

1994—No. 425

**LANDLORD AND TENANT (AMENDMENT) ACT 1948—
REGULATION**

(Landlord and Tenant Regulation 1994)

NEW SOUTH WALES



[Published in Gazette No. 108 of 26 August 1994]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Landlord and Tenant (Amendment) Act 1948, has been pleased to make the Regulation set forth hereunder.

Robert Webster
Minister for Housing.

Citation

1. This Regulation may be cited as the Landlord and Tenant Regulation 1994.

Commencement

2. This Regulation commences on 1 September 1994.

Definitions

3. (1) In this Regulation:

“the Act” means the Landlord and Tenant (Amendment) Act 1948.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

Prescribed form of statement: sec. 5AB

4. For the purposes of section 5AB of the Act, the prescribed form of statement (being a statement by a lessee of premises to the effect that the lessee did not enter into possession of the premises until on or after 1 January 1986) is Form 1.

Prescribed amount: sec. 31MAA

5. (1) For the purposes of the definition of “prescribed amount” in section 31MAA (1) of the Act, the amount prescribed in lieu of the amount specified in that definition is the amount calculated by multiplying the maximum fortnightly age pension by 65.

(2) In this clause, a reference to the maximum fortnightly age pension is a reference to the maximum fortnightly rate at which an age pension is from time to time payable, under the Social Security Act 1991 of the Commonwealth, to a person who is not a member of a couple.

Prescribed form of statutory declaration: sec. 31MBA

6. For the purposes of section 31MBA (4) of the Act, the prescribed form of statutory declaration is Form 2, 3, 4 or 5, whichever is appropriate to the circumstances in which the declaration is made.

Prescribed military and air operations: sec. 99

7. For the purposes of the definition of “present war” in section 99 (1) of the Act, the military and air operations that commenced after 28 June 1950 by Australian forces (whether acting alone or in association with other British Commonwealth forces) in Malaya (including the waters contiguous to the coast of Malaya for a distance of 10 nautical miles seaward from the coast) are prescribed operations.

Prescribed fees: secs. 5A, 17A, 44, 52, 57, 58, 94

8. (1) The fees set out in the Table to this clause are prescribed in lieu of the fees prescribed by the provisions of the Act to which they relate.

(2) A fee set out in the Table to this clause in lieu of a fee payable under section 52 (1A) or 57 (1B) of the Act does not apply if:

- (a) the application or enquiry concerned:
 - (i) relates to prescribed premises contained in premises that contain other prescribed premises; and
 - (ii) is made simultaneously with similar applications or enquiries with respect to each of the other prescribed premises; and
- (b) a fee has been paid with respect to one of the other applications or enquiries.

(3) For the purposes of section 52 (2) of the Act, the prescribed fee to accompany an application under that subsection is:

- (a) \$2, if the application:
 - (i) relates to prescribed premises contained in premises that contain other prescribed premises; and
 - (ii) is made simultaneously with similar applications with respect to each of the other prescribed premises; or
- (b) \$10, in any other case.

TABLE

Section 5A (11) (c)	\$10
Section 17A (7) (b)	\$10
Section 17A (11) (c)	\$10
Section 44 (1A)	\$14
Section 52 (1A)	\$10
Section 57 (1B)	\$10
Section 58 (3)	\$10
Section 94 (4)	\$10

Repeal

9. The Landlord and Tenant (Amendment) Act Regulations are repealed.

Form 1

LANDLORD AND TENANT (AMENDMENT) ACT 1948

STATEMENT BY LESSEE

1. *I/We,
(Name(s) in block letters)

*am/are the lessee(s) of the premises at

.....
(Address of premises)

2. *I/We did not enter into possession of the premises until on or after 1 January 1986.

Signature
(Lessee)

Witness

.....
(Name in block letters)

.....
(Address)

*Signature
(Lessee)

Witness

.....
(Name in block letters)

.....
(Address)

Date

**Delete, where appropriate. If there are more than two lessees, each additional lessee should also sign the form and have the signature witnessed.*

Form 2

(Cl. 6)

LANDLORD AND TENANT (AMENDMENT) ACT 1948

(Section 31MBA (4))

**INFORMATION AS TO NET INCOME OF LESSEE AND NAMES OF ALL
RESIDENTS RESIDING IN PRESCRIBED PREMISES****STATUTORY DECLARATION**

I/We.....
of.....

do solemnly and sincerely declare that:

1. I/We are the lessee/s of prescribed premises situated at
2. My/Our net income for the last financial year ending 30 June 19 was
\$
3. The following persons are residents of the prescribed premises:

.....
.....
.....

(Do not include in the list of residents the names of the lessee, any sub-lessee, any relative of a sub-lessee ordinarily residing with the sub-lessee, any person under the age of 16 years or any boarder or lodger.)

4. There are boarders or lodgers ordinarily residing in the prescribed premises.

(This item is not required to be completed by a lessee whose prescribed premises are, with the lessor's consent, sub-let in whole or in part in the course of the lessee's business of sub-letting for residential purposes, or by a lessee who or which is a partnership or company.)

And I/We make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1900.

Taken and declared at
this
day of 19 before me

.....
Justice of the Peace

}

.....
(Signature)

1994—No. 425**Form 3**

(CI. 6)

LANDLORD AND TENANT (AMENDMENT) ACT 1948

(Section 31MBA (4))

**INFORMATION AS TO NET INCOME OF RESIDENT OF PRESCRIBED
PREMISES****STATUTORY DECLARATION**

I,.....

of.....

do solemnly and sincerely declare that:

1. I am a resident of the prescribed premises situated at

.....

2. My net income for the last financial year ending 30 June 19 was
\$And I make this solemn declaration conscientiously believing the same to be true, and
by virtue of the provisions of the Oaths Act 1900.

Taken and declared at

this

day of19before me

.....

Justice of the Peace

}

.....

(Signature)

Form 4

(CI. 6)

LANDLORD AND TENANT (AMENDMENT) ACT 1948

(Section 31MBA (4))

**INFORMATION AS TO NET INCOME OF LESSEES WHO HOLD THE
LEASE AS MEMBERS OF A PARTNERSHIP****STATUTORY DECLARATION**

We,

.....

of.....

do solemnly and sincerely declare that:

1. We are the members of a partnership holding the lease of prescribed premises situated at
.....
2. The partnership net income for the last financial year ending 30 June 19
was \$

And we make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1900.

Taken and declared at this day of 19 before me Justice of the Peace	} (Signature) (Signature)
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Form 5

(Cl. 6)

LANDLORD AND TENANT (AMENDMENT) ACT 1948

(Section 31MBA (4))

INFORMATION AS TO NET INCOME OF LESSEE, BEING A COMPANY OR OTHER CORPORATION STATUTORY DECLARATION

I,
.....

do solemnly and sincerely declare that:

1. The company or corporation registered as
.....
is the lessee of prescribed premises situated at
2. The net income of the company or corporation for the last financial year ending 30 June 19 was \$

Taken and declared at this day of 19 before me Justice of the Peace	 (Signature) (Capacity)
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SCHEDULE 1—FORMS

EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, without any changes in substance, such of the provisions of the Landlord and Tenant (Amendment) Act Regulations (in force under the Landlord and Tenant (Amendment) Act 1948) as are of continuing utility. The new Regulation deals with the following matters:

- (a) prescribing forms for the purposes of the Act (clauses 4 and 6);
- (b) prescribing a variable amount (by reference to the maximum fortnightly rate for single age pensions under the Social Security Act 1991 of the Commonwealth) in lieu of the fixed amount of \$4,000 prescribed in relation to the provisions of the Act relating to the determination of fair rents (clause 5);
- (c) prescribing certain military and air operations as war service in connection with the provisions of the Act relating to protected tenants (clause 7);
- (d) prescribing fees for the purposes of the Act (clause 8);
- (e) making other provision of a minor, consequential or ancillary nature (clauses 1, 2, 3 and 9).

This Regulation is made under the Landlord and Tenant (Amendment) Act 1948, including section 96 (the general regulation making power) and sections 5AB, 5A, 17A, 31MAA, 31MBA, 44, 52, 57, 58, 94 and 99.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
