



Australian Capital Territory

# Land (Planning and Environment) Amendment Act 2005

A2005-49

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Australian Capital Territory

# Land (Planning and Environment) Amendment Act 2005

**A2005-49**

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An Act to amend the *Land (Planning and Environment) Act 1991*, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

**1 Name of Act**

This Act is the *Land (Planning and Environment) Amendment Act 2005*.

**2 Commencement**

This Act 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 Act amends the *Land (Planning and Environment) Act 1991*.

*Note* This Act also amends the *Land (Planning and Environment) Regulation 1992* (see sch 1).

**4 New section 159A**

*insert*

**159A Meaning of *concessional lease* for Act**

(1) In this Act:

*concessional lease*—

- (a) means a lease granted for a consideration less than the full market value of the lease, or for no consideration, if neither of the following payments has been made to the Territory:
  - (i) an amount in relation to the grant of the lease that is equal to the lease's market value at the time of payment or, if the amount is paid in parts, at the time of the last payment;
  - (ii) an amount to reduce the rent payable under the lease to a nominal rent under section 186 (Variation of lease to pay out rent); and

- (b) includes the following leases:
- (i) a consolidated or subdivided concessional lease;
  - (ii) a further concessional lease;
  - (iii) a regranted concessional lease; but
- (c) does not include—
- (i) a consolidated or subdivided lease or a further or regranted lease, other than a lease mentioned in paragraph (b); or
  - (ii) a lease over land that, immediately before the grant of the lease, was owned, controlled or held by the commissioner for housing under the *Housing Assistance Act 1987*; or
  - (iii) a lease prescribed by regulation.

(2) For subsection (1), definition of ***concessional lease***, paragraph (a), it does not matter whether the consideration for the grant of the lease was paid as a lump sum or is payable under the lease as rent.

(3) In this section:

***consolidated or subdivided concessional lease*** means a lease granted during a consolidation or subdivision involving the surrender of 1 or more previous leases if 1 or more of the previous leases was a concessional lease.

***further concessional lease*** means a further lease if the surrendered lease was a concessional lease.

***regranted concessional lease*** means a regranted lease (whether the regrant is on the same or different conditions) if the surrendered lease was a concessional lease.

**5 Dictionary, new definition of *concessional lease***

*insert*

*concessional lease*—see section 159A.

## Schedule 1 Land (Planning and Environment) Regulation 1992

(see s 3)

### [1.1] New section 10A

*in division 3.1, insert*

#### 10A Concessional lease exemptions—Act, s 159A

The following leases are excluded from the definition of *concessional lease*:

- (a) a lease of territory land granted for residential purposes only;
- (b) a lease granted for rural purposes or purposes including rural purposes;
- (c) a lease granted to a territory-owned corporation;
- (d) a lease (the *individual lease*) granted for no consideration if—
  - (i) the individual lease is a subdivision of a lease (the *head lease*) held by the person to whom the individual lease is granted; and
  - (ii) the person has provided infrastructure on the land leased under the head lease;
- (e) a lease granted for commercial purposes if the lease was granted for less than market value only because—
  - (i) the lease was a lease for rent in excess of nominal rent that was granted after 1 January 1974; and
  - (ii) the rent was paid out—

(A) in accordance with a law that regulated the payment of land rent in the ACT and that was in force at the time of payment; or

(B) by agreement between the Commonwealth or Territory and the lessee.

**Examples of residential purposes for par (a)**

- 1 for the purpose of a single dwelling
- 2 for the purpose of not less than 3 dwellings and not more than 8 dwellings

**Examples of rural purposes for par (b)**

- 1 agriculture
- 2 horticulture
- 3 horse agistment
- 4 animal husbandry

**Examples of commercial purposes for par (e)**

- 1 industrial
- 2 business

*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).

**[1.2] Section 22 (4) to (6)**

*omit*

**[1.3] Section 26 (c)**

*substitute*

(c) concessional leases.

**[1.4] Section 33 (4) and (5)**

*omit*

**[1.5] Section 33 (6) and (7)**

*renumber as section 33 (4) and (5)*



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**[1.6] Section 33 (8)**

*omit*

**[1.7] Dictionary, note 3**

*insert*

- concessional lease (see s 159A)

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**Endnotes****1 Presentation speech**

Presentation speech made in the Legislative Assembly on 23 June 2005.

**2 Notification**

Notified under the Legislation Act on 6 September 2005.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Land (Planning and Environment) Amendment Bill 2005, which was passed by the Legislative Assembly on 26 August 2005.

Clerk of the Legislative Assembly