

I certify that this is a copy of the authorised version of this Statutory Rule as at 30 March 2016, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 30 March 2016.

Robyn Webb
Chief Parliamentary Counsel
Dated 11 July 2019

TASMANIA

RESIDENTIAL TENANCY REGULATIONS 2015

STATUTORY RULES 2015, No. 21

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RESIDENTIAL TENANCY REGULATIONS 2015

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Residential Tenancy Act 1997*.

Dated 13 April 2015.

C. WARNER
Governor

By Her Excellency's Command,

DR. VANESSA GOODWIN
Minister for Justice

1. Short title

These regulations may be cited as the
Residential Tenancy Regulations 2015.

2. Commencement

These regulations take effect on 4 May 2015.

3. Interpretation

In these regulations –

Act means the *Residential Tenancy Act 1997*;

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Anglicare Tasmania means Anglicare Tasmania Inc., incorporated under the *Associations Incorporation Act 1964* (Incorporation Number 00753C);

Colony 47 means Colony 47 Inc., incorporated under the *Associations Incorporation Act 1964* (Incorporation Number 00185C);

not-for-profit housing provider means an institution that, or person who, enters into residential tenancy agreements –

- (a) for the purposes of providing residential premises to accommodate homeless persons or persons who are seeking an escape from situations of family violence; and
- (b) in respect of which security deposits are paid to the institution or person –
 - (i) as owner of the relevant residential premises; or
 - (ii) as the person or institution that manages the relevant residential premises on behalf of its owner;

not-for-profit residential tenancy agreement means a residential tenancy agreement –

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- (a) that is entered into by a not-for-profit housing provider for a term exceeding 3 months but less than 4 months; and
- (b) that relates to residential premises provided to accommodate homeless persons or persons who are seeking an escape from situations of family violence; and
- (c) in respect of which a security deposit is paid to the not-for-profit housing provider –
 - (i) as owner of the relevant residential premises; or
 - (ii) as the person who manages the relevant residential premises on behalf of its owner;

TUU means the Tasmanian University Union Inc., incorporated under the *Associations Incorporation Act 1964* (Incorporation Number IA09855);

TUU residential tenancy agreement means a residential tenancy agreement that is entered into by the TUU and in respect of which a security deposit is paid to the TUU –

- (a) as owner of the relevant residential premises; or

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- (b) as the person who manages the relevant residential premises on behalf of its owner.

4. Definition of deposit contributor

For the purposes of paragraph (a) of the definition of *deposit contributor* in section 3 of the Act, the following persons and institutions are prescribed:

- (a) Colony 47 Inc.;
- (b) Anglicare Tasmania Inc..

5. Sale of abandoned goods

- (1) For the purpose of section 48(1)(b) of the Act, an owner may sell abandoned goods if their apparent value is less than \$300.
- (2) For the purpose of section 48(1)(c) of the Act, an owner is to apply for an order permitting the sale of abandoned goods if their apparent value is \$300 or more.

6. Infringement notice offences and penalties

- (1) In this regulation –

infringement offence means an offence under the Act that is specified in this regulation to be an offence for which an infringement notice may be issued.

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- (2) The Commissioner may issue and serve an infringement notice on a person if he or she reasonably believes that the person has committed an infringement offence.
- (3) An infringement notice may not be served on an individual who has not attained the age of 16 years.
- (4) An infringement notice –
 - (a) is to be in accordance with section 14 of the *Monetary Penalties Enforcement Act 2005*; and
 - (b) is not to relate to more than 3 offences.
- (5) An offence under a provision of the Act specified in column 2 of Schedule 1 is an offence in respect of which an infringement notice may be issued.
- (6) The penalty specified in column 3 of Schedule 1 in respect of an offence in column 2 of that Schedule is the penalty payable under an infringement notice issued in respect of that offence.

7. Non-application of Act to certain residential tenancy agreements and persons

Each provision of the Act does not apply to a residential tenancy agreement that is for a period of 3 months or less and that relates to residential premises providing accommodation for –

- (a) homeless persons; or

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- (b) persons who are seeking an escape from situations of family violence.

8. Non-application of Act to parts of educational institution

- (1) Each provision of the Act does not apply to any premises that are part of an educational institution except where the premises are the subject of –
 - (a) an application for an allocation under the *National Rental Affordability Scheme Regulations 2008* of the Commonwealth and that application has not been refused or withdrawn; or
 - (b) an allocation, or the reservation of an allocation, under those regulations.
- (2) In subregulation (1) –

allocation has the same meaning as in the *National Rental Affordability Scheme Act 2008* of the Commonwealth;

reservation of an allocation means a reservation of an allocation within the meaning of the *National Rental Affordability Scheme Regulations 2008* of the Commonwealth.

9. Non-application of certain sections of Act to not-for-profit residential tenancy agreements

Section 25(2), (3) and (4)(a), and sections 27, 28, 29, 29A, 29B, 29C, 29D, 29E and 29F, of the Act do not apply to a not-for-profit residential tenancy agreement.

10. Procedure on termination of not-for-profit residential tenancy agreements

- (1) On the termination of a not-for-profit residential tenancy agreement, the not-for-profit housing provider is to –
 - (a) return the security deposit to the tenant within 3 working days, together with any interest that is to be paid under the agreement, but less any amount due to the owner arising from the non-performance of the not-for-profit residential tenancy agreement by the tenant; or
 - (b) give to the tenant a notice, in duplicate, that –
 - (i) states the reasons why the security deposit, or part of the security deposit, is being retained; and
 - (ii) includes either a statement of the loss incurred by the owner or an estimate of the date on which it is

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expected that the loss will be determined; and

(iii) states that, if the tenant is dissatisfied with the matters contained in the notice, he or she may lodge a dispute with the Commissioner within 10 days after being provided with the notice.

(2) A dispute is to be –

(a) in writing; and

(b) accompanied by a copy of the notice provided under subregulation (1)(b).

(3) Within one working day after receiving a dispute, the Commissioner is to, in writing –

(a) require the not-for-profit housing provider to pay to the Authority, within the period of not less than 3 working days specified in the requirement –

(i) an amount equal to that portion of the security deposit in dispute that has not been paid to the tenant; and

(ii) any amount equal to any interest payable to the tenant under the not-for-profit residential tenancy agreement that has not been so paid to the tenant; and

- (b) notify the Authority of the dispute.
- (4) On receiving a dispute, the Commissioner may require the Authority, the tenant, the not-for-profit housing provider and the owner of the relevant residential property to provide the Commissioner with information and documentation relevant to the dispute.
- (5) The not-for-profit housing provider must lodge with the Authority a claim form under section 29C of the Act when paying the amounts referred to in a requirement made under subregulation (3)(a) to the Authority, and for that purpose the not-for-profit housing provider is taken to have provided a claim form to the tenant and the tenant is taken not to have lodged that claim form with the Authority.
- (6) The Authority, the tenant, the not-for-profit housing provider or the owner of the relevant residential property must comply with a requirement made under subregulation (3) or (4).
- (7) If a tenant, a not-for-profit housing provider or an owner of the relevant residential property fails to comply with a requirement made under subregulation (3) or (4), he, she or it is guilty of an offence and liable on conviction to a fine not exceeding 10 penalty units.
- (8) If a dispute is lodged under this regulation, the not-for-profit housing provider and each tenant and owner of the relevant residential property is a party to the dispute.

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- (9) Each party to a dispute may provide written submissions and other documents to the Commissioner in respect of the dispute.
- (10) Section 29G of the Act applies to a dispute lodged under this regulation as if the dispute lodged under this regulation were a dispute lodged under section 29F of the Act.

11. Non-application of certain sections of Act to TUU residential tenancy agreements

Section 25(2), (3) and (4)(a), and sections 27, 28, 29, 29A, 29B, 29C, 29D, 29E and 29F, of the Act do not apply to a TUU residential tenancy agreement.

12. Procedure on termination of TUU residential tenancy agreements

- (1) On the termination of a TUU residential tenancy agreement, the TUU is to –
 - (a) return the security deposit to the tenant within 3 working days, together with any interest that is to be paid under the agreement, but less any amount due to the owner arising from the non-performance of the TUU residential tenancy agreement by the tenant; or
 - (b) give to the tenant a notice that –
 - (i) states the reasons why the security deposit, or part of the

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security deposit, is being retained; and

(ii) includes either a statement of the loss incurred by the owner or an estimate of the date on which it is expected that the loss will be determined; and

(iii) states that, if the tenant is dissatisfied with the matters contained in the notice, he or she may lodge a dispute with the Commissioner within 10 days after being provided with the notice.

(2) A dispute is to be –

(a) in writing; and

(b) accompanied by a copy of the notice provided under subregulation (1)(b).

(3) Within one working day after receiving a dispute, the Commissioner is to, in writing –

(a) require the TUU to pay to the Authority, within the period of not less than 3 working days specified in the requirement –

(i) an amount equal to that portion of the security deposit in dispute that has not been paid to the tenant; and

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- (ii) an amount equal to any interest payable to the tenant under the not-for-profit residential tenancy agreement that has not been so paid to the tenant; and
 - (b) notify the Authority of the dispute.
- (4) On receiving a dispute, the Commissioner may require the Authority, tenant, TUU and owner of the relevant residential property to provide the Commissioner with information and documentation relevant to the dispute.
 - (5) The TUU must lodge with the Authority a claim form under section 29C of the Act when paying the amounts referred to in a requirement made under subregulation (3)(a) to the Authority, and for that purpose the TUU is taken to have provided a claim form to the tenant and the tenant is taken not to have lodged that claim form with the Authority.
 - (6) The Authority, tenant, TUU or owner of the relevant residential property must comply with a requirement made under subregulation (3) or (4).
 - (7) If a tenant, the TUU or an owner of the relevant residential property fails to comply with a requirement made under subregulation (3) or (4), he, she or it is guilty of an offence and liable on conviction to a fine not exceeding 10 penalty units.
 - (8) If a dispute is lodged under this regulation, the TUU and each tenant and owner of the relevant residential property is a party to the dispute.

- (9) Each party to a dispute may provide written submissions and other documents to the Commissioner in respect of the dispute.
- (10) Section 29G of the Act applies to a dispute lodged under this regulation as if the dispute lodged under this regulation were a dispute lodged under section 29F of the Act.

13. Notice to vacate social housing – prescribed matters

- (1) For the purposes of section 42(1)(da)(i) of the Act –
 - (a) each type of income specified in Table A of Schedule 2 is a prescribed source of income; and
 - (b) to avoid doubt, each type of income specified in Table B of Schedule 2 is not a prescribed source of income.
- (2) For the purposes of section 42(1)(da)(i) of the Act, the prescribed amount of income is –
 - (a) if the tenant has been the sole occupant of the relevant social housing during the assessment period, the GHMWR for the month of August immediately preceding the commencement of the assessment period ÷ 30% (the *base amount*); or
 - (b) if the tenant has not been the sole occupant of the relevant social housing during the assessment period, the base amount plus –

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- (i) the base amount x 50% for each person who (as an adult) occupied that social housing at any time (or times) during the assessment period besides the tenant; plus
 - (ii) the base amount x 30% for each person who (as a child) occupied that social housing at any time (or times) during the assessment period besides the tenant; plus
 - (iii) a sum equal to the combined Centrelink carer allowance and Centrelink pension supplement for each person, including the tenant, who occupied that social housing at any time (or times) during the assessment period whilst living with non-severe permanent or long-term disability; plus
 - (iv) a sum equal to one-third of the SRP for each person, including the tenant, who occupied that social housing at any time (or times) during the assessment period whilst living with severe permanent or long-term disability.
- (3) For the purposes of section 42(1)(da)(ii) of the Act –

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- (a) each type of asset specified in Table A of Schedule 3 is a prescribed type of asset; and
 - (b) to avoid doubt, each type of asset specified in Table B of Schedule 3 is not a prescribed type of asset.
- (4) For the purposes of section 42(1)(da)(ii) of the Act, the prescribed amount of asset value is –
 - (a) if the tenant has been the sole occupant of the relevant social housing during the assessment period, the TMHSP for the month of August immediately preceding the commencement of the assessment period x 20% (the *base amount*); or
 - (b) if the tenant has not been the sole occupant of the relevant social housing premises during the assessment period, the base amount plus an additional one per cent of the TMHSP for each person, other than the tenant, who occupied that social housing at any time during the assessment period.
- (5) Pursuant to section 42(1B) of the Act, the prescribed circumstances for section 42(1)(db)(i) of the Act are where –
 - (a) the number of persons occupying the premises (inclusive of the tenants but exclusive of the carers, if any, of any of those persons) is less than the number of bedrooms in the premises; and

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(b) none of the bedrooms in the premises is reasonably required for –

(i) the provision of medical or health care to an occupant of the premises; or

(ii) the accommodation of persons who act as the full-time or part-time carer of any occupant of the premises.

(6) In this section –

adult means a person who has attained the age of 18 years;

assessment period means –

(a) for section 42(1)(da)(i) of the Act, the continuous 12-month period referred to in that section; and

(b) for section 42(1)(da)(ii) of the Act, the 30-day period referred to in that section;

Centrelink carer allowance means a carer allowance under the *Social Security Act 1991* of the Commonwealth;

Centrelink pension supplement means a pension supplement under the *Social Security Act 1991* of the Commonwealth;

child means a person who has not attained the age of 18 years;

REIT means the real estate State industry body known as the Real Estate Institute of Tasmania;

SRP means a Special rate of pension (also known as a Special rate pension or TPI pension), being a pension paid under Part II of the *Veterans' Entitlements Act 1986* of the Commonwealth to a military veteran to whom section 24 of that Act applies;

TMHSP means the Tasmanian moving annual median house sale price, published monthly by the REIT;

GHMWR means the median weekly rent for a 2-bedroom house in Greater Hobart, published monthly by the REIT.

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**SCHEDULE 1 – INFRINGEMENT NOTICE OFFENCES
AND PENALTIES**

Item	Section of Act	Regulation 6 Penalty (penalty units)
1.	17(1)	10
2.	17(2)(a)	10
3.	17(2)(b)	10
4.	17(2)(c)	10
5.	17(2)(d)	10
6.	17(2)(e)	10
7.	17(3)	10
8.	17(3A)	10
9.	24(1)	10
10.	25(2)(a)	10
11.	25(2)(b)	10
12.	25(3)	10
13.	25(4)(a)	10
14.	25(4)(b)	10
15.	25(4)(c)	10
16.	29F(8)	2

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Item	Section of Act	Penalty (penalty units)
17.	36I(1)	10
18.	36J(1)	10
19.	36J(2)	10
20.	36J(3)	10
21.	36K(1)	10
22.	36K(2)	10
23.	36L	10
24.	36M(1)	10
25.	36M(2)	10
26.	36M(3)	10
27.	36N(1)	10
28.	36O(1)	10
29.	36O(5)	10
30.	37(2)	10
31.	55(2)	10
32.	56(1)	10
33.	58	10

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SCHEDULE 2 – PRESCRIBED SOURCES OF INCOME

Regulation 13(1)

TABLE A

Item No.	Type of income
1.	<p>Gross income from employment (whether regular or irregular) including the following:</p> <ul style="list-style-type: none">(a) salaries and wages;(b) tips, commissions and bonuses;(c) piecework payments and payments for odd jobs and casual work;(d) penalty payments and shift allowances;(e) directors' fees;(f) remuneration for time not worked, including any period of holiday leave, long service leave, sick leave or other leave;(g) workers compensation payments made by employers;(h) leave loadings.
2.	<p>Regular income from the Commonwealth government (whether under the <i>Social Security Act 1991</i>, <i>Veterans' Entitlements Act 1986</i> or another law of the Commonwealth) including all pensions, benefits, allowances and supplements, other than the following:</p> <ul style="list-style-type: none">(a) baby bonuses;(b) child care benefits;(c) child care rebates;

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Item No.	Type of income
	(d) emergency and disaster assistance payments.
3.	Regular income from the government of any State or Territory of the Commonwealth.
4.	Regular income from non-government organisations, including non-profit organisations.
5.	Income from overseas sources, including superannuation and pensions.
6.	Interest from deposits with authorised deposit-taking institutions, including term deposits.
7.	Interest from personal loans to persons outside the relevant residential premises.
8.	Income from assets, including bullion.
9.	Income from the hire of assets owned or partially owned by the tenant or, if the tenant is a member of a household, member of the household.
10.	Profit from businesses owned or partially owned by the tenant or, if the tenant is a member of a household, member of the household.
11.	Money received as gifts and income received as a result of gifts, including interest.
12.	Deemed income from financial assets.
13.	Family trust distributions or dividends.
14.	Income from rental properties or land, including agricultural and commercial properties.
15.	Scholarship payments for living (as opposed to educational) expenses.

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Item No.	Type of income
16.	Private child maintenance payments.
17.	Income from life interests.
18.	Income from income stream products, including annuities and allocated products.
19.	Winnings from betting and gambling (where value of winnings exceeds cost of entry fees and tickets across the financial year).
20.	Income from shares in listed shares and securities and in unlisted public companies.
21.	Royalties.

TABLE B

Item No.	Type of income
1.	Employer contributions to superannuation.
2.	In-kind provisions made by employers, including the following: <ul style="list-style-type: none"> (a) goods and services; (b) transport, electricity, telephone, holiday and medical expenses; (c) housing; (d) low-interest subsidies on finance; (e) union dues, professional association fees and club fees; (f) child care and educational expenses.
3.	One-off assistance payments from any government or from any non-government entity (being payments where a regular payment option is not offered or available), including the following:

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Item No.	Type of income
	<ul style="list-style-type: none">(a) emergency and disaster relief payments;(b) payments under any residential tenancy support service;(c) ad hoc payments for specific purposes (such as a carbon tax compensation lump sum made by the Commonwealth).
4.	If the tenant is a member of a household, rent or board payments made by a member of the household to any other member of the household.
5.	Scholarship payments for educational (as opposed to living) expenses.

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SCHEDULE 3 – ASSETS

Regulation 13(3)

TABLE A

Item No.	Type of asset
1.	Cash or money held in authorised deposit-taking institution accounts, including interest-free accounts.
2.	Cash or money held in interest-bearing deposits, fixed deposits, bonds, debentures, property trusts, friendly society bonds and managed investments.
3.	Shares, options, rights, convertible notes and other securities, (whether listed on an Australian or overseas stock exchange or unlisted).
4.	Unsecured funds held by an authorised deposit-taking institution (other than minor withdrawn monies).
5.	Gold and other bullion.
6.	Residential properties, including rental properties, second homes, shacks, vacant land, and the value of any residential or holiday time-share arrangements.
7.	Commercial properties and commercial land.
8.	The value of any businesses and farms, including the value of crops and livestock.
9.	The attributed value of any private trusts or private companies of which the tenant or, if the tenant is a member of a household, member of the household is trustee or controller.
10.	Loans made to other people, companies and trusts, other than loans of household goods or motor vehicles.
11.	Income stream products, including annuities and superannuation.

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Item No.	Type of asset
12.	Gifts, including gifts of cash, savings, shares, bonds, investments, lump sum payments, net fixed business assets, realised superannuation funds and real estate.
13.	Any monies that the tenant or, if the tenant is a member of a household, member of the household would, regardless of any legal disability, be entitled to recover in a court of competent jurisdiction as a debt.
14.	Vehicles for recreational or specific-interest use, including the following: <ul style="list-style-type: none">(a) campervans and caravans;(b) dragsters, racing cars and go-karts;(c) stock cars and street rods;(d) vintage or veteran vehicles.
15.	Motor vehicles for commercial use, including the following: <ul style="list-style-type: none">(a) taxis;(b) heavy vehicles (such as buses, large trucks and large vans);(c) self-propelled plant and machinery (such as tractors, backhoes and mobile cranes).
16.	Non-road-registrable motorcycles, quad-bikes and ride-on mowers.
17.	Trailers, including boat trailers, horse floats, semi-trailers, log jinkers and towed agricultural machinery.
18.	Bicycles, tricycles, tandem cycles and other pedal vehicles, including those with some form of powered assistance for the rider, and unpowered scooters.

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Item No.	Type of asset
19.	Vehicles that are capable of travelling only on a railway, tramway or other fixed track.
20.	Boats and recreational water craft, including jet skis, sailboards and kayaks.
21.	Aircraft, including recreational aircraft (such as powered ultra lights, gliders and hang gliders).
22.	The value of jewellery, artworks, collections, memorabilia and antiques, excluding family heirlooms and hobby collections.
23.	The value of any collections used for trading purposes.

TABLE B

Item No.	Type of asset
1.	Assets held in superannuation funds or rollover funds from which the tenant or, if the tenant is a member of a household, member of the household receives a pension or annuity.
2.	The value of investments in superannuation funds or similar retirement products (where the tenant or, if the tenant is a member of a household, member of the household is under the pension age and is yet to receive a lump sum, pension or annuity from the funds or products).
3.	The surrender value of life insurance policies.
4.	The value of life interests.
5.	The value of assets in a deceased estate which are not yet received.
6.	The value of investments in First Home Saver Accounts under the (discontinued) FHSA scheme of the Commonwealth.

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Item No.	Type of asset
7.	Payments under a criminal injuries compensation scheme or victims of crime compensation scheme of any State or Territory of the Commonwealth.
8.	Ex-gratia payments to persons who have been victims of abuse whilst in the care of any State or Territory of the Commonwealth or any religious institution.
9.	One-off payments made by the Commonwealth to Australian service personnel who were prisoners-of-war during the Korean War (or to their spouses).
10.	Pre-paid funeral arrangements, including funeral bonds and the reservation of burial plots.
11.	Accommodation bonds paid to aged cared facilities.
12.	Assets held in trusts that are Special Disability Trusts for the purposes of the <i>Social Security Act 1991</i> of the Commonwealth.
13.	Motor vehicles for private use, including the following: <ul style="list-style-type: none">(a) utilities and small vans;(b) road-registrable motorcycles, (including motor trikes and motor scooters).
14.	The market value of household goods, including the following: <ul style="list-style-type: none">(a) furniture and soft furnishings (such as curtains);(b) crockery, cutlery, glassware and cooking equipment;(c) in-built and portable electrical appliances;(d) manchester (bed coverings, towels and linen);(e) portable lighting;

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Item No.	Type of asset
	(f) garden ornaments.
15.	<p>The market value of personal effects, including the following:</p> <ul style="list-style-type: none"> (a) clothing; (b) jewellery (other than heirloom jewellery or jewellery that forms part of a hobby collection); (c) cosmetics and toiletries; (d) watches; (e) optical items (such as sunglasses and binoculars); (f) recreational items (such as books, camping equipment, fitness equipment, sporting goods and toys); (g) personal electrical devices (such as cameras, computers and gaming systems, mp3 players, phones, radios, recording equipment, stereo and surround sound equipment, televisions and tablets); (h) nursery items and children’s play equipment (such as swings and trampolines); (i) pool equipment; (j) bicycles, tricycles and other pedal vehicles, including those with some form of powered assistance for the rider, and unpowered scooters; (k) gardening equipment and tools; (l) hobby equipment.
16.	The value of family heirlooms and hobby collections.

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Item No.	Type of asset
17.	The value of any medals or decorations (not forming part of a collection used for trading purposes).
18.	Devices for the aid of persons living with disability, injury or illness, including prostheses, stair-lifts and wheelchairs (motorised and otherwise).

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 22 April 2015.

These regulations are administered in the Department of Justice.

NOTES

The foregoing text of the *Residential Tenancy Regulations 2015* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 30 March 2016 are not specifically referred to in the following table of amendments.

Citation	Serial Number	Date of commencement
<i>Residential Tenancy Regulations 2015</i>	S.R. 2015, No. 21	4.5.2015
<i>Residential Tenancy Amendment Regulations 2016</i>	S.R. 2016, No. 12	30.3.2016

TABLE OF AMENDMENTS

Provision affected	How affected
Regulation 13	Inserted by S.R. 2016, No. 12
Schedule 1	Substituted by S.R. 2016, No. 12
Schedule 2	Inserted by S.R. 2016, No. 12
Schedule 3	Inserted by S.R. 2016, No. 12