

1993—No. 451

**LANDLORD AND TENANT (RENTAL BONDS) ACT 1977—
REGULATION**

(Landlord and Tenant (Rental Bonds) Regulation 1993)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Landlord and Tenant (Rental Bonds) Act 1977, has been pleased to make the Regulation set forth hereunder.

ROBERT WEBSTER, M.L.C.,
Minister for Housing.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Landlord and Tenant (Rental Bonds) Regulation 1993.

Commencement

2. This Regulation commences on 1 September 1993.

Definitions

3. In this Regulation:

“**Board**” means the Rental Bond Board constituted under the Act;

“**the Act**” means the Landlord and Tenant (Rental Bonds) Act 1977.

PART 2—PRESCRIBED INVESTMENTS

Deposits with and loans to the Trustee of the Home Purchase Assistance Funds

4. (1) For the purposes of sections 19 (3) (d) and 20 (3) (d) of the Act, investment by way of deposit with or loan to the Trustee for the time

being of the Home Purchase Assistance Fund is prescribed as an investment which the Board may make.

(2) In this clause, “**Home Purchase Assistance Fund**” means the Trust established and given that name by a deed dated 14 February 1989 and made between the following persons:

- The Premier and the Minister for Housing on behalf of the State of New South Wales
- The Director of Housing on behalf of the Department of Housing
- The Secretary of the Treasury on behalf of the Treasury
- Permanent Custodians Ltd. (as Trustee)
- Permanent Trustee Co. Ltd. (as Guarantor).

PART 3—EXEMPTIONS AND EXCLUSIONS

Short term leases of holiday houses

5. (1) This clause applies to a lease of residential premises, where:

- (a) the premises are ordinarily leased for holiday purposes only; and
- (b) the lease is for a period of not more than 6 weeks; and
- (c) the lessee is using, or intends to use, the premises for holiday purposes.

(2) Any rental bond deposited or paid in respect of such a lease is exempt from the operation of all of the provisions of the Act.

Furnished premises let for more than \$250 per week

6. The provisions of section 9 (2) (b) of the Act do not apply to:

- (a) the demand of an amount of money that would, if deposited or paid, be a rental bond; or
- (b) the receipt of a rental bond,

in respect of a lease of furnished premises for which the weekly rental is \$250 or more.

PART 4—MISCELLANEOUS

Prescribed organisations (sec. 11)

7. (1) The object of this clause is to identify those organisations that have priority in relation to the payment of rental bonds held by the Board.

(2) For the purposes of section 11 (1A) of the Act, the following are prescribed organisations:

- (a) the Department of Housing;
- (b) the New South Wales Land and Housing Corporation.

Payment out of rental bond (sec. 11)

8. (1) The object of this clause is to fix the time within which a person must commence legal proceedings for recovery of a rental bond in the event that the Board serves notice of its intention to pay the rental bond to some other person.

(2) For the purposes of section 11 (7) and (8) of the Act, the prescribed period is 14 days.

Interest payable on rental bonds (sec. 11A)

9. (1) The object of this clause is to fix the rate at which interest is payable, and the period over which interest is to be compounded, on a rental bond that has been lodged with the Bond.

(2) For the purposes of section 11A (2) of the Act:

- (a) the prescribed rate at which interest is payable on a rental bond is the rate payable by the State Bank of New South Wales (as at the last day of the month for which the interest is being calculated) on an on-call deposit of \$1,000; and
- (b) the interest payable on a rental bond is to be compounded on 30 June and 31 December in each year.

Receipts (sec. 12)

10. For the purposes of section 12 (2) of the Act, a receipt given by a lessor or lessor's agent must contain the following particulars:

- (a) the name of the tenant;
- (b) the address of the rented premises;
- (c) the amount of the rental bond;
- (d) the date of the receipt for the rental bond;
- (e) the signature of the lessor or agent.

Repeal

11. The Landlord and Tenant (Rental Bonds) Regulations 1997 is repealed.

NOTES
TABLE OF PROVISIONS

PART 1—PRELIMINARY

1. Citation
2. Commencement
3. Definitions

PART 2—PRESCRIBED INVESTMENTS

4. Deposits with and loans to the Trustee of the Home Purchase Assistance Fund

PART 3—EXEMPTIONS AND EXCLUSIONS

5. Short term leases of holiday houses
6. Furnished premises let for more than \$250 per week

PART 4—MISCELLANEOUS

7. Prescribed organisations (sec. 11)
8. Payment out of rental bond (sec. 11)
9. Interest payable on rental bonds (sec. 11A)
10. Receipts (sec. 12)
11. Repeal

EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, without any major changes, the provisions of the Landlord and Tenant (Rental Bonds) Regulation 1977 under the Landlord and Tenant (Rental Bonds) Act 1977. The new Regulation contains provisions with respect to:

- (a) the permissible forms of investment of money held by the Rental Bond Board (clause 4); and
- (b) the exemption from the provisions of the Act of rental bonds given in connection with short term leases of holiday houses (clause 5); and
- (c) the exemption of leases for furnished premises, where the rent is more than \$250 per week, from the provisions of section 9 of the Act which restrict the maximum bond for furnished premises to an amount equal to 6 weeks' rent (clause 6); and
- (d) prescribing those organisations which are to have priority in payment out of rental bonds (clause 7); and
- (e) fixing the period within which a lessor or lessee must notify the Rental Bond Board of the commencement of proceedings in order to prevent the Board paying out a rental bond (clause 8); and

1993—No. 451

- (f) prescribing the rate of interest payable, and the period over which interest is to be compounded, on a rental bond lodged with the Rental Bond Board (clause 9); and
- (g) prescribing the form of receipt to be given for the payment of a rental bond (clause 10).

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

This Regulation is made under the Landlord and Tenant (Rental Bonds) Act 1977, including section 34 (the general regulation making power), section 26 (exclusion from operation of Act) and various other sections mentioned in the Regulation.
