



Australian Capital Territory

Planning and Development (Lease Variation Charges) Amendment Regulation 2011 (No 1)

Subordinate Law SL2011-22

The Australian Capital Territory Executive makes the following regulation under the *Planning and Development Act 2007* and the *Unit Titles Act 2001*.

Dated 14 July 2011.

KATY GALLAGHER
Minister

ANDREW BARR
Minister



Australian Capital Territory

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1 Name of regulation

This regulation is the *Planning and Development (Lease Variation Charges) Amendment Regulation 2011 (No 1)*.

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*.

Note This regulation also amends the *Unit Titles Regulation 2001* (see s 8).

4 Division 5.5.1

substitute

Division 5.5.1 Chargeable variations**170 Exempt variations—Act, s 276, def *chargeable variation*, par (c)**

A variation of a holding lease is prescribed.

170A S 276E chargeable variations—Act, s 276A (1), def s 276E *chargeable variation*, par (h)

- (1) The following chargeable variations are prescribed:
- (a) for a retirement complex—a variation to increase the maximum number of—
 - (i) self-care units in the complex permitted under the lease;
- or

- (ii) care beds in the complex permitted under the lease;
- (b) for a nominal rent lease that authorises an incorporated association to use the land in the lease for a stated purpose—a variation to remove the reference in the lease to the association in relation to the stated purpose;

Example

A lease authorises an incorporated association to use land for office accommodation. The lessee applies for development approval to vary the lease to remove the reference to the association so that the lease may be used for office accommodation by anyone.

Note 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).

- (c) for a childcare centre—a variation to increase the maximum number of children provided care in the centre permitted under the lease;
- (d) a variation to limit the number of non-residential units (however described) permitted on the land under a non-residential lease.

Example

A non-residential lease authorises commercial use of the land under the lease but does not limit the number of permitted buildings, units or structures on the land. The lessee proposes to subdivide the land under the *Unit Titles Act 2001* and to develop a warehouse on the land into commercial and retail units. That Act, s 20 (4) does not allow the lease to be subdivided unless the lease states the number of units (however described) permitted on the land. The lessee must vary the lease to limit the number of units permitted on the land before subdividing the land.

- (2) In this section:

care bed, in a retirement complex, means a bed used by a person 55 years old or older who requires residential care services under the *Aged Care Act 1997* (Cwlth).

childcare centre—see the *Children and Young People Act 2008*, section 733 (1).

incorporated association means an association incorporated under the *Associations Incorporation Act 1991* or a law of another jurisdiction corresponding, or substantially corresponding, to that Act.

non-residential lease—see the Act, section 276A (2).

retirement complex—see the territory plan (13 Definitions).

self-care unit, in a retirement complex, means a unit for use by a person 55 years old or older who is not provided, as a condition of occupancy of the unit, residential care or similar services (excluding access to facilities or services provided within the complex).

Example—facilities or services provided within the complex

gymnasium, medical centre, swimming pool, therapy room, kiosk facility

Note 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).

170B Lease variation charge—working out charge for combination of s 276E and s 277 chargeable variations—Act, s 276C (2) (c)

The lease variation charge is the total of—

- (a) for each s 276E chargeable variation for which a charge is determined in an LVC determination—the determined charge for the variation; and
- (b) for each s 277 chargeable variation—the charge worked out under section 277 for the variation.

170C Lease variation charge—when charge taken to be worked out for transitional applications—Act, s 276D (2) (b)

- (1) This section applies if—
 - (a) the Act, section 471 (1) applies in relation to a development application for a chargeable variation; and
 - (b) the applicant for the development application gives notice under the Act, section 471 (3) (a *s 471 notice*) before 1 October 2011 to have the variation dealt with as if the development application had been made after 1 July 2011; and
 - (c) the development application is approved before the day the *s 471 notice* is given.
- (2) The day the *s 471 notice* is given is prescribed.
- (3) This section expires on 1 July 2012.

5 New section 179

in division 5.5.3, insert

179 Meaning of *added value*—div 5.5.3

- (1) In this division:

added value, for the variation of a nominal rent lease, means the amount worked out as follows:

$$V_1 - V_2$$

- (2) In this section:

V_1 —see the Act, section 277 (2).

V_2 —see the Act, section 277 (2).

6 Dictionary, note 3

insert

- chargeable variation (see s 276)
- s 276E chargeable variation (see s 276A)
- s 277 chargeable variation (see s 276A)

7 Dictionary, definition of *added value*

substitute

added value, for the variation of a nominal rent lease, for division 5.5.3 (Increase of lease variation charge)—see section 179.

8 Unit Titles Regulation 2001, new division 2.3A

insert

Division 2.3A Prescribed zones

8A Unit title applications—prescribed zones—Act, s 20 (10), def *prescribed zone*

The following zones are prescribed:

- RZ1 Suburban Zone;
- RZ2 Suburban Core Zone;
- RZ3 Urban Residential Zone;
- RZ4 Medium Density Residential Zone;
- RZ5 High Density Residential Zone;
- IZ1 General Industrial Zone;
- IZ2 Mixed Use Industrial Zone.

Endnotes

1 Notification

Notified under the Legislation Act on 15 July 2011.

2 Republications of amended laws

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

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