all future payments of rent, whether the same has already accrued due or not, by such under-tenant or lodger to be made direct to the superior landlord giving such notice until such arrears shall have been duly paid.

(2.) Such notice shall operate to transfer to the superior landlord the right to recover, receive, and give a discharge for such rent.

Sewing-machine, knitting-machine, type-writing machine, or mangle exempt from distress in certain cases.

Act No. 43, 1898 (N.S.W.), s. 1.  
Cf. 4 Edw. VII. No. 55, s. 2 (W.A.).

4 Edw. VII. No. 15, s. 2 (Q.).

Exemption of certain property from distress.

**10** After the commencement of this Act it shall not be lawful to distrain any sewing-machine, knitting-machine, type-writing machine, or mangle, the property of or under hire to any female person, for any rent claimed in respect of the premises or place in which such machine or mangle may be.

Provided that any one such person shall not be entitled to have more than One sewing-machine, One knitting-machine, One type-writing-machine, or One mangle protected from distress under the provisions of this section.

**11** After the commencement of this Act, the following goods and chattels of the tenant or his family, namely, the tools, necessary furniture, books for the education of the children, wearing apparel, and the bedding of the tenant, his wife, and children, to a value, inclusive of tools, necessary furniture, books, apparel, and bedding, not exceeding Ten Pounds in the whole, shall be exempt from seizure under any distress for rent, and such goods and chattels are hereby protected from such seizure.

Procedure.

**12**—(1.) When a distress for rent is levied upon the goods and chattels of any tenant :

- i. The tenant must deliver to the officer levying the distress a schedule of goods and chattels in respect of which he claims exemption, as mentioned in the last preceding section :
- ii. If the tenant does not deliver a schedule of the goods and chattels in respect of which he claims exemption, the officer levying the distress must exempt goods of the kinds mentioned in the last preceding section to a value not exceeding Ten Pounds in the whole.

*Landlord and Tenant Amendment.*

(2.) In either case if the value of such goods and chattels is disputed, either party may apply to a justice, who shall hear both parties upon the question of value only; and the order made by the justice shall be binding and conclusive between the parties. A.D. 1909.

**13**—(1.) Any exemption from distress provided by any section of this Act shall be in addition to, and not in limitation of or substitution for, any exemption from distress provided by any other section of this Act. Non-limitation of exemptions.

(2.) This Act shall be taken as providing for and supplementing exemptions, and not limiting any exemption already existing.

**14** Provided that nothing in this Act contained shall affect the rights of any landlord in respect of a lease or agreement for lease for a term of years granted before the passing of this Act during the balance of such term, or, in respect of a yearly tenancy, during such period as must elapse before such tenancy could be terminated by a notice given by the landlord to the tenant immediately after the passing of this Act. Saving of rights of landlords as to existing leases, &c.

