



Australian Capital Territory

Land Rent Act 2008

A2008-16

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
2	Commencement 2
3	Dictionary 2
4	Notes 3
5	Application of Act 3
6	Application—Taxation Administration Act 3
Part 2	Land rent—lease
7	Application to pay land rent 5
8	Land rent payable 6
Part 3	Land rent—discount
9	Meaning of <i>lessee</i> —pt 3 8
10	Discount—application 8
11	Discount—eligibility 8

J2007-253

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Contents

		Page
12	Discount—decision on application	9
13	Discount—hardship	10
14	Discount—review of eligibility	10
15	Discount—loss of eligibility because of income	11
16	Discount—loss of eligibility for other reasons	12
Part 4	Land rent—transfers	
17	Transfer of lease—land rent	14
Part 5	Land rent—payment and recovery of unpaid rent	
18	Meaning of <i>related</i> —pt 5	15
19	Lessee to pay land rent	15
20	When is land rent payable?	15
21	Unpaid land rent—interest	16
22	Unpaid land rent—calculation of interest	16
23	Unpaid land rent—recovery	17
24	Land rent—charge on the land	18
25	Land rent—notice of rent in arrears	18
26	Land rent—sale of land rent lease for non-payment	18
27	Sale of land rent lease—application of proceeds	20
28	Sale of land rent lease—application of proceeds without court order	22
Part 6	Miscellaneous	
29	Land rent—part of year	23
30	Land rent—discount for part of year	23
31	Certificate of land rent and other charges	24
32	Determination of fees	25
33	Objections	25
34	Review by AAT	25
35	Regulation-making power	26
36	Legislation amended—sch 1	26

		Page
Schedule 1	Consequential amendments	27
Part 1.1	Land Tax Act 2004	27
Part 1.2	Planning and Development Act 2007	28
Part 1.3	Rates Act 2004	30
Part 1.4	Taxation Administration Act 1999	30
Dictionary		32



Australian Capital Territory

Land Rent Act 2008

A2008-16

An Act about the rental of certain residential leases, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Part 1 Preliminary

1 Name of Act

This Act is the *Land Rent Act 2008*.

Note This Act is a **tax law** under the Taxation Administration Act. As a tax law, this Act is subject to provisions of the Taxation Administration Act about the administration and enforcement of tax laws generally.

2 Commencement

This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (**signpost definitions**) to other terms defined elsewhere in this Act.

For example, the signpost definition '**related**, for a parcel of land, for part 5 (Land rent—payment and recovery of unpaid rent)—see section 18.' means that the term 'related' is defined in that section for part 5.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

5 Application of Act

- (1) This Act applies to a single dwelling house lease granted by the planning and land authority (other than to a territory authority).

Note The planning and land authority is authorised to grant, on behalf of the Executive, leases that the Executive may grant on behalf of the Commonwealth (see the *Planning and Development Act 2007*, s 237).

- (2) However, this Act applies only in relation to a single dwelling house lease—

- (a) granted to a person eligible for a discount under section 11 (Discount—eligibility); or
- (b) transferred by the person to someone else.

- (3) In this section:

single dwelling house lease means a residential lease for a single dwelling house granted under the *Planning and Development Act 2007*, section 240.

- (4) Subsection (2), and this subsection expire on—

- (a) 31 December 2008; or
- (b) if, before 31 December 2008, another date is fixed by regulation—the date fixed.

6 Application—Taxation Administration Act

- (1) The Taxation Administration Act applies to this Act as if—
- (a) land rent payable under this Act were a tax; and

- (b) the lessee under a land rent lease were a taxpayer in relation to land rent under the lease.
- (2) However, the following provisions of the Taxation Administration Act do not apply to unpaid overdue land rent:
 - (a) section 25 (Interest in relation to tax defaults);
 - (b) division 5.2 (Penalty tax) and section 110 (Interest payable on amounts to be paid by taxpayer).

Part 2 Land rent—lease

7 Application to pay land rent

- (1) This section applies if the planning and land authority invites applications for the ballot or direct sale of a single dwelling house lease that may be subject to the condition that the lessee pays land rent for the lease.
- (2) An applicant for the grant of the lease may apply to the planning and land authority to pay land rent for the lease.

Note 1 The planning and land authority may grant a lease under the *Planning and Development Act 2007*, s 238.

Note 2 If a form is approved under the *Planning and Development Act 2007*, s 425 for this provision, the form must be used.

- (3) If the lease is granted, and an application is made under subsection (2) in accordance with the regulations, the lease—
 - (a) must be granted to the applicant subject to the condition that land rent is payable for the lease; and
 - (b) must indicate that the lease is a land rent lease.

Note 1 The planning and land authority need not grant a lease to an applicant, even if applications for the lease have been invited (see *Planning and Development Act 2007*, s 244).

Note 2 If applications for a lease have been invited subject to conditions, the planning and land authority may, without granting a lease, invite fresh applications for the lease subject to the same or other conditions (see *Planning and Development Act 2007*, s 244).

- (4) A lease mentioned in subsection (3) is a ***land rent lease***.

8 Land rent payable

- (1) The land rent payable for a land rent lease for the year the lease is first granted is—
- (a) if the lessee is eligible for discounted land rent—the discount percentage of the unimproved value of the parcel of land under the lease; or
 - (b) if the lessee is not eligible for discounted land rent—the standard percentage of the unimproved value of the parcel of land under the lease.

Note Land rent is payable to the commissioner (see s 19).

- (2) The land rent payable for a land rent lease for a year after the year the lease is first granted is—
- (a) if the lessee is eligible for discounted land rent—the lesser of—
 - (i) the discount percentage of the unimproved value of the parcel of land under the lease; and
 - (ii) the amount worked out as follows:
land rent payable
for the previous year $\times \left(1 + \frac{\text{relevant}}{\text{percentage}} \right)$ or;
with discount
 - (b) if the lessee is not eligible for discounted land rent—the lesser of—
 - (i) the standard percentage of the unimproved value of the parcel of land under the lease; and

(ii) the amount worked out as follows:

land rent payable
for the previous year without discount $\times \left(1 + \frac{\text{relevant percentage}}{\text{percentage}} \right)$ or;

(c) if the lessee, previously ineligible for discounted land rent, becomes eligible for discounted land rent for the year—the lesser of—

(i) the discount percentage of the unimproved value of the parcel of land under the lease; and

(ii) the amount worked out as follows:

land rent payable
for the previous year without discount $\times \frac{\text{discount percentage}}{\text{standard percentage}} \times \left(1 + \frac{\text{relevant percentage}}{\text{percentage}} \right)$

Note **Discount percentage**, **relevant percentage** and **standard percentage** are defined in the dictionary.

(3) In this section:

land rent payable for the previous year means the land rent that would have been payable for the lease if it had been a land rent lease, leased to the lessee, for the whole of the previous year.

unimproved value, of a parcel of land under a land rent lease for a year, means the unimproved value—

(a) for subsection (1)—determined under the *Rates Act 2004*, section 9 (First determination of unimproved value) for the year; and

(b) for subsection (2)—determined under the *Rates Act 2004*, section 10 (1) (Annual redeterminations) for the year.

Part 3 Land rent—discount

9 Meaning of *lessee*—pt 3

In this part:

lessee, in relation to a proposed land rent lease, includes a person proposed to be a lessee under the lease.

10 Discount—application

- (1) An application for discounted land rent must be made to the commissioner.

Note If a form is approved under the Taxation Administration Act, s 139C for this provision, the form must be used.

- (2) An application must include—
- (a) evidence of the income of each lessee—
 - (i) for the year before the application is made; and
 - (ii) for the year in which the application is made; and
 - (b) details of any real property owned by each lessee.
- (3) An application may be made—
- (a) before the grant of the lease; or
 - (b) at any time during the term of the lease.

11 Discount—eligibility

- (1) The lessee of a land rent lease is eligible to pay discounted land rent only if—
- (a) the lessee, or any of the lessees, does not own other real property; and

- (b) the total income of the lessee, or all of the lessees, does not exceed the income threshold amount; and
- (c) if a certificate of occupancy is issued for the lease—the lessee, or at least 1 of the lessees, lives on the parcel of land under the lease.

Note **Income threshold amount** is defined in the dictionary.

- (2) In this section:

certificate of occupancy—see the *Building Act 2004*, dictionary.

12 Discount—decision on application

- (1) On receipt of an application under section 10, the commissioner must—
 - (a) if the commissioner believes on reasonable grounds that the applicant is eligible to pay discounted land rent—grant the discount; or
 - (b) in any other case—refuse to grant the discount.
- (2) The commissioner must give the applicant written notice of—
 - (a) the decision under subsection (1); and
 - (b) if the discount is refused—a written statement of the reasons for the refusal.
- (3) Subject to section 13, a discount granted during the term of a lease commences at the start of the next year.

Note For the amount of land rent payable with a discount, see s 8 (1) (a) and (2) (a).

13 Discount—hardship

- (1) This section applies if an application under section 10, made at any time during the term of the lease—
 - (a) includes an application for the discount to be applied from the date the application is made; and
 - (b) sets out details of the grounds on which that part of the application is made.
 - (2) The commissioner must—
 - (a) if the commissioner believes on reasonable grounds that the lessee is eligible to pay discounted land rent, and would suffer substantial financial hardship without an immediate discount—apply the discount from the date the application is made; or
 - (b) in any other case—refuse to apply the discount immediately.
- Note* Section 30 (Land rent—discount for part of year) applies if the lessee is eligible for a discount for only part of a year.
- (3) If subsection (2) (b) applies, the notice given under section 12 (2) must also include a written notice of the reasons not to apply the discount from the date the application is made.

14 Discount—review of eligibility

- (1) This section applies to a lessee entitled to pay discounted land rent in a year.
- (2) The lessee must tell the commissioner if—
 - (a) the lessee, or any of the lessees, of the lease becomes the owner of other real property; or
 - (b) if a certificate of occupancy is issued for the lease—all the lessees stop living on the parcel of land under the lease.
- (3) The lessee must tell the commissioner about an event mentioned in subsection (2) not later than 30 days after the day the event happens.

- (4) The lessee must, before 30 September in the following year, declare—
- (a) if there is only 1 lessee of the lease—the income of the lessee for the year; and
 - (b) if there is more than 1 lessee of the lease—the total income of all the lessees for the year; and
 - (c) whether the lessee, or any other lessee of the lease, owns any other real property; and
 - (d) whether the lessee, or any of the lessees, of the lease continues to live on the parcel of land under the lease.
- (5) In this section:
certificate of occupancy—see the *Building Act 2004*, dictionary.

15 Discount—loss of eligibility because of income

- (1) This section applies if a lessee, previously eligible to pay discounted land rent for a year, becomes ineligible for the discount because the total income of the lessee, or all of the lessees, exceeds the income threshold amount.
- (2) The land rent payable by the lessee for the land rent lease for the following year is—
- (a) from 1 July to 30 September of the year—the land rent that would be payable for the period if the lessee were eligible for a discount; and
 - (b) from 1 October to 30 June of the year—75% of the lesser of—
 - (i) the standard percentage of the unimproved value of the parcel of land under the lease; and

(ii) the amount worked out as follows:

$$\begin{array}{l} \text{land rent payable} \\ \text{for the previous year} \\ \text{with discount} \end{array} \times \frac{\text{standard percentage}}{\text{discount percentage}} \times \left(1 + \frac{\text{relevant percentage}}{\text{percentage}} \right)$$

Note *Discount percentage, relevant percentage* and *standard percentage* are defined in the dictionary.

(3) In this section:

land rent payable for the previous year means the land rent that would have been payable for the lease if it had been a land rent lease, leased to the lessee, for the whole of the previous year.

unimproved value, of a parcel of land under a land rent lease for a year, means the unimproved value determined under the *Rates Act 2004*, section 10 (1) (Annual redeterminations) for the year.

16 Discount—loss of eligibility for other reasons

- (1) This section applies if a lessee, previously eligible to pay discounted land rent for a year, becomes ineligible for the discount because of 1 of the following circumstances:
 - (a) the lessee, or any of the lessees, of the lease becomes the owner of other real property;
 - (b) if a certificate of occupancy is issued for the lease—all the lessees stop living on the parcel of land under the lease.
- (2) The lessee is taken to become ineligible for the discount on the 1st day of the 1st quarter after the circumstance in subsection (1) (a) or (b) happens.

- (3) The land rent payable by the lessee for the land rent lease is, on and from the day the lessee becomes ineligible for the discount, the lesser of—
- (a) the standard percentage of the unimproved value of the parcel of land under the lease; and
 - (b) the amount worked out as follows:

$$\begin{array}{l} \text{discounted land rent} \\ \text{payable for the year} \end{array} \times \frac{\text{standard percentage}}{\text{discount percentage}}$$

Note 1 **Discount percentage** and **standard percentage** are defined in the dictionary.

Note 2 Section 30 (Land rent—discount for part of year) applies if the lessee is eligible for a discount for only part of a year.

- (4) In this section:

discounted land rent payable for the year means the discounted land rent that would have been payable for the lease if it had been a land rent lease, leased to the lessee, for the whole of the year.

Part 4 Land rent—transfers

Note A lessee may apply to the planning and land authority for a variation of the lease to reduce the land rent payable to a nominal rent (see *Planning and Development Act 2007*, s 272A (Application for rent payout lease variation)).

17 Transfer of lease—land rent

- (1) This section applies if a land rent lease is transferred.
- (2) Subject to section 11 (Discount—eligibility), section 29 (Land rent—part of year) and section 30 (Land rent—discount for part of year), the land rent payable for the land rent lease transferred is the standard percentage of the unimproved value of the parcel of land under the lease.

Note 1 A transferee may apply to the planning and land authority for a variation of the lease to reduce the land rent payable to a nominal rent (see *Planning and Development Act 2007*, s 272A (Application for rent payout lease variation)).

Note 2 **Standard percentage** is defined in the dictionary.

- (3) In this section:

unimproved value, of a parcel of land under a transferred land rent lease, means the unimproved value—

- (a) for a land rent lease transferred in the year the lease is first granted—determined under the *Rates Act 2004*, section 9 (First determination of unimproved value) for the year; and
- (b) for a land rent lease transferred in a year after the year the lease is first granted—determined under the *Rates Act 2004*, section 10 (1) (Annual redeterminations) for the year.

Part 5 Land rent—payment and recovery of unpaid rent

18 Meaning of *related*—pt 5

In this part:

related—a parcel of land is a *related* parcel of land in relation to a land rent lease if—

- (a) the lease and the parcel have the same owner; and
- (b) if the parcel is a land rent lease—the commissioner has complied with section 25 (Land rent—notice of rent in arrears) in relation to the lease and the parcel; and
- (c) the commissioner has, in relation to the parcel, complied with—
 - (i) the *Land Tax Act 2004*, section 21 (Notice of land tax in arrears); or
 - (ii) the *Rates Act 2004*, section 23 (Notice of rates in arrears).

19 Lessee to pay land rent

Land rent payable for a land rent lease is payable to the commissioner by the lessee.

20 When is land rent payable?

- (1) The assessment notice for the land rent payable for a land rent lease must state the dates for payment of the land rent (the *payment dates*).

Note Assessments are made under the Taxation Administration Act and objections may be made under that Act, s 100 (1) (a).

- (2) The land rent is payable on the payment dates.

21 Unpaid land rent—interest

- (1) If the lessee of a land rent lease fails to pay an amount of land rent by the payment date, the lessee is liable to pay interest at the determined rate on the amount of unpaid land rent from the day the amount becomes payable until the day the amount is paid.
- (2) In this section:
determined rate, of interest, means the rate determined under the Taxation Administration Act, section 139.

22 Unpaid land rent—calculation of interest

- (1) Interest on an amount of unpaid land rent is worked out—
 - (a) for each calendar month when the amount remains unpaid; and
 - (b) on the 1st day of that month; and
 - (c) at the interest rate applying to that day; and
 - (d) on the total amount of land rent that is unpaid on a day when the interest is worked out.

Note The Minister may determine an interest rate for this section under the Taxation Administration Act, s 139.

- (2) For subsection (1) (a), if an amount remains unpaid for part of a calendar month, interest is payable for the whole month.

Example

Andrew's land rent is due on 1 April. He doesn't pay it until 15 May. Andrew has to pay interest worked out for the overdue period from 2 April to 15 May. Because of the operation of s (2), Andrew has to pay interest for the period from 2 April to 1 June. Interest for the month from 2 April to 1 May is at the rate applying on 2 April, which is the 1st day of the 1st month that the amount remains unpaid (see s (1)). Interest for the month from 2 May to 1 June is at the rate applying on 2 May, which is the 1st day of the 2nd month that the amount remains unpaid (see s (1)).

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

23 Unpaid land rent—recovery

- (1) The amount of any unpaid land rent, and any interest payable on the amount, (the *amount*) is a debt owing to the Territory.

Note If an amount is owing under a law to a person by another person, the person may recover the amount as a debt owing to the person in a court of competent jurisdiction (see Legislation Act, s 177).

- (2) The liability to pay the amount is joint and several if the liability attaches to 2 or more people.
- (3) The liability is a first charge on the lessee's interest in the lease.
- (4) The commissioner may enter into an arrangement (which may include provision for the payment of interest) for payment of the amount by instalments.
- (5) The commissioner may remit or refund all or part of an amount of interest paid or payable by the lessee.
- (6) The commissioner may write off the whole or part of a liability to pay the amount if satisfied that action, or further action, to recover the amount outstanding is impracticable or unwarranted.

24 Land rent—charge on the land

- (1) Land rent payable for a land rent lease is a charge on the interest held by the lessee in the parcel of land under the lease.
- (2) The charge takes priority over a sale, conveyance, transfer, mortgage, charge, lien or encumbrance in relation to the parcel of land.
- (3) The charge does not have effect against an honest purchaser of the parcel of land for value if—
 - (a) the purchaser had obtained a certificate under section 31 (Certificate of land rent and other charges) in relation to the parcel before the purchase; and
 - (b) at the time of the purchase, the purchaser did not have notice of liability under the charge.

25 Land rent—notice of rent in arrears

- (1) If land rent payable for a land rent lease has been in arrears for at least 1 year, the commissioner may give the lessee written notice that the land rent is in arrears.
- (2) At any time after giving notice, the commissioner may declare, in writing, that the land rent for the land rent lease is in arrears.
- (3) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

26 Land rent—sale of land rent lease for non-payment

- (1) This section applies if—
 - (a) a land rent lease is held by a lessee under a lease from the Commonwealth for a term of years; and
 - (b) the commissioner has complied with section 25 (Land rent—notice of rent in arrears) in relation to the land rent lease; and

- (c) land rent payable for the land rent lease is in arrears for at least 90 days after the day of notification under section 25 in relation to the lease.
- (2) The commissioner may apply to a court of competent jurisdiction for an order for the sale of—
 - (a) the land rent lease; and
 - (b) any improvements made on or to the parcel of land under the land rent lease.
 - (3) In the application, the commissioner may ask that the proceeds of the sale also be applied in paying the total amount of any land tax or rates in arrears for the land rent lease, and any land rent, land tax or rates in arrears for 1 or more related parcels of land stated in the application.
 - (4) If the court is satisfied that this section applies to the land rent lease, the court must—
 - (a) order the sale by public auction of the land rent lease, and any improvements made on or to the parcel of land under the land rent lease, to pay the total of the following:
 - (i) the total amount of land rent in arrears for the lease at the time the court makes the order;
 - (ii) costs and expenses in relation to the declaration, application and sale in relation to the lease;
 - (iii) if the commissioner has made a request mentioned in subsection (3) in the application in relation to the lease or another parcel of land—
 - (A) the total amount of any land tax or rates in arrears for the lease at the time the court makes the order; and

- (B) if the court is satisfied that a parcel is a related parcel of land—the total amount of any land rent, land tax or rates in arrears for the other parcel, at the time the court makes the order; and
- (b) order that the proceeds be paid into court; and
- (c) order that the title to the lease be transferred to the purchaser free from mortgages and other encumbrances.

27 Sale of land rent lease—application of proceeds

- (1) This section applies to the proceeds of the sale of a land rent lease under section 26.
- (2) The proceeds of the sale are to be applied in the following order:
 - (a) payment of the market value of the lease to the Territory;
 - (b) payment of the total of the amounts mentioned in section 26 (4) (a) (i) to (iii) (A);
 - (c) payment of the amount owing to a person under a mortgage of the improvements (or, if that amount is more than the amount of any remaining proceeds, the remaining proceeds);
 - (d) subject to subsection (4), payment of the total of amounts to which section 26 (4) (a) (iii) (B) applies (or, if that amount is more than the amount of any remaining proceeds, the remaining proceeds);
 - (e) subject to subsection (5), the payment of any balance to the lessee.
- (3) If there were 2 or more mortgagees of the improvements before the sale, the court may make the orders about their respective entitlements that the court considers just.

- (4) On application by a person who has an interest in the improvements otherwise than as lessee or mortgagee, the court may order that the person is entitled to be paid the value of the person's interest (as decided by the court) in priority to the commissioner's entitlement under subsection (2) (d).
- (5) On application by any other interested person, the court may order payment out of court of all or part of any balance to a person other than the person who was the lessee before the sale if the court considers it just to do so.
- (6) Any sale of the land rent lease under this section must be abandoned if the lessee pays—
 - (a) the total land rent in arrears for the land rent lease; and
 - (b) if the commissioner has made a request under section 26 (3) in the application in relation to any land tax or rates in arrears for the land rent lease—the total amount of any land tax or rates in arrears for the land rent lease at the time of the payment; and
 - (c) the costs and expenses incurred up to the time of payment in relation to the declaration, application and sale in relation to the land rent lease; and
 - (d) the costs and expenses reasonably incurred in relation to the abandonment of the sale; and

Example

advising the public that an auction has been cancelled

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (e) if the commissioner has made a request under section 26 (3) in the application in relation to 1 or more related parcels of land—the total amount of any land rent, land tax or rates in arrears for the related parcel or parcels at the time of the payment.

28 Sale of land rent lease—application of proceeds without court order

- (1) This section applies to the proceeds of the sale of a land rent lease under section 26.
- (2) The commissioner must be paid out of court any amounts to which the commissioner is entitled under section 27 (2) without a court order.
- (3) If a person who was the lessee or mortgagee of the land rent lease before the sale hands over to the court the certificate or other title to the lease, the person must be paid out of court any amount to which the person is entitled under section 27 (2) without a court order.

Part 6 Miscellaneous

29 Land rent—part of year

- (1) This section applies to a land rent lease if, in a year—
- (a) the lessee starts paying land rent because the lease was transferred to the lessee; or
 - (b) the lessee stops paying land rent because the lease has been varied to reduce the rent payable to a nominal rent; or
 - (c) the lessee stops paying land rent because the lessee transferred the lease.
- (2) The amount of land rent payable by the lessee for the lease for the year is the amount worked out as follows:

$$\text{land rent otherwise payable for year} \times \frac{\text{lessee's rental days in year}}{\text{days in year}}$$

- (3) In this section:

land rent otherwise payable for year means the land rent that would have been payable by a lessee if the lessee were the lessee under a land rent lease for the whole year.

lessee's rental days in year means the number of days in a year that the lessee was liable to pay land rent under the land rent lease.

30 Land rent—discount for part of year

- (1) This section applies to a land rent lease if, in a year, the lessee—
- (a) starts paying discounted land rent; or
 - (b) stops paying discounted land rent.

- (2) The amount of land rent payable by the lessee for the lease for the year is the amount worked out as follows:

$$\left(DR \times \frac{DRD}{D} \right) + \left(SR \times \frac{SRD}{D} \right)$$

- (3) In this section:

D means the number of days in the year.

DR means the discounted land rent payable for the land rent lease.

DRD means the number of days in the year that the lessee is eligible to pay discounted land rent for the lease.

SR means the land rent payable for the land rent lease without a discount.

SRD means the number of days in the year that the lessee is not eligible to pay discounted land rent for the lease.

31 Certificate of land rent and other charges

- (1) A person may apply to the commissioner for a certificate of—
- (a) the land rent payable for a land rent lease for a stated year; and
 - (b) the land rent and any other amount immediately payable to the commissioner under this Act in relation to the lease.

Note 1 A fee may be determined under s 32 for this provision.

Note 2 If a form is approved under the Taxation Administration Act, s 139C for an application, the form must be used.

Note 3 A single application form may be approved for this section and the *Land Tax Act 2004*, s 41 and the *Rates Act 2004*, s 76 (see Legislation Act s 255 (7)).

- (2) The commissioner must give the applicant the certificate.
- (3) The certificate is conclusive proof of the matters certified for an honest buyer of the lease for value.

- (4) For this section, land rent and other amounts are taken to be payable immediately even though any necessary time after service of a notice has not ended.

32 Determination of fees

- (1) The Minister may, in writing, determine fees for this Act

Note The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3)

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

33 Objections

The following decisions are prescribed for the Taxation Administration Act, section 100 (Objection):

- (a) a decision under section 12 (Discount—decision on application);
- (b) a decision under section 13 (Discount—hardship).

Note Objections relating to the commissioner's determination of the unimproved value of a parcel of land are dealt with under the *Rates Act 2004*, s 71.

34 Review by AAT

- (1) This section applies to a determination by the commissioner of an objection to a decision mentioned in section 33.
- (2) The determination is prescribed by the Taxation Administration Act, section 107.

Note Applications for review by the AAT may also be made in relation to determination by the commissioner of a decision on an objection to an assessment.

35 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (2) A regulation may prescribe requirements in relation to an application under section 7 (2) (Application to pay land rent).

Examples

- 1 evidence that the applicant has obtained advice from a registered financial adviser, or attended a course, on the effect of a land rent lease and any advantages and disadvantages of leasing a land rent lease
- 2 a certificate by the commissioner about the applicant's eligibility for discounted land rent

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) A regulation may provide that a provision of the *Planning and Development Act 2007* does not apply, or applies with stated modifications, to a land rent lease.
- (4) Subsection (3) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (5) Subsections (3) and (4) and this subsection, and any regulation in force under subsection (3), expire 2 years after the day this section commences.

36 Legislation amended—sch 1

This Act amends the legislation mentioned in schedule 1.

Schedule 1 Consequential amendments

(see s 36)

Part 1.1 Land Tax Act 2004

[1.1] Section 24 (3)

omit

land tax

substitute

land tax, land rent

[1.2] Section 24 (4) (a) (iv)

omit

land tax

substitute

land tax, land rent

[1.3] Section 41 (1), note 3

substitute

Note 3 A single application form may be approved for this section and the *Land Rent Act 2008*, s 31 and the *Rates Act 2004*, s 76 (see Legislation Act s 255 (7)).

Part 1.2 Planning and Development Act 2007

[1.4] Section 238 (2)

substitute

- (2) A lease granted under this section must include—
- (a) a statement about whether the lease is a concessional lease; and
 - (b) for a land rent lease—a statement that the lease is a land rent lease.

Note A grant must be lodged with the registrar-general under the *Land Titles Act 1925* (see *Land Titles Act 1925*, s 17 (2)).

[1.5] New section 246 (2) (ab)

insert

- (ab) a land rent lease; or

[1.6] New section 266A

in part 9.5, insert

266A Application to land rent—pt 9.5

This part does not apply to a variation of land rent in accordance with the provisions of a land rent lease.

[1.7] Section 271 (4)

substitute

- (4) Subsections (2) and (3) do not apply to a variation of—
- (a) a rental lease—
 - (i) to reduce the rent payable to a nominal rent; or
 - (ii) otherwise affecting the rental provisions of the lease; or

- (b) a land rent lease.

[1.8] Section 272 (1) (b)

substitute

- (b) the lease is a lease (other than a land rent lease) under which rent or additional rent is payable.

[1.9] Section 272A (1)

substitute

- (1) This section applies to the following leases:
- (a) a land rent lease;
 - (b) a lease that is included in a class of leases prescribed by regulation.

[1.10] New section 272B (2) (ab)

insert

- (ab) for a land rent lease, all rent and other amounts payable to the commissioner for revenue under the *Land Rent Act 2008* up to the day of variation in relation to the land comprised in the lease have been paid; and

[1.11] Dictionary, new definition of *land rent lease*

insert

land rent lease—see the *Land Rent Act 2008*, section 7 (4).

Part 1.3 Rates Act 2004

[1.12] Section 26 (3)

omit

rates

substitute

rates, land rent

[1.13] Section 26 (4) (a) (iv)

omit

rates

substitute

rates, land rent

[1.14] Section 76 (1), note 3

substitute

Note 3 A single application form may be approved for this section and the *Land Rent Act 2008*, s 31 and the *Land Tax Act 2004*, s 41 (see Legislation Act s 255 (7)).

Part 1.4 Taxation Administration Act 1999

[1.15] New section 4 (fa)

insert

(fa) the *Land Rent Act 2008*;

[1.16] New section 139 (1) (i) and (j)

insert

- (i) a percentage for the *Land Rent Act 2008*, section 8 (Land rent payable), section 15 (Discount—loss of eligibility because of income), section 16 (Discount—loss of eligibility for other reasons) and section 17 (Transfer of lease—land rent);
- (j) an income threshold amount for the *Land Rent Act 2008*, section 11.

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1 defines the following terms:

- commissioner for revenue
- financial year
- person
- planning and land authority
- quarter
- territory authority.

commissioner means the commissioner for revenue.

discounted land rent means land rent discounted under part 3 (Land rent—discount).

discount percentage means the discount percentage determined under the Taxation Administration Act, section 139.

Note Different percentage rates may be determined in relation to different matters or classes of matters (see Legislation Act, s 48).

income threshold amount means the income threshold amount determined under the Taxation Administration Act, section 139.

Note Different amounts may be determined in relation to different matters or classes of matters (see Legislation Act, s 48).

land rent means land rent payable under this Act for a land rent lease.

land rent lease—see section 7 (4).

related, for a parcel of land, for part 5 (Land rent—payment and recovery of unpaid rent)—see section 18.

relevant percentage means the relevant percentage determined under the Taxation Administration Act, section 139.

standard percentage means the standard percentage determined under the Taxation Administration Act, section 139.

Taxation Administration Act means the *Taxation Administration Act 1999*.

tax law—see the Taxation Administration Act, section 4.

year means a financial year.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 8 May 2008.

2 Notification

Notified under the Legislation Act on 30 June 2008.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Land Rent Bill 2008, which was passed by the Legislative Assembly on 25 June 2008.

Clerk of the Legislative Assembly

© Australian Capital Territory 2008
