



Australian Capital Territory

Planning and Development Amendment Regulation 2009 (No 8)

Subordinate Law SL2009-35

The Australian Capital Territory Executive makes the following regulation under the *Planning and Development Act 2007*.

Dated 30 June 2009.

ANDREW BARR
Minister

SIMON CORBELL
Minister



Australian Capital Territory

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J2009-437

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

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1 Name of regulation

This regulation is the *Planning and Development Amendment Regulation 2009 (No 8)*.

2 Commencement

This regulation commences on the day after its notification day.

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

3 Legislation amended

This regulation amends the *Planning and Development Regulation 2008*.

4 Section 175 (1)

omit

a lease in the following circumstances:

substitute

a lease—

5 Section 175 (1) (a)

omit

the variation

substitute

if the variation

6 Section 175 (1) (b)

substitute

(b) in a circumstance, or for a period, stated in a policy direction.

7 Section 175 (2) (a)

substitute

- (a) if a policy direction applies to the variation—the amount worked out in accordance with the policy direction; or

8 New section 175 (6) to (8)

insert

- (6) This section (as in force on the day this subsection commences) applies to a change of use charge for a variation of a lease in a development application—
- (a) that is lodged with the planning and land authority on or after the day this subsection commences; or
- (b) that was lodged with the planning and land authority on or after 1 June 2009 and before the day this subsection commences.
- (7) Subsection (6) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (8) Subsections (6) and (7) and this subsection expire 3 months after the day this subsection commences.

9 Section 202

substitute

202 Application for extension of time—earlier extension—Act, s 298A (4) (a) (ii)

An earlier extension to which section 205, section 206 or section 207 applies is prescribed.

10 Section 203 heading*substitute***203 Application for extension of time—general rule—Act, s 298A (5), def A****11 Section 203 (2)***substitute*

- (2) The prescribed figure for *A* is the figure mentioned in table 203, column 3 in relation to the year of the period of extension mentioned in column 2.

Table 203 General rule

column 1 item	column 2 year	column 3 figure
1	1st year	1
2	2nd year	2
3	3rd year	3
4	4th year	4
5	5th or later year	5

- (3) In this section:

period of extension—see the Act, section 298A.

12 Section 204 heading

substitute

204 Application for extension of time—hardship reason—Act, s 298A (5), def A

13 Section 204 (2)

substitute

- (2) The prescribed figure for *A* is the figure mentioned in table 204, column 3 in relation to the year of the period of extension mentioned in column 2.

Table 204 Hardship reason

column 1 item	column 2 year	column 3 figure
1	1st and 2nd year	0
2	3rd year	2
3	4th year	3
4	5th or later year	4

14 Section 204 (4), new definition of *period of extension*

insert

period of extension—see the Act, section 298A.

15 Section 205 heading

substitute

205 Application for extension of time—external reason—Act, s 298A (5), def A

16 Section 205 (2)

substitute

(2) The prescribed figure for *A* is 0.

17 Section 206 heading

substitute

206 Application for extension of time—lease transferred or assigned in special circumstances—Act, s 298A (5), def A

18 Section 206 (2)

substitute

(2) The prescribed figure for *A* is 0.

19 Section 207 heading

substitute

207 Application for extension of time—certain leases granted before 31 March 2008—Act, s 298A (5), def A

20 Section 207 (2)

substitute

(2) The prescribed figure for *A* is 0.

21 Schedule 20, modification 20.1, section 429F

substitute

429F Modification—s 298A (Application for extension of time to commence or complete building and development)

Section 298A applies as if subsections (3), (4) and (5) were omitted and the following subsections substituted:

- ‘(3) The application must be accompanied by—
- (a) the most recent assessment notice for rates for the land; and
 - (b) the amount, or the total of the amounts, (the *required fee*), worked out using the following formula for each year, or part year, of the period of extension of time sought:

$$A \times \frac{D}{365} \times B$$

Example

Frank applies for an extension of time for 1 October 2009 to 31 December 2011 (2 years and 92 days). In Frank’s case, the *Planning and Development Regulation 2008* prescribes A in the above formula to be 1 for the 1st year, 2 for the 2nd year and 3 for the 3rd year of the period of extension. The fee is worked out using the following formula: [1 x 365/365 x B] + [2 x 365/365 x B] + [3 x 92/365 x B].

Note 1 The required fee may be waived under the *Financial Management Act 1996*, s 131.

Note 2 An example is part of the regulation, 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).

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- (4) However, if an extension (the *earlier extension*) of time has been approved, in working out the required fee for a further extension—
- (a) the formula for working out the required fee applies as if the period of extension included each earlier extension, other than—
 - (i) an earlier extension for which the required fee was waived under the *Financial Management Act 1996*, section 131; or
 - (ii) an earlier extension prescribed by regulation; and
 - (b) the required fee is reduced by—
 - (i) the amount of the required fee paid for each earlier extension; and
 - (ii) if part of the required fee was waived under the *Financial Management Act 1996*, section 131 for an earlier extension—the amount waived.

- (5) In this section:

A is the figure, not more than 5, prescribed by regulation for the relevant year of the period of extension.

Note Power to make a statutory instrument (including a regulation) includes power to make different provision for different categories (see Legislation Act, s 48).

B is the amount of rates payable in relation to the land under the *Rates Act 2004*, for the financial year when the application is made.

D is the lesser of—

- (a) 365; and
- (b) the number of days for which the extension is sought in the relevant year.

period of extension means—

- (a) the period of extension applied for under subsection (2); or
- (b) if an application seeks extensions for 2 or more building and development provisions in a lease—the longest of the extensions sought.’

Endnotes

1 Notification

Notified under the Legislation Act on 30 June 2009.

2 Republications of amended laws

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