

Planning and Development (Remission of Lease Variation Charges for Environmental Remediation) Determination 2018

Disallowable instrument DI2018–92

made under the

Planning and Development Act 2007, s 278 (Remission of lease variation charges)

1 Name of instrument

This instrument is the Planning and Development (Remission of Lease Variation Charge for Environmental Remediation) Determination 2018.

Note Terms used in this instrument have the same meaning that they have in the *Planning and Development Act 2007* (see Legislation Act, section 148). For example, the following terms are defined in the *Planning and Development Act 2007*, Dictionary:

- chargeable variation
- lease variation charge.

2 Commencement

This instrument commences on the day after its notification day.

3 Determination of circumstances which apply to the variation – s 278 (1)

(1) Pursuant to s 278 (1) of the *Planning and Development Act 2007*, I, the Minister, determine the following circumstances in which an amount of a lease variation charge for a chargeable variation of a nominal rent lease must be remitted:

- (a) the Environment Protection Authority has given the Planning and Land Authority an endorsement of an environmental audit of the land and the endorsement verifies that the audit:
 - (i) satisfies the requirements of the *Environment Protection Act 1997*;
 - (ii) affirms that an assessment of the land to determine whether remediation to make the land suitable for the purposes authorised by the lease as varied has been undertaken;
 - (iii) affirms that remediation of the land or part of the land was required and the required remediation has been undertaken; and

- (iv) affirms that the assessment and remediation has been undertaken and completed as required by the Environment Protection Policy (Contaminated Sites) Environment Protection Policy NI 2012 - 301 made under chapter 4 of the Environment Protection Act;
- (b) the lease to be varied authorises the land or part of the land to be used for the purpose of a service station, however expressed, and the lease as varied does not authorise the land or part of the land to be used for this purpose;
- (c) The development application for the chargeable variation is approved by the grant of a development approval under s 162 of the *Planning and Development Act 2007*; and
- (d) The development approval includes a condition that the lessee carry out remediation of the land under the lease.

(2) In this section:

environmental audit – see section 91A of the Environment Protection Act.

environment protection authority means the authority established under section 11 of the Environment Protection Act.

remediation – see the Environment Protection Act Dictionary.

service station means an entity whose function or purpose includes, but need not be limited to, one or more of the following:

- (i) fuelling motor vehicles through the use of fuel pumps or similar;
- (ii) the service or repair of motor vehicles (other than body building, panel beating or spray painting);
- (iii) the sale or distribution of fuel for motor vehicles; or
- (iv) the storage of fuel for motor vehicles.

the land means the land under the lease that is the subject of the lease variation.

Note The Environment Protection Act Dictionary states that remediation:

In relation to contaminated land, includes –

- (a) preparing a long-term management plan (if any) for the land; and
- (b) removing, dispersing, destroying, reducing, mitigating or containing the contamination of the land; and
- (c) eliminating or reducing any hazard arising from the contamination of the land (including by preventing the entry of people or animals on the land).

4 Determination of the amount to be remitted – s 278 (2)

Pursuant to s 278 (2) of the *Planning and Development Act 2007*, I, the Treasurer, determine the amount of the lease variation charge for the chargeable variation to be remitted is an amount equal to 100% of the charge.

Mick Gentleman
Minister for Planning and Land Management

16 May 2018

Andrew Barr
Treasurer

16 May 2018