



New South Wales

# Landlord and Tenant Amendment (Fees) Regulation 2017

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*.

MATT KEAN, MP  
Minister for Innovation and Better Regulation

## Explanatory note

The object of this Regulation is to amend the *Landlord and Tenant Regulation 2015* to provide for:

- (a) a mechanism for the automatic adjustment for inflation in future of the fees payable in connection with the administration of the *Landlord and Tenant (Amendment) Act 1948*, and
- (b) the Secretary of the Department of Finance, Services and Innovation (in effect, the Commissioner for Fair Trading) to waive or refund the whole or part of any fee payable under that Act where, in the opinion of the Secretary, there are special circumstances that justify that action.

This Regulation is made under the *Landlord and Tenant (Amendment) Act 1948*, including sections 5A, 17A, 44, 52, 57, 58, 94 and 96 (the general regulation-making power).

## **Landlord and Tenant Amendment (Fees) Regulation 2017**

under the

Landlord and Tenant (Amendment) Act 1948

### **1 Name of Regulation**

This Regulation is the *Landlord and Tenant Amendment (Fees) Regulation 2017*.

### **2 Commencement**

This Regulation commences on 1 July 2017 and is required to be published on the NSW legislation website.

## Schedule 1 Amendment of Landlord and Tenant Regulation 2015

### [1] Clause 3 Definitions

Insert in alphabetical order in clause 3 (1):

*fee unit*—see Part 2 of Schedule 2.

### [2] Clauses 6 and 6A

Omit clause 6. Insert instead:

#### 6 Fees

The fees set out in Column 3 of Part 1 of Schedule 2 are prescribed instead of the fees specified by the provisions of the Act set out in Column 1 of Part 1 of that Schedule.

#### 6A Waiver or refund of fees

The Secretary may waive or refund the whole or part of any fee payable under the Act in any case or class of case if, in the opinion of the Secretary, there are special circumstances that justify the action concerned.

### [3] Schedule 2

Omit the Schedule. Insert instead:

## Schedule 2 Fees

(Clause 6)

### Part 1 Fees payable

Item	Column 1 Section of Act	Column 2 Type of fee	Column 3 Fee (in fee units)
1	5A (11) (c)	Application for a certificate that a section 5A lease has been registered	0.20
2	17A (7) (b)	Application for registration of a section 17A agreement to fix rent	0.20
3	17A (11) (c)	Application for a certificate that a section 17A agreement has been registered	0.20
4	44 (1A)	Request for issue of a summons	0.25
5	52 (1A)	Applications for information as to a fair rent on shared accommodation:	
		(a) each application (unless paragraph (b) applies)	0.20
		(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	0.20

Item	Column 1 Section of Act	Column 2 Type of fee	Column 3 Fee (in fee units)
6	52 (2)	Applications for information as to a fair rent on prescribed premises: (a) each application (unless paragraph (b) applies) (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	0.20  0.20
7	57 (1B)	Enquiries as to a fair rent on prescribed premises: (a) each enquiry (unless paragraph (b) applies) (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	0.20  0.20
8	58 (3)	Application for a certificate as to a fixed fair rent	0.20
9	94 (4)	Application for a certificate as provided for under section 6A, 7, 86, 86A, 87, 87B or 94	0.20

## Part 2 Adjustment of fees for inflation

### 1 Definitions

In this Part:

**CPI number** means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics in the latest published series of that index.

**financial year** means a period of 12 months commencing on 1 July.

### 2 Calculation of fee unit for purposes of Regulation

(1) For the purposes of this Regulation, a **fee unit** is:

- (a) in the financial year 2017–18—\$100, and
- (b) in each subsequent financial year—the amount calculated as follows:

$$\$100 \times \frac{A}{B}$$

where:

**A** is the CPI number for the March quarter in the financial year immediately preceding the financial year for which the amount is calculated.

**B** is the CPI number for the March quarter of 2017.

- (2) The amount of a fee unit is to be rounded to the nearest cent (and an amount of 0.5 cent is to be rounded down).
- (3) However, if the amount of a fee unit calculated for any financial year is less than the amount that applied for the previous financial year, then the amount for that previous financial year applies instead.

### **3 Rounding of fee amounts**

The amount of a fee calculated by reference to a fee unit is to be rounded to the nearest dollar (and an amount of 50 cents is to be rounded down).

### **4 Notice of indexed fees**

- (1) As soon as practicable after the CPI number for the March quarter is first published by the Australian Statistician, the Secretary is required to:
  - (a) notify the Parliamentary Counsel of the amount of the fee unit for the next financial year so that notice of that amount can be published on the NSW legislation website, and
  - (b) give public notice on an appropriate government website of the actual amounts of the fees applying in each financial year resulting from the application of the amount of a fee unit calculated under this Part.
- (2) This Part operates to change an amount of a fee that is calculated by reference to a fee unit and that change is not dependent on the notification or other notice required by this clause.