

1996

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN  
CAPITAL TERRITORY

LAND (PLANNING AND ENVIRONMENT) (AMENDMENT)  
BILL (NO. 2) 1996

EXPLANATORY MEMORANDUM

Circulated by authority of the Minister for the Environment,  
Land and Planning  
Mr Gary Humphries MLA

## **LAND (PLANNING AND ENVIRONMENT) (AMENDMENT) BILL (NO.2) 1996**

### **Outline**

This is an amending Bill. It amends the *Land (Planning and Environment) Act 1991* (the Principal Act) which relates to the use of land in the Territory and related purposes.

Paragraph 184(b) of the Principal Act provides that the Executive shall not execute a variation to a lease, where the variation of the lease would increase the market value of the lease, unless the lessee has paid the Executive the amount determined by the Executive as prescribed by the Land (Planning and Environment) Regulations

Regulations 12 and 13 provide the basis on which the prescribed amount is determined. In its current form the legislation requires the Executive to establish that a variation to a lease will increase the market value of that lease prior to determining the prescribed payment. However, regulations 12 and 13 base the prescribed payment on the calculation of added value of the land arising from the lease variation.

Market value assessments take into account a range of factors including potential, any encumbrance or obligation and improvements on the land. Under regulation 12, added value is exclusive of those factors.

The prescribed payment is determined by the increase in the added value of the land resulting from the lease variation and should not be tied to any increase in the market value of the land.

The amending Bill removes the reference to 'market value' from paragraph 184(b) to clarify the use of added value in the calculation of the prescribed payment.

The Bill also deletes the reference in paragraph 184(b) to "the Executive" and inserts "Territory" in its place. Regulation 13 is also amended to refer to payment to the Territory.

### **Financial Implications**

The amendment will assist in achieving projected targets in relation to revenue from lease variations.

## Clause Notes

**Clauses 1, 2 and 3** Clauses 1 and 2 deal with the title and commencement of the Bill. Clause 3 identifies the Act and regulations being amended.

### Payments in respect of variation of leases

Clause 4 of the Bill omits paragraph 184(b) of the Principal Act and substitutes a new paragraph. The new paragraph 184(b) provides that the Executive shall not execute a variation of a lease unless the lessee has paid the amount determined by the Minister as prescribed in the regulations in respect of any increase in the value of a lease that would result from the variation of that lease

Specifically, the reference to market value has been excluded from paragraph 184(b) to clarify the use of added value in the calculation of the prescribed payment. Reference to "the Executive" has also been removed and is replaced with reference to "Territory", to provide for payment of the prescribed amount to the Territory.

### Calculation of amount payable

Clause 5 provides for the amendment of regulation 13 of the Land (Planning and Environment) Regulations. As a consequence of amending the reference to "the Executive" in paragraph 184(b) of the Principle Act, subregulations (1) and (2) are also amended to reflect payment to the Territory