

1972/277



## THE RENT REVIEW REGULATIONS 1972

DENIS BLUNDELL, Governor-General

### ORDER IN COUNCIL

At the Government House at Wellington this 20th day of December 1972

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Economic Stabilisation Act 1948, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

#### ANALYSIS

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Title and commencement</li> <li>2. Interpretation</li> <li>3. Rent Review Authorities</li> <li>4. Rent increases to be justified</li> <li>5. Justification for increase</li> <li>6. Applications to Rent Review Authority</li> <li>7. Procedure on applications to Court</li> <li>8. Decisions to be final</li> <li>9. Offence to determine tenancy or evict tenant by reason of application under these regulations</li> <li>10. Limits on rent in advance and bonds</li> </ol> | <ol style="list-style-type: none"> <li>11. Recovery by tenant of excess rent and other unlawful payments</li> <li>12. Service of notices</li> <li>13. Restrictions on contracting out of benefits provided by regulations</li> <li>14. Offences</li> <li>15. Penalties</li> <li>16. Exemption of dwellinghouses subject to Tenancy Act 1955 or Housing Act 1955</li> <li>17. Exemption of new dwellinghouses</li> <li>18. Exemption of dwellinghouses or camp sites let for 6 weeks or less</li> </ol> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

#### REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Rent Review Regulations 1972.

(2) These regulations shall come into force on the day after the date of their notification in the *Gazette*.

**2. Interpretation**—(1) In these regulations, unless the context otherwise requires,—

“Agricultural purposes” has a meaning corresponding to the term “agriculture”, which for the purposes of this definition means the cultivation of the soil for the production of food products or other useful products of the soil, and includes the use of land for horticultural or pastoral purposes, or for the keeping of pigs, bees, or poultry:

“The Court” means a Magistrate’s Court:

“Dwellinghouse” means any building or part of a building let as a separate dwelling; and includes any furniture or other chattels that may be let therewith; and also includes any land, out-buildings, or parts of buildings included in the tenancy; but does not include—

(a) Any licensed premises; or

(b) Any premises that include more than 3 acres of land where the tenant’s income or a substantial part thereof is derived from the use of that land for agricultural purposes:

“Licensed premises” has the same meaning as in the Sale of Liquor Act 1962:

“Outgoings”, in relation to any premises, means rates, insurance premiums, cost of repairs, and depreciation and other outgoings in respect of the premises, and such other expenditure as is met by the landlord for the benefit of the tenant; and includes land tax to the extent that the owner of the premises would be liable for land tax if he owned no other land:

“Rent” includes any valuable consideration in money or money’s worth that is part of or in substitution for any rent:

“Rent Review Authority” means a Rent Review Authority appointed under regulation 3 of these regulations:

“Tenancy” includes a subtenancy; and also includes any agreement or arrangement whether oral or in writing under which, for valuable consideration in money or money’s worth, any person is given the right to occupy for residential purposes any building or part of a building, whether or not the agreement or arrangement is expressed in the form of a licence or a grant of leave and licence for the use or occupation thereof; and “to let”, “letting”, “landlord”, and “tenant” have meanings corresponding to the meaning of the term “tenancy”.

(2) The application of these regulations to any dwellinghouse shall not be excluded by reason only that part of the premises is used as a shop or office or for business, trade, or professional purposes.

(3) Where any person is granted or two or more persons are jointly or severally granted the right to occupy for residential purposes any part of a building, whether or not any services are provided for that person or those persons, and whether or not that person has or those persons have a right to the use, in common with any other person, of any other part of the building, then for the purposes of these regulations the premises shall be deemed to be let to that person or those persons as a separate dwelling, and where several amounts are payable by two or more persons the total of those amounts shall be deemed to be the rent of the premises.

(4) No person who occupies any premises by virtue of a contract of service with the person from whom he holds the premises, and no person claiming through or under any such employed person, shall be deemed by virtue of subclause (3) of this regulation to be a tenant of the premises.

(5) Where any premises that form part of any building are let to a tenant as a separate dwelling or are deemed by virtue of subclause (3) of this regulation to be so let, and the landlord provides for the tenant any meals or food, the application of these regulations to the premises as a dwellinghouse shall be excluded if the value of the meals or food or the cost thereof to the landlord (whichever is the less) forms a

substantial proportion of the total amount payable by the tenant to the landlord as rent or otherwise in respect of the tenancy but shall not in any other case be excluded by reason of the provision of the meals or food.

(6) Where any premises have been let, whether before or after the commencement of these regulations, under a lease with a right of renewal for one or more terms at a rent to be determined by valuation of the land comprised in the premises (exclusive of the buildings and of some or all of the other improvements on the land), the premises shall for the purposes of these regulations be deemed in relation to that letting to be and to have been throughout the term of the lease and of any renewal not a dwellinghouse.

**3. Rent Review Authorities**—(1) There may from time to time be appointed in accordance with the State Services Act 1962 suitable persons to be Rent Review Authorities for the purposes of these regulations.

(2) Each Rent Review Authority shall have a seal which shall be judicially noticed in all Courts.

**4. Rent increases to be justified**—(1) In any case where the rent payable for any dwellinghouse is increased or has been increased since the 31st day of March 1972 or the tenant is informed by or on behalf of the landlord of an increase in any such rent, the tenant or any person on his behalf may, subject to subclause (2) of this regulation, make application to a Rent Review Authority for a determination whether that increase was or is justified in whole or in part.

(2) Where the rent payable for any dwellinghouse has been increased since the 31st day of March 1972 but before the commencement of these regulations, the application shall be made before the 1st day of March 1973.

(3) Every determination made under this regulation shall take effect on a date to be specified therein in that behalf, being not earlier in any case than the date of the commencement of these regulations.

(4) Where the determination is that the whole or part of the increase was not or is not justified,—

(a) The landlord shall, as from the date when the determination takes effect, reduce the rent in accordance with the determination, and the increase or the part of the increase determined to be not justified shall not be recoverable or lawfully payable; and

(b) The landlord shall not within the period of 6 months after the date on which the determination takes effect increase the rent payable for the dwellinghouse.

**5. Justification for increase**—(1) For the purposes of these regulations an increase in the rent for a dwellinghouse is justified, except in special circumstances (other than personal circumstances), only where the basic rent of the premises is increased by an amount which does not exceed the extent by which, since the basic rent was first settled,—

(a) The landlord's outgoings in respect of the premises have increased for reasonable cause; or

(b) The premises or any furniture or chattels provided by the landlord have been improved by him.

- (2) In this regulation the expression "the basic rent" means—
- (a) With reference to a dwellinghouse let as such on the 1st day of April 1972, the rent payable as on that date;
  - (b) With reference to a dwellinghouse that was not let as such on the 1st day of April 1972, the rent that was last payable before that date, or, in the case of a dwellinghouse that was first let as such after the 1st day of April 1972, the rent that was first payable in respect of such dwellinghouse.

**6. Applications to Rent Review Authority—**(1) Every application under regulation 4 of these regulations shall be made on a form to be provided by the Secretary of Labour and shall be filed in the office of the Department of Labour nearest to the place where the dwellinghouse to which the application relates is situated.

(2) As soon as may be after the filing of any application under regulation 4 of these regulations the person in charge of the office of the Department of Labour in which it is filed shall refer it to a Rent Review Authority.

(3) On receiving any application under regulation 4 of these regulations, the Rent Review Authority shall, after making such inquiry (if any) as he thinks fit and after giving the landlord and the tenant an opportunity to be heard, either orally or in writing, make his determination.

(4) The determination shall be in writing signed by the Rent Review Authority, and shall specify a date, being not less than 14 days after the date of the determination on which the determination will take effect according to its tenor unless before that date an application to the Court for an order varying or setting aside the determination is made by or on behalf of the landlord or the tenant.

(5) A copy of the determination shall be served on the landlord and the tenant forthwith after it is made.

(6) If an application to the Court for an order varying or setting aside the determination is not made by or on behalf of the landlord or the tenant before the date specified in that behalf in the determination, or if any such application made before that date is withdrawn or dismissed, the determination shall take effect on that date according to its tenor.

**7. Procedure on applications to Court—**(1) Every application to vary or set aside the determination of a Rent Review Authority made to the Court under these regulations by or on behalf of the landlord or the tenant shall be made and dealt with by way of originating application under the rules of procedure for the time being in force under the Magistrates' Courts Act 1947, with notice to the Rent Review Authority and to the tenant or the landlord of the dwellinghouse, as the case may be, and to such other persons as the Court considers entitled thereto.

(2) Unless the parties otherwise agree, every such application shall be made and heard in the Court nearest to the place where the premises to which the application relates are situated:

Provided that during the absence of a Magistrate, or during the inability of a Magistrate to act from any cause whatsoever, the Registrar of the Court shall have authority and jurisdiction to order that any such application shall be heard in some other Court.

(3) Any application to a Court under these regulations may be disposed of in Chambers.

(4) No Court fees shall be payable in respect of any application made to the Court under these regulations or in respect of any document filed for the purposes of any such application.

(5) No party to any proceedings on any such application shall be liable to pay the costs of any other party to the proceedings unless the Court makes an order for the payment by any party of any such costs on the ground that in its opinion the conduct of that party has been for the purpose of causing delay or has in any other respect been vexatious, or on the ground that it is desirable for any other special reason to make such an order.

(6) On the hearing of the application the Court may by order vary, confirm, or set aside the determination as it thinks fit.

**8. Decisions to be final**—No appeal shall lie from any decision, determination, or order made by the Court under these regulations, and no such decision, determination, or order shall be liable to be challenged, reviewed, quashed, or called in question in any Court on any ground except lack of jurisdiction.

**9. Offence to determine tenancy or evict tenant by reason of application under these regulations**—(1) Every landlord who, by reason of the making by a tenant of an application under regulation 4 of these regulations, gives to the tenant a notice determining his tenancy or commences proceedings for the recovery of possession of the dwellinghouse or for the ejection of the tenant therefrom or evicts him from the premises, commits an offence against these regulations.

(2) In any prosecution for an offence against subclause (1) of this regulation in which it is proved that the landlord, within 6 months after the making by the tenant of an application under regulation 4 of these regulations, gave to the tenant a notice determining his tenancy or commenced proceedings for the recovery of possession of the dwellinghouse or for the ejection of the tenant therefrom or evicted him from the premises, it shall be for the landlord to prove that he has not acted contrary to subclause (1) of this regulation.

(3) Any notice given contrary to subclause (1) of this regulation shall be of no effect and every eviction that takes place contrary to that subclause shall be unlawful.

**10. Limits on rent in advance and bonds**—Every person being the landlord of any dwellinghouse or acting on behalf of the landlord, commits an offence against these regulations who,—

(a) Stipulates for or demands in respect of the tenancy of the dwellinghouse the payment from any tenant or prospective tenant, on account of rent in advance or by way of security for the performance by the tenant of his obligations as the tenant, of a sum which exceeds the equivalent of more than 1 month's rent; or

(b) Stipulates for or demands or accepts from the tenant or prospective tenant of the dwellinghouse any sum as security for the performance by the tenant of his obligations as the tenant unless—

(i) The circumstances in which that sum may be applied by or on behalf of the landlord are made known to the tenant or prospective tenant in writing; and

(ii) The tenant is entitled, except in those circumstances, to have that sum refunded to him when he vacates the premises.

**11. Recovery by tenant of excess rent and other unlawful payments—**

Where any sum that by virtue of these regulations is irrecoverable has at any time been paid on account of the rent of any dwellinghouse, or any sum has at any time been paid in contravention of regulation 10 of these regulations, the sum so paid may at any time within 12 months after the date of payment be recovered by or on behalf of the person by whom it was paid as a debt due to him by the person who received the payment; and, without prejudice to any other mode of recovery, where the person who made the payment is the tenant of the person who received it, the sum so paid may be deducted by the tenant from any rent payable by him to the landlord within that period of 12 months.

**12. Service of notices—**(1) Any notice or other document required or authorised to be served on or given to any person for the purposes of these regulations may be served or given by delivering it to that person, and may be delivered to him either personally or by leaving it at his usual or last known place of abode or business or at the address specified by him in any application or other document received from him or by posting it in a letter addressed to him at that place of abode or business or at that address.

(2) If any such notice or other document is sent to any person by registered letter it shall be deemed to have been delivered to him on the fourth day after the day on which it was posted, and in proving the delivery it shall be sufficient to prove that the letter was properly addressed and posted.

(3) If the person is absent from New Zealand, the notice or other document may be delivered as aforesaid to his agent in New Zealand. If he is deceased, the notice or other document may be delivered as aforesaid to his personal representatives.

(4) If the person is not known, or is absent from New Zealand and has no known agent in New Zealand, or is deceased and has no known personal representatives, or if for any other reason it is not practicable to deliver the notice or other document personally the notice or other document shall be delivered in such manner as may be directed by the Court.

(5) Notwithstanding anything in the foregoing provisions of this regulation, the Court may in any case direct the manner in which any notice or other document is to be served or given, or dispensing with the service or giving thereof.

**13. Restrictions on contracting out of benefits provided by regulations—**Except as otherwise expressly provided in these regulations, no covenant or agreement entered into before or after the commencement of these regulations shall have any force or effect to deprive any tenant of any right, power, privilege, or other benefit provided for by these regulations.

**14. Offences**—Every person commits an offence against these regulations who—

- (a) By any threat endeavours to dissuade or prevent a tenant from making or prosecuting any application or proceedings under these regulations:
- (b) Stipulates for or demands or accepts, for himself or for any other person, on account of any dwellinghouse any sum that is irrecoverable by virtue of these regulations.

**15. Penalties**—(1) Every person who commits an offence against these regulations is liable accordingly to the penalties specified in subsection (3) of section 18 of the Economic Stabilisation Act 1948, namely:

- (a) In the case of an individual, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding \$400 and (if the offence is a continuing one) to a further fine not exceeding \$10 for every day during which the offence continues, or to both such imprisonment and such fines:
  - (b) In the case of a company or other corporation, to a fine not exceeding \$1,000 and (if the offence is a continuing one) to a further fine not exceeding \$40 for every day during which the offence continues.
- (2) Any information for an offence against these regulations may include two or more offences alleged to have been committed by the defendant.

**16. Exemption of dwellinghouses subject to Tenancy Act 1955 or Housing Act 1955**—Nothing in these regulations shall apply in respect of any dwellinghouse if an order or assessment under Part III of the Tenancy Act 1955 or under section 20 of the Housing Act 1955 is in force or may be made in respect of that dwellinghouse.

**17. Exemption of new dwellinghouses**—Where a building is erected after the date of the commencement of these regulations, these regulations shall not apply to the building or to any dwellinghouse comprised in it in respect of any tenancy for which an agreement is entered into after that date.

**18. Exemption of dwellinghouses or camp sites let for 6 weeks or less**—(1) Where any agreement has been entered into, whether before or after the commencement of these regulations, for the letting of a dwellinghouse or of a camp site for a term not exceeding 6 weeks, these regulations shall not apply to the premises so let or any part thereof in respect of that tenancy.

(2) Nothing in this regulation shall be construed as preventing the application of these regulations in any case where the tenant continues with the express consent of the landlord to occupy the premises after the expiration of 6 weeks from the commencement of any such tenancy.

(3) For the purposes of this regulation the term “camp site” means a camp site within the meaning of the Camping Ground Regulations 1936, whether or not a living place has been erected or placed thereon.

P. J. BROOKS,  
Clerk of the Executive Council.

## EXPLANATORY NOTE

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations provide that in any case where the rent payable for any dwellinghouse is increased or has been increased since the 31st day of March 1972 or the tenant is informed by or on behalf of the landlord of an increase in any such rent, the tenant or any person on his behalf may make application to a Rent Review Authority for a determination whether that increase was or is justified in whole or in part. Where the rent payable for any dwellinghouse has been increased since the 31st day of March 1972 but before the commencement of these regulations, the application must be made before the 1st day of March 1973.

In addition it will be an offence for the landlord of a dwellinghouse to demand on account of rent in advance or by way of "bond" more than the equivalent of one month's rent. Dwellinghouses controlled under the Tenancy Act 1955 or the Housing Act 1955, dwellinghouses built after the commencement of the regulations, and dwellinghouses and camp sites let for 6 weeks or less are exempt from the regulations. It is an offence against section 18 of the Economic Stabilisation Act 1948 to act in contravention of the provisions of these regulations.

---

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 20 December 1972.

These regulations are administered in the Department of Labour.