



New South Wales

Landlord and Tenant Regulation 2009

under the

Landlord and Tenant (Amendment) Act 1948

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

LINDA BURNEY, MP
for Minister for Fair Trading

Explanatory note

The object of this Regulation is to remake, with some amendments, the *Landlord and Tenant Regulation 2004*, which is repealed on 1 September 2009 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation omits a provision that required a statutory declaration under section 31MBA of the *Landlord and Tenant (Amendment) Act 1948* to be in a prescribed form.

This Regulation makes provision with respect to the following:

- (a) the prescribed form for a statement by a lessee,
- (b) prescribing an amount (by reference to age pensions under the *Social Security Act 1991* of the Commonwealth) in relation to the determination of fair rents,
- (c) fees,
- (d) prescribing certain military and air operations as war service in connection with the provisions of the Act relating to protected tenants,
- (e) savings and formal matters.

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).

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Landlord and Tenant Regulation 2009

under the

Landlord and Tenant (Amendment) Act 1948

1 Name of Regulation

This Regulation is the *Landlord and Tenant Regulation 2009*.

2 Commencement

This Regulation commences on 1 September 2009 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Landlord and Tenant Regulation 2004* which is repealed on 1 September 2009 by section 10 (2) of the *Subordinate Legislation Act 1989*.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 Prescribed form of statement

For the purposes of section 5AB (1) 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 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 prescribed in lieu of the amount specified in that definition is the amount calculated by multiplying the maximum fortnightly age pension by 65.

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.

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6 Prescribed fees

- (1) For the purposes of section 44 (1A) of the Act, \$21 is prescribed in lieu of the amount specified in that subsection.
- (2) For the purposes of sections 5A (11) (c), 17A (7) (b) and (11) (c), 52 (1A) and (2), 57 (1B), 58 (3) and 94 (4) of the Act, \$16 is prescribed in lieu of each amount specified in those provisions (subject to subclause (3)).
- (3) For the purposes of sections 52 (1A) and (2) and 57 (1B) of the Act, only one application or enquiry fee, as the case may be, is payable in respect of all the applications or enquiries made under any one of those subsections if:
 - (a) the applications or enquiries are made simultaneously, in respect of 2 or more prescribed premises contained within the same premises, and
 - (b) each application or enquiry relates to a separate prescribed premises.

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 Savings

Any act, matter or thing that, immediately before the repeal of the *Landlord and Tenant Regulation 2004*, 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' signature, name in block letters and address:

Lessee's signature:

Witness' 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.*