



New South Wales

Landlord and Tenant Regulation 2015

under the

Landlord and Tenant (Amendment) Act 1948

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Landlord and Tenant (Amendment) Act 1948*.

MATTHEW MASON-COX, MLC
Minister for Fair Trading

Explanatory note

The object of this Regulation is to remake, without substantive changes, the *Landlord and Tenant Regulation 2009*, which would otherwise be repealed on 1 September 2015 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation prescribes the following:

- (a) the form for a statement that a lessee did not enter into possession of premises until on or after 1 January 1986,
- (b) an amount (by reference to age pensions under the *Social Security Act 1991* of the Commonwealth) for the purpose of determining fair rents,
- (c) fees,
- (d) military and air operations that are to count as war service in connection with provisions of the *Landlord and Tenant (Amendment) Act 1948* relating to protected tenants.

This Regulation is made under the *Landlord and Tenant (Amendment) Act 1948*, including sections 5A (11) (c), 5AB (1), 17A (7) (b) and (11) (c), 31MAA (1), 44 (1A), 52 (1A) and (2), 57 (1B), 58 (3), 94 (4), 96 (the general regulation-making power) and 99 (1).

This Regulation comprises or relates to matter set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Contents

	Page
1 Name of Regulation	3
2 Commencement	3
3 Definition	3
4 Statement by lessee	3
5 Prescribed amount	3
6 Fees	3
7 Prescribed military and air operations	3
8 Repeal and savings	4
Schedule 1 Form for statement by lessee	5
Schedule 2 Fees	6

Landlord and Tenant Regulation 2015

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Landlord and Tenant (Amendment) Act 1948

1 Name of Regulation

This Regulation is the *Landlord and Tenant Regulation 2015*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Note. This Regulation replaces the *Landlord and Tenant Regulation 2009* which would otherwise be repealed on 1 September 2015 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation:

the Act means the *Landlord and Tenant (Amendment) Act 1948*.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Statement by lessee

For the purposes of section 5AB (1) of the Act, a statement that a lessee did not enter into possession of premises until on or after 1 January 1986 is to be in, or to the effect of, the form set out in Schedule 1.

5 Prescribed amount

(1) For the purposes of the definition of *prescribed amount* in section 31MAA (1) of the Act, the amount calculated as follows is prescribed:

prescribed amount = 65 × maximum fortnightly age pension.

Note. Multiplying a fortnightly age pension by 65 is the equivalent, providing that the amount of the pension does not change, of multiplying the annual age pension by 2.5.

(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.

6 Fees

The fees set out in Column 4 of Schedule 2 are prescribed instead of the fees specified by the provisions of the Act set out in Column 2 of that Schedule.

7 Prescribed military and air operations

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.

8 Repeal and savings

- (1) The *Landlord and Tenant Regulation 2009* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Landlord and Tenant Regulation 2009*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Form for statement by lessee

(Clause 4)

(Section 5AB (1) of Landlord and Tenant (Amendment) Act 1948)

Date of taking possession of premises

1. *I/We, [*Name(s) in block letters*], *am/are the lessee(s) of the premises at [*Address*].
2. *I/We did not enter into possession of the premises until on or after 1 January 1986.

Lessee's signature:

Witness's signature, name in block letters and address:

Lessee's signature:

Witness's signature, name in block letters and address:

Date:

**Delete, where appropriate. If there are more than 2 lessees, each additional lessee should also sign the form and have the signature witnessed.*

Schedule 2 Fees

(Clause 6)

Column 1	Column 2	Column 3	Column 4
Item	Provision of Act	Type of fee	Amount
1	5A (11) (c)	Application for a certificate that a section 5A lease has been registered	\$19
2	17A (7) (b)	Application for registration of a section 17A agreement to fix rent	\$19
3	17A (11) (c)	Application for a certificate that a section 17A agreement has been registered	\$19
4	44 (1A)	Request for issue of a summons	\$24
5	52 (1A)	For applications for information as to a fair rent on shared accommodation:	
		(a) each application (unless paragraph (b) applies)	\$19
		(b) applications made simultaneously in respect of 2 or more prescribed premises contained within the same premises (each application relating to a separate prescribed premises)—fee for all the applications	\$19
6	52 (2)	For applications for information as to a fair rent on prescribed premises:	
		(a) each application (unless paragraph (b) applies)	\$19
		(b) applications made simultaneously in respect of 2 or more prescribed premises contained within the same premises (each application relating to a separate prescribed premises)—fee for all the applications	\$19
7	57 (1B)	For enquiries as to a fair rent on prescribed premises:	
		(a) each enquiry (unless paragraph (b) applies)	\$19
		(b) enquiries made simultaneously in respect of 2 or more prescribed premises contained within the same premises (each enquiry relating to a separate prescribed premises)—fee for all the enquiries	\$19
8	58 (3)	Application for a certificate as to a fixed fair rent	\$19
9	94 (4)	Application for a certificate as provided for under section 6A, 7, 86, 86A, 87, 87B or 94	\$19