

# Landlord and Tenant Regulation 2015

As at 31 May 2018

## 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.

This Regulation replaces the *Landlord and Tenant Regulation 2009* which would otherwise be repealed on 1 September 2015 by section 10 (2) of the *Subordinate Legislation Act 1989*.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

(1) In this Regulation: "**fee unit**" --see Part 2 of Schedule 2. "**the Act**" means the *Landlord and Tenant (Amendment) Act 1948*. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

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

## 4 (Repealed)

## 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. 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 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.

## 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(1) The *Landlord and Tenant Regulation 2009* is repealed.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 (Repealed)

## Schedule 2 Fees

(Clause 6)

### Part 1 – Fees payable

Item	Column 1	Column 2	Column 3
	Section of Act	Type of fee	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
6	52 (2)	Applications for information as to a fair rent on prescribed premises:	
		(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
7	57 (1B)	Enquiries as to a fair rent on prescribed premises:	
		(a) each enquiry (unless paragraph (b) applies)	0.20
		(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
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:  
graphic

[Note: This is a graphic. It has not been processed by the Point in Time system and may not be accurate at the selected working date.]

**"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.

Fee unit amount calculated under this clause:

Financial year	Fee unit amount
2018-19	\$102.07

## 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.

## Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
ClI	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision

GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments *Landlord and Tenant Regulation 2015 (132)*. LW 5.3.2015. Date of commencement, on publication on LW, cl 2. This Regulation has been amended as follows:

2016	(236)	<i>Landlord and Tenant Amendment (Fees) Regulation 2016</i> . LW 11.5.2016. Date of commencement, 1.7.2016, cl 2.
	No 55	<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2016</i> . Assented to 25.10.2016. Date of commencement of Sch 1.15, 6.1.2017, sec 2 (1).
2017	(210)	<i>Landlord and Tenant Amendment (Fees) Regulation 2017</i> . LW 24.5.2017. Date of commencement, 1.7.2017, cl 2.

#### Table of amendments

Cl 3	Am 2017 (210), Sch 1 [1].
Cl 4	Rep 2016 No 55, Sch 1.15 [1].
Cl 6	Am 2016 (236), Sch 1 [1]. Subst 2017 (210), Sch 1 [2].
Cl 6A	Ins 2017 (210), Sch 1 [2].
Sch 1	Rep 2016 No 55, Sch 1.15 [2].
Sch 2	Subst 2016 (236), Sch 1 [2]; 2017 (210), Sch 1 [3].