



AUSTRALIAN CAPITAL TERRITORY

Regulations 1991 No. 7¹

City Area Leases (Betterment Charge Assessment) Regulations

The Australian Capital Territory Executive, in accordance with section 5 of the *Subordinate Laws Act 1989*, hereby makes the following Regulations under the *City Area Leases Act 1936*.

Dated 2 April 1991.

TREVOR KAINE
Chief Minister

CRAIG DUBY
Minister

Citation

1. These Regulations may be cited as the City Area Leases (Betterment Charge Assessment) Regulations.

Interpretation

2. In these Regulations, unless the contrary intention appears—

“added value”, in relation to a parcel of land held under a lease in respect of which a provisional order has been made under section 11A of the Act, means the amount by which the unimproved value of the land immediately after the order was made would have exceeded the unimproved value of the land immediately before the order was made if the lease had been varied in the manner provided in the provisional order when that order was made;

“the Act” means the *City Area Leases Act 1936*;

“unimproved value”, has, in relation to a parcel of land held under a lease, the same meaning as in the *Rates and Land Tax Act 1926*.

Calculation of betterment charge

3. (1) The amount of the betterment charge payable in respect of the variation of a lease under the Act is—

- (a) an amount equal to the added value; or
- (b) if a remission of part of that amount is applicable in accordance with subregulation 4 (4)—the amount ascertained by subtracting from the first-mentioned amount an amount ascertained by applying the appropriate remission rate.

(2) For the purposes of determining the betterment charge payable in respect of the variation of a lease, the Minister shall determine the added value in relation to the parcel of land held under that lease.

(3) In determining the added value of a parcel of land held under a lease, no reduction shall be allowed for where a provisional order for the variation of the lease is conditional upon the applicant financing or undertaking works on the land comprised in the lease or any unleased Territory Land.

Remission in rate for calculating betterment charge

4. (1) In this regulation—

“prescribed lease” means a lease—

- (a) in respect of which a provisional order for the variation of the lease has been made under the Act; and
- (b) that is classified under this regulation as—
 - (i) a full charge grant;
 - (ii) a concessional charge grant; or
 - (iii) a grant free of charge.

(2) A reference in this regulation, in relation to a prescribed lease, to the period since the grant of the lease shall, unless the contrary intention appears, be read as a reference to the period of years that have elapsed since the grant of that lease, being the period included in the range of years specified in column 1 of the appropriate table in the Schedule.

(3) A reference in this regulation to the market value of a lease is a reference to the amount that could be expected to be paid for the lease on the open market if it were sold by a willing but not anxious seller to a willing but not anxious buyer.

(4) The remission rate applicable in respect of a prescribed lease is the remission rate, expressed as a percentage of the added value of the lease, as specified in column 2 of the appropriate table in the Schedule opposite the appropriate range of years specified in column 1 of that table.

(5) For the purposes of this regulation, unless the contrary intention appears—

- (a) a lease shall be classified as a full charge grant—
 - (i) if the amount of the market value of the lease has been paid in a lump sum or by way of instalments of rent payable under that lease, not being a lease referred to in subparagraph (ii); or
 - (ii) if the lease was granted prior to 1 January 1971 and a provision in respect of rent, amounts taken to be rent, or additional rent has under an Act ceased to have any force or effect;
 - (b) a lease shall be classified as a concessional charge grant if granted for less than the amount of the market value of the lease or at a rental less than full market rental; and
 - (c) a lease shall be classified as a grant free of charge if granted free of consideration other than rent payable at 5 cents per annum if and when demanded.
- (6) Where, since the grant of a lease—
- (a) that lease has been replaced in whole or in part by a further lease issued under the Act; and
 - (b) the further lease does not require any particular part of the parcel of land held under that lease—
 - (i) to be occupied by the original grantee; or
 - (ii) to be used for a purpose permitted under the original lease;

the further lease issued shall be taken to be a prescribed lease classified as a full charge grant.

(7) For the purpose of determining the period since the grant of a lease referred to in subregulation (6), the relevant period shall be taken to have commenced on the date of grant of the further lease.

(8) Where—

- (a) 2 or more leases granted in respect of parcels of land of differing areas have been amalgamated into a composite lease; and
- (b) the amalgamated leases would have had 2 or more classifications under this regulation;

the composite lease shall be taken to have the same classification as the larger or largest of the amalgamated leases.

(9) For the purpose of determining the period since the grant of a composite lease referred to in subregulation (8), the relevant period shall be taken to have commenced on the date of the grant of the larger or largest of the amalgamated leases.

(10) Where—

- (a) 2 or more leases granted in respect of parcels of land having the same area have been amalgamated into a composite lease; and
- (b) the amalgamated leases would have had 2 or more classifications under this regulation;

the composite lease shall be taken to have the same classification as whichever of the amalgamated leases would, if varied separately, have attracted the lower betterment charge.

(11) For the purpose of determining the period since the grant of a composite lease referred to in subregulation (10), the relevant period shall be taken to have commenced on the date of the grant of whichever of the amalgamated leases would, if varied separately, have attracted the lower betterment charge.

(12) Where a prescribed lease, other than a lease referred to in subregulation (6), has been granted in substitution for a surrendered lease for the purpose of—

- (a) varying the term of the surrendered lease;
- (b) correcting an error in the surrendered lease; or

- (c) subdividing the land held under the surrendered lease into parcels of land held under leases having the same purposes as those permitted under the surrendered lease;

for the purpose of determining the period since the grant of the prescribed lease, that period shall be taken to have commenced on the date of the grant of the surrendered lease.

SCHEDULE

Subregulations 4 (2) and (4)

RATES OF REMISSION FOR CALCULATING BETTERMENT CHARGE**TABLE 1: FULL CHARGE GRANT**

Column 1 Range of Years	Column 2 Remission Rate (% of “added value”)
less than 5 years	Nil
not less than 05 but less than 06	05
not less than 06 but less than 07	08
not less than 07 but less than 08	11
not less than 08 but less than 09	14
not less than 09 but less than 10	17
not less than 10 but less than 11	20
not less than 11 but less than 12	23
not less than 12 but less than 13	26
not less than 13 but less than 14	29
not less than 14 but less than 15	32
not less than 15 but less than 16	35
not less than 16 but less than 17	38
not less than 17 but less than 18	41
not less than 18 but less than 19	44
not less than 19 but less than 20	47
20 and over	50

TABLE 2: CONCESSIONAL CHARGE GRANT

Column 1 Range of Years	Column 2 Remission Rate (% of “added value”)
less than 10 years	Nil
not less than 10 but less than 20	10
20 and over	20

TABLE 3: GRANT FREE OF CHARGE

Column 1 Range of Years	Column 2 Remission Rate (% of “added value”)
less than 10 years	Nil
not less than 10 but less than 20	05
20 and over	10

NOTE

1. Notified in the ACT Gazette on 3 April 1991.

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