



Australian Capital Territory

## **Land (Planning and Environment) Regulations<sup>1</sup> (Amendment)**

**Subordinate Law No. 53 of 1993<sup>2</sup>**

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The Australian Capital Territory Executive makes the following Regulations under the *Land (Planning and Environment) Act 1991*.

Dated 22 December 1993.

BILL WOOD  
Minister

WAYNE BERRY  
Minister

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### **Commencement**

**1.** These Regulations commence on the day on which they are notified in the *Gazette*.

**Principal Regulations**

2. In these Regulations, “Principal Regulations” means the Land (Planning and Environment) Regulations.

**Determination of amount payable under paragraph 184 (b) of the Act**

3. Regulation 12 of the Principal Regulations is amended—

- (a) by omitting from paragraph (a) of the definition of “added value” in subregulation (2) “and”;
- (b) by adding at the end of paragraph (b) of the definition of “added value” in subregulation (2) “and”; and
- (c) by adding at the end of the definition of “added value” in subregulation (2) the following paragraph:
  - “(c) in relation to the value of the lease immediately before the variation—that no variations of the lease would be agreed to during the remaining term of the lease;”.

**Calculation of amount payable**

4. Regulation 13 of the Principal Regulations is amended—

- (a) by omitting subregulation (1) and substituting the following subregulation:

“(1) The amount payable to the Executive in respect of the variation of a lease of Territory Land (other than a boundary variation) is—

- (a) if the land comprised in the lease is prescribed land—the amount calculated in accordance with the formula—

$$(U \times \$1450) - (L \times \$2750)$$

where—

**U** is the number of dwellings which will be constructed on the land comprised in the lease after the variation is executed;

**L** is 1 or, if the variation will amalgamate 2 or more leases to form a composite lease, the number of amalgamated leases; or

- (b) in any other case—
  - (i) an amount equal to the added value; or
  - (ii) if a remission of part of that amount is applicable in accordance with subregulation 14 (2)—the

amount ascertained by subtracting from the first-mentioned amount the amount ascertained by applying the appropriate remission rate.”; and

- (b) by adding at the end the following subregulation:

“(4) In this regulation—

‘boundary variation’ means a variation of a lease of Territory Land which would alter a common boundary between 2 adjoining leases with the agreement of the lessee of each lease;

‘dwelling’ means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile;

‘prescribed land’ means a parcel of land—

- (a) which lies wholly within area B2 of the Territory Plan, being the area known as the Kingston/Griffith Redevelopment Area; and
- (b) which is comprised in a lease which was granted for residential purposes the variation of which would enable the land to be used for higher density residential purposes.”.

### **Remission of amount payable**

5. Regulation 14 of the Principal Regulations is amended—

- (a) by omitting paragraph (b) of the definition of “prescribed lease” in subregulation (1) and substituting the following paragraph:

“(b) that is classified under this regulation as—

- (i) a special residential lease;
- (ii) a concessional lease; or
- (iii) a free of charge lease.”;

- (b) by omitting paragraph (3) (a) and substituting the following paragraph:

“(a) a lease shall be classified as a special residential lease—

- (i) where the lease was granted for commercial purposes and the variation would enable the land comprised in the lease, or part of that land, to be used for residential purposes; or

- (ii) where the lease was granted for residential purposes and the variation would enable the land comprised in the lease to be used for higher density residential purposes;”;
- (c) by omitting from paragraph (3) (b) “charge grant” and substituting “lease”;
- (d) by omitting from paragraph (3) (c) “grant free of charge” and substituting “free of charge lease”;
- (e) by omitting subregulations (4) to (9) (inclusive) and substituting the following subregulations:

“(4) For the purpose of determining the applicable remission rate under paragraph (2) (b), a prescribed lease that is classified as both—

- (a) a concessional lease and a special residential lease shall be taken to be classified only as a concessional lease; or
- (b) a free of charge lease and another kind of lease shall be taken to be classified only as a free of charge lease.

“(5) For the purpose of determining the period since the grant of a prescribed lease which amalgamated 2 or more prior leases, the relevant period shall be taken to have commenced—

- (a) where the amalgamated leases were granted in respect of parcels of land of different areas—on the date of the grant of the larger or largest of the amalgamated leases; or
- (b) where the amalgamated leases were granted in respect of parcels of land having the same area—on the date of the grant of whichever of the amalgamated leases would, if varied separately, have attracted the greater or greatest remission rate.

“(6) Where a prescribed lease amalgamated 2 or more prior leases, the prescribed lease shall be taken to have the same classification—

- (a) where the amalgamated leases were granted in respect of parcels of land of different areas—as the larger or largest of the amalgamated leases; or
- (b) where the amalgamated leases were granted in respect of parcels of land having the same area—as whichever of

the amalgamated leases would, if varied separately, have attracted the greater or greatest remission rate.”; and

- (f) by omitting from subregulation (10) “, other than a lease referred to in subregulation (4),”.

### Schedule 3

6. Schedule 3 to the Principal Regulations is amended—

- (a) by omitting “Subregulations 14 (3) and (4)” and substituting “Subregulations 14 (2) and (3)”;
- (b) by omitting the heading to Table 1 and substituting the following heading:  
“**TABLE 1: SPECIAL RESIDENTIAL LEASE**”;
- (c) by omitting the heading to Table 2 and substituting the following heading:  
“**TABLE 2: CONCESSIONAL LEASE**”; and
- (d) by omitting the heading to Table 3 and substituting the following heading:  
“**TABLE 3: FREE OF CHARGE LEASE**”.

### Savings

7. (1) Regulations 12, 13 and 14 of the Principal Regulations as in force immediately before the commencement of these regulations, continue to apply in relation to a lease of prescribed land until the expiration of 14 September 1994 as if regulations 3, 4, 5 and 6 of these regulations had not been made.

(2) In subregulation (1)—

“prescribed land” means land, comprised in a lease of Territory Land, all of which lies within the Division of Fyshwick shown in Deposited Plan 5574 kept in the Office of the Registrar-General.

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### NOTES

1. Regulations 1992 No. 5 as amended by No. 19, 1992; Nos. 3, 5, 29 and 47, 1993.
2. Notified in the ACT Gazette on 24 December 1993.