



Australian Capital Territory

# **Forfeiture of Leases Act 1901      No 66**

## **Republication No 2**

Republication date: 22 February 2002

Last amendment made by Act 2001 No 56

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Forfeiture of Leases Act 1901* as in force on 22 February 2002. It includes any amendment, repeal or expiry affecting the republished law to 12 September 2001 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.

Amendments incorporated to  
12 September 2001



Australian Capital Territory

# Forfeiture of Leases Act 1901

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Amendments incorporated to  
12 September 2001



Australian Capital Territory

# Forfeiture of Leases Act 1901

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An Act for granting relief against forfeiture of leases, and for otherwise amending the law as to property

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## 1 Restrictions on forfeiture

- (1) A right of re-entry or forfeiture under any proviso or stipulation in a lease for a breach of any covenant or condition in the lease shall not be enforceable by action or otherwise, unless and until the lessor serves on the lessee a notice specifying the particular breach complained of, and, if the breach is capable of remedy, requiring the lessee to remedy the breach, and in any case requiring the lessee to make compensation in money for the breach, and the lessee fails within a reasonable time thereafter to remedy the breach, if it is capable of remedy, and to make reasonable compensation in money to the satisfaction of the lessor for the breach.

*Note* If a form is approved under s 3 (Approved forms) for a notice, the form must be used.

- (2) Where a lessor is proceeding by action or otherwise to enforce such a right of re-entry or forfeiture, the lessee may in any suit brought by himself in the Supreme Court apply to that court for relief; and that court may grant or refuse relief as that court, having regard to the proceedings and conduct of the parties under the foregoing provisions of this section and to all the other circumstances, thinks fit; and in case of relief may grant it on such terms, if any, as to costs, expenses, damages, compensation, penalty or otherwise, including the granting of an injunction to restrain any like breach in the future as the court in the circumstances of each case thinks fit.
- (3) In this section:

*lease* includes an original or derivative under-lease, also a grant at a fee farm rent, or securing a rent by condition.

*lessee* includes an original or derivative under-lessee, and the heirs, executors, administrators, and assigns of a lessee, also a grantee under such a grant as aforesaid, his or her heirs and assigns.

*lessor* includes an original or derivative under-lessor, and the heirs, executors, administrators, and assigns of the lessor, also a grantor as aforesaid, and his or her heirs and assigns.

- (4) This section applies although the proviso or stipulation under which the right of re-entry or forfeiture accrues is inserted in the lease in pursuance of a provision of another law in force in the ACT.
- (5) For this section, a lease limited to continue as long only as the lessee abstains from committing a breach of covenant, shall be and take effect as a lease to continue for any longer term for which it could subsist, but determinable by a proviso for re-entry on such a breach.
- (6) This section does not extend—
  - (a) to any Crown lease or to any lease or tenancy for a term of one year or less; or
  - (b) to a covenant or condition against the assigning, under-letting, parting with the possession or disposing of the land leased; or to a condition for forfeiture on the bankruptcy of the lessee, or on the taking in execution of the lessee's interest.
- (7) This section shall not affect the law relating to re-entry or forfeiture or relief in case of non-payment of rent.
- (8) In this section, in its application in the Territory, a reference to the Crown is a reference to the Crown in right of the Commonwealth.

## **2 Requirements for notice**

- (1) The notice mentioned in section 1 (the *notice*) must be in writing.
- (2) The notice is sufficient, although only addressed to the lessee by that designation, without his or her name, or generally to the persons interested without any name, and notwithstanding that any person to be affected by the notice is absent, under disability, unborn or ascertained.
- (3) The notice is sufficiently served if it is left at the last-known place of abode or business in the ACT of the lessee, or affixed or left for him on the land or any house or building comprised in the lease or, in the case of a mining lease, is left for the lessee at the office or counting-house of the mine.

- (4) The notice is also sufficiently served if it is sent by post in a registered letter addressed to the lessee by name, at the aforesaid place of abode or business, office, or counting house, and if that letter is not returned through the post office undelivered; and that service shall be deemed to be made at a time at which the registered letter would in the ordinary course be delivered.
- (5) The notice is also sufficiently served on any person who is absent from the ACT if it is served personally on his attorney or agent within the ACT.

#### **4 Application of Act**

- (1) This Act applies to leases made either before or after the commencement of this Act, and to any merger by operation of law only arising before or after the commencement of this Act, and shall have effect notwithstanding any stipulation to the contrary.
- (2) Notwithstanding subsection (1), this Act does not apply to a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1997* to which that Act applies.

#### **6 Short title**

This Act may be cited as the *Forfeiture of Leases Act 1901*.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnotes.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
ins = inserted/added	renum = renumbered
LA = Legislation Act 2001	reloc = relocated
LR = legislation register	R[X] = Republication No
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
num = numbered	sdiv = subdivision
No = number	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced

## Endnotes

3 Legislation history

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### 3 Legislation history

This Act was originally a NSW Act—the *Forfeiture of Leases Act 1901* No 66 (NSW).

The Act was in force in NSW immediately before 1 January 1911 (the date of establishment of the ACT) and was continued in force by the *Seat of Government Acceptance Act 1909* (Cwlth), s 6.

Under the *Seat of Government (Administration) Act 1910* (Cwlth), s 4 the Act had effect in the ACT as if it were an ACT law (subject to ordinances made under the *Seat of Government (Administration) Act 1910*).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) converted certain former NSW laws in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on self-government (11 May 1989).

Under the *Interpretation Act 1967*, s 63 all former NSW Acts in force in the ACT immediately before 10 November 1999 became, for all purposes, laws made by the ACT Legislative Assembly. This completed the process of making former NSW laws fully into ACT laws.

#### New South Wales legislation

##### **Forfeiture of Leases Act 1901 No 66**

assented to 24 December 1901  
commenced 24 December 1901

##### **Forfeiture and Validation of Leases Act 1905 No 8 s 4**

assented to 21 August 1905  
commenced 21 August 1905

as amended by

#### Commonwealth legislation

##### **Law of Property (Miscellaneous Provisions) Ordinance 1958 No 7 s 2**

assented to 8 May 1958  
commenced 8 May 1958

##### **New South Wales Acts Application Ordinance 1984 No 41 sch 2 pt 14**

assented to 2 August 1984  
commenced 2 August 1984

## Legislation after becoming Territory enactment

### Residential Tenancies (Consequential Provisions) Act 1998 No 4 sch

notified 25 May 1998 (Gaz 1998 No S150)

commenced 25 May 1998 (s 2)

### Legislation (Consequential Amendment) Act 2001 No 44 pt 158

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 158 commenced 12 September 2001 (s 2)

### Statute Law Amendment Act 2001 (No 2) No 56 amdt 3.299

notified 5 September 2001 (Gaz 2001 No S65)

s 1, s 2 commenced 5 September 2001 (s 2 (1))

amdt 3.299 commenced 12 September 2001 (s 2 (2))

## 4 Amendment history

The *New South Wales Acts Application Act 1984*, schedule 2, part 14 set out the text of this Act in an amended form and provided for the amended form to apply as the text of the Act in force in the ACT. This endnote, therefore, only details amendments made after that date.

### Restrictions on forfeiture

s 1 am 2001 No 44 amdt 1.1837

### Requirements for notice

s 2 hdg sub 2001 No 44 amdt 1.1838

s 2 am 2001 No 44 amdts 1.1839-1.1841

### Approved forms

s 3 ins 2001 No 44 amdt 1.1842

reloc to *Forfeiture and Validation of Lease Act 1905* by 2001 No 56 amdt 3.299

### Application of Act

s 4 am 1998 No 4 sch

### Schedule

om 2001 No 44 amdt 1.1843

## Endnotes

5 Earlier republications

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### 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

<b>Republication No</b>	<b>Amendments to</b>	<b>Republication date</b>
1	Ord 1984 No 41	31 August 1992

Authorised when accessed at [www.legislation.act.gov.au](http://www.legislation.act.gov.au) or in authorised printed form

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