
CONSUMER AND EMPLOYMENT PROTECTION

CE301*

Residential Tenancies Act 1987

**Residential Tenancies Amendment
Regulations 2005**

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Residential Tenancies Amendment Regulations 2005*.

2. Commencement

These regulations come into operation on the day on which the *Courts Legislation Amendment and Repeal Act 2004* Part 16 comes into operation or on the day of their publication in the *Gazette*, whichever is the later.

3. The regulations amended

The amendments in these regulations are to the *Residential Tenancies Regulations 1989**.

[* *Reprint 2 as at 19 September 2003.*

For amendments to 21 April 2005 see Western Australian Legislation Information Tables for 2004, Table 4, p. 332.]

4. Regulation 6 repealed

Regulation 6 is repealed.

5. Regulation 7 amended

- (1) Regulation 7(1) is repealed and the following subregulation is inserted instead —

“

- (1) The following applications are prescribed for the purposes of section 13A(2)(a) of the Act —

- (a) an application under section 73(1) of the Act;
- (b) an application under section 77(1) of the Act;
- (c) an application under section 79(10) of the Act;
- (d) an application under section 79(12) of the Act;
- (e) an application under Schedule 1 clause 8(1) of the Act;
- (f) any other application under the Act that is not an application in respect of which a party objects to a registrar of the Magistrates Court exercising the court's jurisdiction.

”.

- (2) Regulation 7(2) is repealed.

- (3) Regulation 7(3) is amended by deleting “Notwithstanding subregulation (2) the clerk” and inserting instead —

“ The registrar ”.

- (4) Regulation 7(4) is amended as follows:

- (a) by deleting “clerk” and inserting instead —

“ registrar ;

- (b) by deleting “a magistrate sitting in the Small Disputes Division.” and inserting instead —

“

the Magistrates Court constituted by a magistrate.

”.

- (5) Regulation 7(5) is repealed.
- 6. Regulation 8 repealed**
Regulation 8 is repealed.
- 7. Regulation 9 amended**
Regulation 9 is amended as follows:
- (a) by deleting “section 13” and inserting instead —
“ section 13A(3) ”;
 - (b) by deleting “a local court” and inserting instead —
“ the court ”.
- 8. Regulation 10 amended**
Regulation 10 is amended as follows:
- (a) by deleting “magistrate” and inserting instead —
“ competent court ”;
 - (b) by deleting “he” and inserting instead —
“ it ”.
- 9. Regulation 17 amended**
Regulation 17 is amended by deleting “to the clerk”.
- 10. Schedule 2 amended**
Schedule 2 is amended as follows:
- (a) in clause 2 by deleting the heading “Ministry of Fair Trading” and inserting the following heading instead —
“
Department of Consumer and Employment Protection”;
 - (b) in clause 2 by deleting “Commissioner for Consumer Affairs” and inserting instead —
“ Commissioner for Fair Trading ”;
 - (c) by deleting “Ministry of Fair Trading” wherever else it occurs and inserting instead —
“
Department of Consumer and Employment Protection”;
 - (d) in clause 2 by deleting “Ministry’s” in the 2 places where it occurs and inserting instead —
“ Department’s ”;
 - (e) in clause 2 by deleting the heading “Small Disputes Division of a Local Court” and the 2 paragraphs

following that heading and inserting the following instead —

“

Hearing of disputes

If a dispute between an owner and a tenant has to be decided by a court it has to be dealt with by a court that has jurisdiction to hear and determine the application. The Magistrates Court has exclusive jurisdiction to hear and determine applications relating to bonds under Schedule 1 clause 8 of the Act and other matters that do not involve a claim over \$10 000. The matters it can hear and determine are minor cases and must be dealt with by the minor case procedure in the Magistrates Court.

If a person is claiming over \$10 000, other than in an application relating to a bond referred to in the previous paragraph, the claim must be brought in a court, such as the Supreme Court, District Court or Magistrates Court, that is competent to hear and determine a claim founded on contract for the amount of the claim. If the claim is dealt with in the Magistrates Court, the parties to the application may consent in writing (which consent is irrevocable) to the proceedings being heard and determined by the minor case procedure.

”;

- (f) in clause 3 by deleting “magistrate” and inserting instead —
“ competent court ”;
- (g) in clause 15 by deleting “magistrate” and inserting instead —
“ competent court ”;
- (h) in clause 18 by deleting “the Local Court” and inserting instead —
“ a competent court ”;
- (i) in clause 18 by deleting the heading “Magistrate’s order” and inserting instead —
“ **Competent court’s order** ”;
- (j) in clause 18 by deleting “magistrate sitting in the Small Disputes Division of a Local Court” and inserting instead —
“ competent court ”;
- (k) in clause 18 by deleting “apply to a magistrate” and inserting instead —
“ apply to a competent court ”.

11. Schedule 3 amended

Schedule 3 is amended as follows:

- (a) in item 1(b) by deleting “the clerk” in the first place where it occurs and inserting instead —
“ a registrar of the court ”;

- (b) in item 1(b) by deleting “clerk” in the second and third places where it occurs and inserting instead —
“ registrar ”;
- (c) by deleting item 3.

12. Schedule 4 amended

- (1) Schedule 4 Form 2 is amended as follows:
 - (a) in paragraph 4(b) by deleting “magistrate” and inserting instead —
“ competent court ”;
 - (b) in paragraph 4(b) by deleting “a Local Court.” and inserting instead —
“ court. ”.
- (2) Schedule 4 Form 3 is amended as follows:
 - (a) in paragraph 4(b) by deleting “magistrate” and inserting instead —
“ competent court ”;
 - (b) in paragraph 4(b) by deleting “a Local Court.” and inserting instead —
“ court. ”.
- (3) Schedule 4 Form 5 is deleted and following form is inserted instead —

“

FORM 5

<p>MAGISTRATES COURT REGISTRY Ph: Fax:</p>	<p><i>Residential Tenancies Act 1987</i> Schedule 1 clause 8(3) and (4) NOTICE OF INTENTION TO DISPUTE APPLICATION FOR DISPOSAL OF BOND MONEY</p>	<p>Case number: Date lodged:</p>
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<p>APPLICANT (S) Tick [<input checked="" type="checkbox"/>] a box <input type="checkbox"/> Owner <input type="checkbox"/> Tenant</p>	<p>Name(s): Address: Postcode: Daytime telephone:</p>
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<p>RESPONDENT (S) Tick [<input checked="" type="checkbox"/>] a box <input type="checkbox"/> Owner <input type="checkbox"/> Tenant</p>	<p>Name(s): Address: Postcode: Daytime telephone:</p>
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TAKE NOTICE that I intend to dispute this application for the following reasons:

THE PRESCRIBED DISPUTE FEE OF \$18.00 MUST BE FORWARDED WITH THIS NOTICE AT THE TIME OF LODGMENT

Signature of respondent(s)		Date	/	/
Respondent's address for service of notices is:				

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.
