



VICTORIA GOVERNMENT GAZETTE.

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[1957

RULES UNDER THE JUSTICES ACTS.

*At the Executive Council Chamber, Melbourne, the
eighth day of October, 1957.*

PRESENT:

His Excellency the Lieutenant-Governor of Victoria.

Mr. Chandler
Mr. Reid

Mr. Cameron
Mr. Porter.

JUSTICES (LANDLORD AND TENANT) RULES, 1957.

UNDER and by virtue of the powers and authorities conferred by the *Justices Act 1928*, the *Acts Interpretation Acts* and the *Landlord and Tenant (Control) Act 1957*, His Excellency the Lieutenant-Governor of Victoria, by and with the advice of the Executive Council thereof, doth hereby make the following Rules, that is to say:—

CITATION AND COMMENCEMENT.

1. These Rules may be cited as the *Justices (Landlord and Tenant) Rules, 1957*, and shall come into operation on the thirty-first day of October, 1957.

INTERPRETATION.

2. In these Rules, unless the context or subject-matter otherwise requires—

“Lessor” and “Lessee” mean the parties to a lease or their respective successors in title and include—

- (a) a mesne lessor and a mesne lessee;
- (b) a sub-lessor and a sub-lessee; and
- (c) in respect of premises which are prescribed premises within the meaning of the *Landlord and Tenant (Control) Act 1957* and which are subject to a mortgage, a mortgagee who enters or has entered into possession of the premises under the mortgage and a person who was the lessee of the premises under the mortgagor immediately prior to the mortgagee entering into possession—

respectively.

“Prescribed premises” means premises which are prescribed premises within the meaning of the *Landlord and Tenant (Control) Act 1957*.

SUBSTITUTED SERVICE OF NOTICE TO QUIT.

3. Any lessor of any premises, whether prescribed premises or not, may apply in writing to the Court of Petty Sessions, consisting of a stipendiary magistrate sitting alone, nearest of access to the premises in question for substituted service of a notice to quit on the lessee of the premises.

4. Such application shall be supported by evidence on oath or by affidavit.

5. The application and all affidavits in support thereof shall be intitled "In the matter of the Landlord and Tenant Acts and in the matter of an Application for Substituted Service of a Notice to Quit" and shall set out the situation of the premises and the full name and description of the lessor and (so far as such are known to the lessor) of the lessee.

6. The court to which the application is made, after hearing what is alleged on behalf of the lessor, may make such order for substituted service as to it seems just and where, on a complaint being made by the lessor or his agent, pursuant to the provisions of section 69 of the *Landlord and Tenant Act 1928*, a summons is issued, such order shall be annexed to the original summons.

INTERROGATORIES.

7. Where in respect of any prescribed premises a complaint and summons thereon has been issued pursuant to section 69 of the *Landlord and Tenant Act 1928* and the ground relied on is one of the grounds referred to in section 54 of the *Landlord and Tenant (Control) Act 1957*, the lessor of such premises may once, without leave, deliver interrogatories in writing for the examination of the lessee. Where there is more than one lessee, such interrogatories when delivered shall have a note at the foot thereof stating which of such interrogatories each of such lessees is required to answer. Further interrogatories may be delivered by leave of a stipendiary magistrate.

8. A copy of interrogatories delivered under Rule 7 shall be filed with the clerk of the court at which the summons referred to in that Rule is returnable within three days after they have been delivered.

9. Interrogatories which do not relate to any matters in question shall be deemed irrelevant notwithstanding that they might be admissible on the oral cross-examination of a witness.

10. If a lessee is a body corporate, or a joint stock company, whether incorporated or not, or any other body of persons against which proceedings in ejectment may be taken, whether in its own name or in the name of any officer or other person, interrogatories delivered to such lessee shall be answered by the secretary or other proper officer of such corporation, company or body.

11. Interrogatories shall be answered by affidavit to be filed with the clerk and served on the lessor within five days, or such other time as a stipendiary magistrate allows.

12. Any objection to answering any one or more of several interrogatories on the ground that it or they is or are scandalous or irrelevant or not bona fide for the purposes of the complaint, or on any other ground may be taken in the affidavit in answer.

13. A lessor shall be entitled to interrogate the lessee in relation to any matter which is directly relevant to the ground or matter in issue.

14. A lessor may, at the hearing of the complaint, use in evidence any one or more of the answers, or any part of an answer to interrogatories without putting in the other answers or the whole of such answer: Provided that in such case the stipendiary magistrate constituting the court may examine the whole of the answers, and, if he is of opinion that any others of them are so connected with those put in that the last-mentioned answers ought not to be used without them, he may direct them to be put in.

15. If any person interrogated fails to answer or to answer sufficiently, the court, consisting of a stipendiary magistrate sitting alone, may either on the return day of the summons or at any time make an order requiring him to answer or to answer further either by affidavit or by oral examination before the court either on the return day aforesaid or at any other time.

16. If any person interrogated fails without just cause to answer or to attend for oral examination when directed so to do, the court may at the hearing adjourn the complaint to enable such interrogatories to be answered or such examination to be held, or may hold such examination forthwith.

And the Honorable Murray Victor Porter, for and on behalf of Her Majesty's Attorney-General in and for the State of Victoria, shall give the necessary directions herein accordingly.

N. G. WISHART,
Acting Clerk of the Executive Council.