

**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 2,238 of 28th JUNE, 1985.

I ASSENT,

DAVID WILLIMAS

GOVERNOR.

28th June, 1985.



GIBRALTAR.

No. 17 of 1985.

AN ORDINANCE to amend the Landlord and Tenant Ordinance, 1983 (Ordinance No. 49 of 1983).

ENACTED by the Legislature of Gibraltar.

Short title.

1. This Ordinance may be cited as the Landlord and Tenant (Amendment) (No. 2) Ordinance, 1985.

Amendment of Section 1 of Ordinance 49 of 1983

2. Section 1 of the Landlord and Tenant Ordinance, 1983 (hereinafter called the principal Ordinance) is amended by repealing subsection (2) thereof and substituting therefor the following new subsection:

Landlord and Tenant (Amendment) (No. 2) Ordinance, 1985.

"(2) This Ordinance, other than subsection (2) of Section 82, shall come into operation on a date to be appointed by the Governor, by notice published in the Gazette, and different days may be appointed under this subsection for different provisions; and any reference in any provision to the commencement of this Ordinance shall be construed as a reference to the day appointed under this subsection for the coming into operation of that provision."

Replacement of Section 22.

3. The principal Ordinance is further amended by repealing Section 22 thereof and substituting therefor the following new section:

"Reference to Tribunal for decontrol of premises.

22. (1) Where, on application by the landlord of a dwellinghouse to which this Part applies, the Rent Tribunal is satisfied that –

- (a) structural alterations have been carried out, or are to be carried out, to the dwellinghouse on or after the commencement of this Ordinance; and
- (b) the bona fide effect of the structural alterations is or will be, when carried out, to reconstruct the dwellinghouse either –
 - (i) into a unit that is the same or larger than before the alterations; or
 - (ii) into 2 or more separate, self-contained flats; and
- (c) the structural alterations do not or will not, when they are carried out, have the effect of decreasing the overall housing stock; and
- (d) no undue hardship will be caused to any tenant of the dwellinghouse by the structural alterations –

the Rent Tribunal may make an order declaring that this Part shall not apply to the dwellinghouse or to any separate and self-contained units resulting from the structural alterations.

Landlord and Tenant (Amendment) (No. 2) Ordinance, 1985.

(2) Subject to subsection (3), an order under this section shall have effect from the date, as determined by the Rent Tribunal, on which the structural alterations were completed.

(3) Where an order is made under this section in respect of any structural alterations that are to be carried out, the order shall have effect from the date on which the structural alterations are completed, as certified by the Director of Crown Lands.

(4) When an order made under this section comes into effect, the premises to which it relates shall thereupon cease to be a dwellinghouse or dwellinghouses to which this Part applies."

Replacement of Section 83.

4. The principal Ordinance is further amended by repealing section 83 thereof and substituting therefor the following new section:

"Amendment of Chapter 83.

83. The Landlord and Tenant (Miscellaneous Provisions) Ordinance (Chapter 83) (hereinafter called the former Ordinance) is amended -

- (a) by repealing section 3 thereof; (b) by repealing Part II thereof;
- (c) by repealing section 64 thereof and substituting therefor the following new section:

"Compensation for possession obtained by misrepresentation.

64. (1) Where an order is made for the recovery of property under Part III, or the court refuses an order for the grant of a new tenancy and it is subsequently made to appear to the court that the order was obtained, or the court was induced to refuse the grant, by misrepresentation or the concealment of any material fact, the court may order the landlord to pay to the tenant such sum as appears sufficient as compensation for damage or loss sustained by the tenant as the result of the order or refusal.

(2) In this section the expression "the landlord" means the person applying for possession or opposing an application for the grant of a new tenancy, and the expression "the tenant" means the person against whom the order for possession was made or to whom the grant of a new tenancy was refused."

Landlord and Tenant (Amendment) (No. 2) Ordinance, 1985.

- (d) by repealing section 65 thereof and substituting therefor the following new section:

"Interim continuation of tenancies pending determination by court or tribunal.

65. (1) Notwithstanding any other provisions of this Ordinance, in any case where –

- (a) a notice to terminate a tenancy has been given under Part III or a request for a new tenancy has been made under Part III; and
- (b) an application to the court has been made under Part III; and
- (c) apart from this section, the effect of the notice or request would be to terminate the tenancy before the expiration of the period of three months beginning with the date on which the application is finally disposed of,

the effect of the notice or request shall be to terminate the tenancy at the expiration of the said period of three months and not at any other time. 80

(2) The reference in paragraph (c) of subsection (1) of this section to the date on which an application is finally disposed of shall be construed as a reference to the earliest date by which the proceedings on the application (including any proceedings on or in consequence of an appeal) have been determined and any time for appealing or further appealing has expired, except that if the application is withdrawn or any appeal is abandoned the reference shall be construed as a reference to the date of the withdrawal or abandonment."

- (e) by repealing section 66 thereof and substituting therefor the following new section:

"Provisions as to reversions.

66. (1) Where by virtue of any provision of Part III of this Ordinance a tenancy (in this subsection referred to as "the inferior tenancy") is continued for a period such as to extend to or beyond the end of the term of a superior tenancy, the superior tenancy shall, for the purposes of this Ordinance and of any other enactment and of any rule of law, be deemed

Landlord and Tenant (Amendment) (No. 2) Ordinance, 1985.

so long as it subsists to be an interest in reversion expectant upon the termination of the inferior tenancy and, if there is no intermediate tenancy, to be the interest in reversion immediately expectant upon the termination thereof.

(2) Where by virtue of any provision of Part III of this Ordinance a tenancy (in this subsection referred to as "the continuing tenancy") is continued beyond the beginning of a reversionary tenancy which was granted (whether before or after the commencement of this Ordinance) so as to begin on or after the date on which apart from this Ordinance the continuing tenancy would have come to an end, the reversionary tenancy shall have effect as if it had been granted subject to the continuing tenancy.

(3) Where by virtue of any provision of Part III of this Ordinance a tenancy (in this subsection referred to as "the new tenancy") is granted for a period beginning on the same date as a reversionary tenancy or for a period such as to extend beyond the beginning of the term of a reversionary tenancy, whether the reversionary tenancy in question was granted before or after the commencement of this Ordinance, the reversionary tenancy shall have effect as if it had been granted subject to the new tenancy."

(f) by repealing section 67 thereof and substituting therefor the following new section:

"Provisions as to mortgagees in possession.

67. Anything authorized or required by the provisions of Part III of this Ordinance to be done at any time by, to or with the landlord, or a landlord of a specified description, shall, if at that time the interest of the landlord in question is subject to a mortgage and the mortgagee is in possession or a receiver appointed by the mortgagee or by the court is in receipt of the rents and profits, be deemed to be authorized or required to be done by, to or with the mortgagee instead of that landlord."

(g) by repealing section 68 thereof; (h) by repealing section 69 thereof; (i) by repealing the First Schedule thereto; (j) by repealing the Second Schedule thereto; (k) by repealing the Third Schedule thereto; (l) by repealing the Fourth Schedule thereto; (m) by repealing the Sixth Schedule thereto."

Landlord and Tenant (Amendment) (No. 2) Ordinance, 1985.

Passed by the Gibraltar House of Assembly on the 27th day of June,
1985.

P. A. Garbarino

Clerk to the Assembly.