



Landlord and Tenant (Rental Bonds) Regulation 2003

under the

Landlord and Tenant (Rental Bonds) Act 1977

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Landlord and Tenant (Rental Bonds) Act 1977*.

REBA MEAGHER, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to remake, with only minor changes of substance, the provisions of the *Landlord and Tenant (Rental Bonds) Regulation 1993*. That Regulation will be repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation contains provisions with respect to the following:

- (a) the exemption from the provisions of the *Landlord and Tenant (Rental Bonds) Act 1977* (**the Act**) of rental bonds given in connection with short term leases of holiday houses,
- (b) the exemption of lessors from the operation of section 9 of the Act (which requires a rental bond to be in the form of money and limits the amount of money that may be demanded by way of a rental bond) in respect of the lessor's receipt of a **tenancy guarantee** (as defined in this Regulation),
- (c) the exemption of leases for furnished premises the rental of which is more than \$250 per week from the operation of section 9 (2) (b) of the Act (which limits the maximum bond for furnished premises to an amount equal to 6 weeks' rent),
- (d) 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,

2003 No 608

Landlord and Tenant (Rental Bonds) Regulation 2003

Explanatory note

- (e) the rate of interest payable, and the period over which the interest is to be compounded, on a rental bond lodged with the Rental Bond Board,
- (f) the form of receipt to be given for the payment of a rental bond,
- (g) penalty notice offences,
- (h) formal matters (such as the date of commencement of this Regulation).

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

Contents

	Page
Part 1 Preliminary	
1 Name of Regulation	4
2 Commencement	4
3 Definitions	4
4 Notes	4
Part 2 Exemptions and exclusions	
5 Short term leases of holiday premises	5
6 Furnished premises let for more than \$250 per week	5
7 Tenancy guarantee scheme	5
Part 3 Miscellaneous	
8 Prescribed organisations (section 11)	6
9 Payment out of rental bond (section 11)	6
10 Interest payable on rental bonds (section 11A)	6
11 Receipts (section 12)	6
12 Penalty notice offences	7
13 Saving	7
Schedule 1 Penalty notice offences	8

2003 No 608

Clause 1 Landlord and Tenant (Rental Bonds) Regulation 2003

Part 1 Preliminary

Landlord and Tenant (Rental Bonds) Regulation 2003

under the

Landlord and Tenant (Rental Bonds) Act 1977

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Landlord and Tenant (Rental Bonds) Regulation 2003*.

2 Commencement

This Regulation commences on 1 September 2003.

Note. This Regulation replaces the *Landlord and Tenant (Rental Bonds) Regulation 1993* which is repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

In this Regulation:

Board means the Rental Bond Board constituted under the Act.

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

4 Notes

Notes in the text of this Regulation do not form part of this Regulation.

Part 2 Exemptions and exclusions

5 Short term leases of holiday premises

- (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.

6 Furnished premises let for more than \$250 per week

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.

7 Tenancy guarantee scheme

- (1) In this clause, *tenancy guarantee*, in relation to a lease, means an undertaking:
 - (a) given to a lessor by the Director-General of the Department of Housing, or by a person or body authorised in writing for the purposes of this clause by the Director-General, and
 - (b) that provides that, subject to specified conditions, the lessor will be indemnified up to a specified amount against loss or damage arising from any breach of the terms and conditions of the lease by a specified lessee.
- (2) A lessor is exempt from the provisions of section 9 of the Act in respect of the receipt of a tenancy guarantee.
- (3) In this clause, a reference to the *Director-General of the Department of Housing* includes a reference to the New South Wales Land and Housing Corporation and to the Department of Housing in a case where the Corporation is acting in the name of the Department.

2003 No 608

Clause 8 Landlord and Tenant (Rental Bonds) Regulation 2003

Part 3 Miscellaneous

Part 3 Miscellaneous

8 Prescribed organisations (section 11)

- (1) The object of this clause is to identify those organisations that have a certain 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.

9 Payment out of rental bond (section 11)

- (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.

10 Interest payable on rental bonds (section 11A)

- (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 Board.
- (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 (as at the last day of the month for which the interest is being calculated) by the Commonwealth Bank of Australia on a Streamline Account balance 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.

11 Receipts (section 12)

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 lessee,
- (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.

12 Penalty notice offences

For the purposes of section 15A of the Act:

- (a) each offence arising under a provision specified in Column 1 of Schedule 1 is prescribed as a penalty notice offence, and
- (b) the prescribed penalty for such an offence is the amount specified in relation to the offence in Column 2 of Schedule 1.

13 Saving

Any act, matter or thing that, immediately before the repeal of the *Landlord and Tenant (Rental Bonds) Regulation 1993*, had effect under that Regulation continues to have effect under this Regulation.

2003 No 608

Landlord and Tenant (Rental Bonds) Regulation 2003

Schedule 1 Penalty notice offences

Schedule 1 Penalty notice offences

(Clause 12)

Column 1	Column 2
Offence under Landlord and Tenant (Rental Bonds) Act 1977	Penalty
Section 8 (2)	\$550
Section 12 (1)	\$220
Section 12 (2)	\$110

BY AUTHORITY