



Australian Capital Territory

Land Rent Act 2008

A2008-16

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Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Land Rent Act 2008* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 October 2013. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 1 October 2013.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$140 for an individual and \$700 for a corporation (see *Legislation Act 2001*, s 133).



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Land Rent Act 2008

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Australian Capital Territory

Land Rent Act 2008

An Act about the rental of certain residential leases, and for other purposes

Part 1 Preliminary

1 Name of Act

This Act is the *Land Rent Act 2008*.

Note This Act is a **tax law** under the Taxation Administration Act. As a tax law, this Act is subject to provisions of the Taxation Administration Act about the administration and enforcement of tax laws generally.

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition '*related*, for a parcel of land, for part 5 (Land rent—payment and recovery of unpaid rent)—see section 18.' means that the term 'related' is defined in that section for part 5.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

5 Application of Act

- (1) This Act applies to a single dwelling house lease granted by the planning and land authority (other than to the Territory or a territory authority).

Note The planning and land authority is authorised to grant, on behalf of the Executive, leases that the Executive may grant on behalf of the Commonwealth (see the *Planning and Development Act 2007*, s 237).

- (2) In this section:

single dwelling house—see the [territory plan](#).

single dwelling house lease means a residential lease that authorises use of the land under the lease for a single dwelling house.

6 Application—Taxation Administration Act

- (1) The [Taxation Administration Act](#) applies to this Act as if—
- (a) land rent payable under this Act were a tax; and
 - (b) the lessee under a land rent lease were a taxpayer in relation to land rent under the lease.
- (2) However, the following provisions of the [Taxation Administration Act](#) do not apply to unpaid overdue land rent:
- (a) section 25 (Interest in relation to tax defaults);
 - (b) division 5.2 (Penalty tax) and section 110 (Interest payable on amounts to be paid by taxpayer).

Part 2 Land rent—lease

7 Application to pay land rent

(1) This section applies if the planning and land authority invites applications from eligible applicants for the ballot or direct sale of a single dwelling house lease that may be subject to the condition that the lessee pays land rent for the lease.

(2) An eligible applicant for the grant of the lease may apply to the planning and land authority to pay land rent for the lease.

Note 1 The planning and land authority may grant a lease under the *Planning and Development Act 2007*, s 238.

Note 2 If a form is approved under the *Planning and Development Act 2007*, s 425 for this provision, the form must be used.

(3) If the lease is granted, and an application is made under subsection (2) in accordance with the regulations, the lease—

(a) must be granted to the eligible applicant subject to the condition that land rent is payable for the lease; and

(b) must indicate that the lease is a land rent lease.

Note 1 The planning and land authority need not grant a lease to an eligible applicant, even if applications for the lease have been invited (see *Planning and Development Act 2007*, s 244).

Note 2 If applications for a lease have been invited subject to conditions, the planning and land authority may, without granting a lease, invite fresh applications for the lease subject to the same or other conditions (see *Planning and Development Act 2007*, s 244).

(4) A lease mentioned in subsection (3) is a **land rent lease**.

- (5) In this section:

eligible applicant, in relation to a proposed ballot or direct sale of a single dwelling house lease, means a person who has been granted a discount under section 12 for a land rent lease no earlier than 6 months before the day of the ballot or direct sale.

single dwelling house lease—see section 5 (2).

8 Pre-1 October 2013 lease—land rent payable

- (1) This section applies to a land rent lease first granted under a contract entered into before 1 October 2013.
- (2) The land rent payable for the land rent lease for the year the lease is first granted is—
- if the lessee is eligible for discounted land rent—the discount percentage of the unimproved value of the parcel of land under the lease; or
 - if the lessee is not eligible for discounted land rent—the standard percentage of the unimproved value of the parcel of land under the lease.

Note Land rent is payable to the commissioner (see s 19).

- (3) The land rent payable for the land rent lease for a year after the year the lease is first granted is—
- if the lessee is eligible for discounted land rent—the lesser of—
 - the discount percentage of the unimproved value of the parcel of land under the lease; and
 - the amount worked out as follows:

$$\begin{array}{l} \text{land rent payable} \\ \text{for the previous year} \\ \text{with discount} \end{array} \times \left(1 + \frac{\text{relevant}}{\text{percentage}} \right); \text{ or}$$

(b) if the lessee is not eligible for discounted land rent—the lesser of—

(i) the standard percentage of the unimproved value of the parcel of land under the lease; and

(ii) the amount worked out as follows:

land rent payable
for the previous year without discount $\times \left(1 + \frac{\text{relevant percentage}}{\text{percentage}} \right)$; or

(c) if the lessee, previously ineligible for discounted land rent, becomes eligible for discounted land rent for the year—the lesser of—

(i) the discount percentage of the unimproved value of the parcel of land under the lease; and

(ii) the amount worked out as follows:

land rent payable
for the previous year without discount $\times \frac{\text{discount percentage}}{\text{standard percentage}} \times \left(1 + \frac{\text{relevant percentage}}{\text{percentage}} \right)$

Note *Discount percentage*, *relevant percentage* and *standard percentage* are defined in the dictionary.

(4) In this section:

land rent payable for the previous year means the land rent that would have been payable for the lease if it had been a land rent lease, leased to the lessee, for the whole of the previous year.

unimproved value, of a parcel of land under a land rent lease for a year, means the unimproved value—

(a) for subsection (2)—determined under the *Rates Act 2004*, section 9 (First determination of unimproved value) for the year; and

- (b) for subsection (3)—determined under the *Rates Act 2004*, section 10 (1) (Annual redeterminations) for the year.

8AA Post-1 October 2013 lease—land rent payable

- (1) This section applies to a land rent lease first granted under a contract entered into on or after 1 October 2013.
- (2) The land rent payable for the land rent lease for the year the lease is first granted is the discount percentage of the unimproved value of the parcel of land under the lease.

Note Land rent is payable to the commissioner (see s 19).

- (3) The land rent payable for the land rent lease for a year after the year the lease is first granted is the lesser of—
- (a) the discount percentage of the unimproved value of the parcel of land under the lease; and
- (b) the amount worked out as follows:

$$\text{land rent payable for the previous year} \times \left(1 + \frac{\text{relevant percentage}}{\text{percentage}} \right)$$

- (4) In this section:

land rent payable for the previous year means the land rent that would have been payable for the lease if it had been a land rent lease, leased to the lessee, for the whole of the previous year.

unimproved value, of a parcel of land under a land rent lease for a year, means the unimproved value—

- (a) for subsection (2)—determined under the *Rates Act 2004*, section 9 (First determination of unimproved value) for the year; and
- (b) for subsection (3)—determined under the *Rates Act 2004*, section 10 (1) (Annual redeterminations) for the year.

Part 3 Land rent—discount

Division 3.1 Lessees generally

8A Application—div 3.1

This division does not apply to a lessee who is a registered affordable housing provider.

9 Meaning of *lessee*—div 3.1

In this division:

lessee, in relation to a proposed land rent lease, includes a person proposed to be a lessee under the lease.

9A Total income of lessee

- (1) The Minister may determine how the total income of a lessee is worked out.
- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

10 Discount—application

- (1) An application for discounted land rent must be made to the commissioner.

Note If a form is approved under the [Taxation Administration Act](#), s 139C for this provision, the form must be used.

- (2) An application must include—
 - (a) evidence of the total income of each lessee—
 - (i) for the year before the application is made; and

- (ii) for the year in which the application is made; and
 - (b) details of any real property owned by each lessee.
- (3) An application may be made—
- (a) before the grant of the lease; or
 - (b) for a pre-1 October 2013 lease—at any time during the term of the lease.

11 Discount—eligibility

- (1) The lessee of a land rent lease is eligible to pay discounted land rent only if—
- (a) the lessee, or any of the lessees, does not own other real property; and
 - (b) the total income of the lessee, or the sum of the total incomes of all the lessees, does not exceed the income threshold amount; and
 - (c) if a certificate of occupancy is issued for the lease—the lessee, or at least 1 of the lessees, lives on the parcel of land under the lease.

Note 1 The Minister may determine how the lessee's total income is worked out (see s 9A).

Note 2 **Income threshold amount** is defined in the dictionary.

- (2) In this section:

certificate of occupancy—see the [Building Act 2004](#), dictionary.

12 Discount—decision on application

- (1) On receipt of an application under section 10 (Discount—application), the commissioner must—

- (a) if the commissioner believes on reasonable grounds that the applicant is eligible to pay discounted land rent—grant the discount; or
 - (b) in any other case—refuse to grant the discount.
- (2) The commissioner must give the applicant written notice of—
- (a) the decision under subsection (1); and
 - (b) if the discount is refused—the reasons for the refusal.
- (3) If the commissioner grants the discount, the discount applies from—
- (a) if the application for the discount was made before the grant of the lease—the day the lease is granted; or
 - (b) in any other case—the day on which the application for the discount was received by the commissioner.

14 Discount—review of eligibility

- (1) This section applies to a lessee entitled to pay discounted land rent in a year.
- (2) The lessee must tell the commissioner if—
- (a) the lessee, or any of the lessees, of the lease becomes the owner of other real property; or
 - (b) if a certificate of occupancy is issued for the lease—all the lessees stop living on the parcel of land under the lease.
- (3) The lessee must tell the commissioner about an event mentioned in subsection (2) not later than 30 days after the day the event happens.
- (4) The lessee must, before 30 September in the following year, declare—
- (a) if there is only 1 lessee of the lease—the total income of the lessee for the year; and

- (b) if there is more than 1 lessee of the lease—the total income of all the lessees for the year; and
 - (c) whether the lessee, or any other lessee of the lease, owns any other real property; and
 - (d) whether the lessee, or any of the lessees, of the lease continues to live on the parcel of land under the lease.
- (5) The commissioner may grant an extension of time for a lessee to provide a declaration under subsection (4) if satisfied on reasonable grounds that it is appropriate to grant the extension.
- (6) If the lessee does not provide a declaration as required under subsection (4) before 30 September or, if an extension is granted under subsection (5), the extended date—
- (a) the total income of the lessee, or all of the lessees, is taken to exceed the income threshold amount; and
 - (b) the lessee becomes ineligible for the discount.
- (7) In this section:
- certificate of occupancy*—see the *Building Act 2004*, dictionary.

15 Pre-1 October 2013 lease—loss of eligibility for discount because of income

- (1) This section applies—
- (a) to a land rent lease first granted under a contract entered into before 1 October 2013; and
 - (b) if a lessee under the lease, who was previously eligible to pay discounted land rent for a year, becomes ineligible for the discount because the total income of the lessee, or the sum of the total incomes of all of the lessees, is more than the income threshold amount.

- (2) The land rent payable by the lessee for the land rent lease for the following year is—
- (a) from 1 July to 30 September of the year—the land rent that would be payable for the period if the lessee were eligible for a discount; and
 - (b) from 1 October to 30 June of the year—75% of the lesser of—
 - (i) the standard percentage of the unimproved value of the parcel of land under the lease; and
 - (ii) the amount worked out as follows:

$$\begin{array}{l} \text{land rent payable} \\ \text{for the previous year} \\ \text{with discount} \end{array} \times \frac{\text{standard percentage}}{\text{discount percentage}} \times \left(1 + \frac{\text{relevant percentage}}{\text{percentage}} \right)$$

Note **Discount percentage**, **relevant percentage** and **standard percentage** are defined in the dictionary.

- (3) In this section:

land rent payable for the previous year means the land rent that would have been payable for the lease if it had been a land rent lease, leased to the lessee, for the whole of the previous year.

unimproved value, of a parcel of land under a land rent lease for a year, means the unimproved value determined under the [Rates Act 2004](#), section 10 (1) (Annual redeterminations) for the year.

16 Pre-1 October 2013 lease—loss of eligibility for discount for other reasons

- (1) This section applies—
- (a) to a land rent lease first granted under a contract entered into before 1 October 2013; and

- (b) if a lessee under the lease, who was previously eligible to pay discounted land rent for a year, becomes ineligible for the discount because—
- (i) the lessee, or any of the lessees, becomes the owner of other real property; or
 - (ii) if a certificate of occupancy is issued for the lease—all the lessees stop living on the parcel of land under the lease.
- (2) The lessee is taken to become ineligible for the discount on the 1st day of the 1st quarter after the circumstance in subsection (1) (a) or (b) happens.
- (3) The land rent payable by the lessee for the land rent lease is, on and from the day the lessee becomes ineligible for the discount, the lesser of—
- (a) the standard percentage of the unimproved value of the parcel of land under the lease; and
 - (b) the amount worked out as follows:
- $$\frac{\text{discounted land rent payable for the year}}{\text{discounted land rent payable for the year}} \times \frac{\text{standard percentage}}{\text{discount percentage}}$$

Note 1 **Discount percentage** and **standard percentage** are defined in the dictionary.

Note 2 Section 30 (Land rent—discount for part of year) applies if the lessee is eligible for a discount for only part of a year.

- (4) In this section:

discounted land rent payable for the year means the discounted land rent that would have been payable for the lease if it had been a land rent lease, leased to the lessee, for the whole of the year.

16AA Post-1 October 2013 lease—loss of eligibility to pay land rent

- (1) This section applies—
 - (a) to a land rent lease first granted under a contract entered into on or after 1 October 2013; and
 - (b) if any of the following happens:
 - (i) the total income of the lessee under the lease, or the sum of all the total incomes of all of the lessees, is more than the income threshold amount for 2 consecutive years;
 - (ii) the lessee, or any of the lessees, becomes the owner of other real property;
 - (iii) if a certificate of occupancy is issued for the lease—all the lessees stop living on the parcel of land under the lease.
- (2) The commissioner must give each lessee under the lease written notice that the lessee is not eligible to pay land rent.
- (3) If a lessee is given a notice under subsection (2), the lessee must within 2 years after the day the notice is given—
 - (a) vary the lease to reduce the land rent payable to a nominal rent; or
 - (b) transfer the lease to an eligible transferee.

Note The lessee must apply under the [Planning and Development Act 2007](#), s 272A (Application for rent payout lease variation) for a variation of the lease to reduce the rent payable to a nominal rent.

Division 3.2 Registered affordable housing providers

16A Meaning of *registered affordable housing provider*—pt 3

In this part:

registered affordable housing provider means a registered affordable housing provider under the [Housing Assistance Act 2007](#).

16B Discount—registered affordable housing providers

- (1) The commissioner may determine that a registered affordable housing provider is entitled to pay discounted land rent for a land rent lease.
- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

Part 4 Land rent—transfers

Note A lessee may apply to the planning and land authority for a variation of the lease to reduce the land rent payable to a nominal rent (see [Planning and Development Act 2007](#), s 272A (Application for rent payout lease variation)).

16C Transfer of post-1 October 2013 lease

- (1) This section applies to a land rent lease first granted under a contract entered into on or after 1 October 2013.
- (2) The land rent lease may only be transferred to—
 - (a) an eligible transferee; or
 - (b) if, on application of a lessee under the lease, the commissioner decides it is appropriate that paragraph (a) should not apply—someone other than an eligible transferee.

Note 1 See s 8AA for how the land rent payable under the transferred lease is worked out.

Note 2 If a form is approved under the [Taxation Administration Act](#), s 139C for this provision, the form must be used.

- (3) The Minister may determine—
 - (a) matters that the commissioner must take into account in making a decision under subsection (2) (b); and
 - (b) circumstances when it is appropriate that subsection (2) (a) not apply; and
 - (c) a person to whom a lease may be transferred under subsection (2) (b).

Note Power to make a determination in relation to a person includes power to make provision in relation to a class of people (see [Legislation Act](#), s 48 (2)).

- (4) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

17 Transfer of pre-1 October 2013 lease—land rent

- (1) This section applies if a land rent lease (other than a lease to which section 16C applies) is transferred.
- (2) Subject to section 11 (Discount—eligibility), section 29 (Land rent—part of year) and section 30 (Land rent for pre-1 October 2013 lease—discount for part of year), the land rent payable for the land rent lease transferred is the standard percentage of the unimproved value of the parcel of land under the lease.

Note 1 A transferee may apply to the planning and land authority for a variation of the lease to reduce the land rent payable to a nominal rent (see [Planning and Development Act 2007](#), s 272A (Application for rent payout lease variation)).

Note 2 **Standard percentage** is defined in the dictionary.

- (3) In this section:

unimproved value, of a parcel of land under a transferred land rent lease, means the unimproved value—

- (a) for a land rent lease transferred in the year the lease is first granted—determined under the [Rates Act 2004](#), section 9 (First determination of unimproved value) for the year; and
- (b) for a land rent lease transferred in a year after the year the lease is first granted—determined under the [Rates Act 2004](#), section 10 (1) (Annual redeterminations) for the year.

Part 5 Land rent—payment and recovery of unpaid rent

18 Meaning of *related*—pt 5

In this part:

related—a parcel of land is a *related* parcel of land in relation to a land rent lease if—

- (a) the lease and the parcel have the same owner; and
- (b) if the parcel is a land rent lease—the commissioner has complied with section 25 (Land rent—notice of rent in arrears) in relation to the lease and the parcel; and
- (c) the commissioner has, in relation to the parcel, complied with—
 - (i) the *Land Tax Act 2004*, section 21 (Notice of land tax in arrears); or
 - (ii) the *Rates Act 2004*, section 23 (Notice of rates in arrears).

19 Lessee to pay land rent

Land rent payable for a land rent lease is payable to the commissioner by the lessee.

20 When is land rent payable?

- (1) The assessment notice for the land rent payable for a land rent lease must state the dates for payment of the land rent (the *payment dates*).

Note Assessments are made under the *Taxation Administration Act* and objections may be made under that Act, s 100 (1) (a).

- (2) The land rent is payable on the payment dates.

21 Unpaid land rent—interest

- (1) If the lessee of a land rent lease fails to pay an amount of land rent by the payment date, the lessee is liable to pay interest at the determined rate on the amount of unpaid land rent from the day the amount becomes payable until the day the amount is paid.
- (2) In this section:
determined rate, of interest, means the rate determined under the [Taxation Administration Act](#), section 139.

22 Unpaid land rent—calculation of interest

- (1) Interest on an amount of unpaid land rent is worked out—
 - (a) for each calendar month when the amount remains unpaid; and
 - (b) on the 1st day of that month; and
 - (c) at the interest rate applying to that day; and
 - (d) on the total amount of land rent that is unpaid on a day when the interest is worked out.

Note The Minister may determine an interest rate for this section under the [Taxation Administration Act](#), s 139.

- (2) For subsection (1) (a), if an amount remains unpaid for part of a calendar month, interest is payable for the whole month.

Example

Andrew's land rent is due on 1 April. He doesn't pay it until 15 May. Andrew has to pay interest worked out for the overdue period from 2 April to 15 May. Because of the operation of s (2), Andrew has to pay interest for the period from 2 April to 1 June. Interest for the month from 2 April to 1 May is at the rate applying on 2 April, which is the 1st day of the 1st month that the amount remains unpaid (see s (1)). Interest for the month from 2 May to 1 June is at the rate applying on 2 May, which is the 1st day of the 2nd month that the amount remains unpaid (see s (1)).

Note An example is part of the Act, 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).

23 Unpaid land rent—recovery

- (1) The amount of any unpaid land rent, and any interest payable on the amount, (the *amount*) is a debt owing to the Territory.

Note An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).

- (2) The liability to pay the amount is joint and several if the liability attaches to 2 or more people.
- (3) The liability is a first charge on the lessee's interest in the lease.
- (4) The commissioner may enter into an arrangement (which may include provision for the payment of interest) for payment of the amount by instalments.
- (5) The commissioner may remit or refund all or part of an amount of interest paid or payable by the lessee.
- (6) The commissioner may write off the whole or part of a liability to pay the amount if satisfied that action, or further action, to recover the amount outstanding is impracticable or unwarranted.

24 Land rent—charge on the land

- (1) Land rent payable for a land rent lease is a charge on the interest held by the lessee in the parcel of land under the lease.
- (2) The charge takes priority over a sale, conveyance, transfer, mortgage, charge, lien or encumbrance in relation to the parcel of land.
- (3) The charge does not have effect against an honest purchaser of the parcel of land for value if—
 - (a) the purchaser had obtained a certificate under section 31 (Certificate of land rent and other charges) in relation to the parcel before the purchase; and
 - (b) at the time of the purchase, the purchaser did not have notice of liability under the charge.

25 Land rent—notice of rent in arrears

- (1) If land rent payable for a land rent lease has been in arrears for at least 1 year, the commissioner may give the lessee written notice that the land rent is in arrears.
- (2) At any time after giving notice, the commissioner may declare, in writing, that the land rent for the land rent lease is in arrears.
- (3) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

26 Land rent—sale of land rent lease for non-payment

- (1) This section applies if—
 - (a) a land rent lease is held by a lessee under a lease from the Commonwealth for a term of years; and
 - (b) the commissioner has complied with section 25 (Land rent—notice of rent in arrears) in relation to the land rent lease; and

- (c) land rent payable for the land rent lease is in arrears for at least 90 days after the day of notification under section 25 in relation to the lease.
- (2) The commissioner may apply to a court of competent jurisdiction for an order for the sale of—
 - (a) the land rent lease; and
 - (b) any improvements made on or to the parcel of land under the land rent lease.
 - (3) In the application, the commissioner may ask that the proceeds of the sale also be applied in paying the total amount of any land tax or rates in arrears for the land rent lease, and any land rent, land tax or rates in arrears for 1 or more related parcels of land stated in the application.
 - (4) If the court is satisfied that this section applies to the land rent lease, the court may—
 - (a) order the sale by public auction of the land rent lease, and any improvements made on or to the parcel of land under the land rent lease, to pay the total of the following:
 - (i) the total amount of land rent in arrears for the lease at the time the court makes the order;
 - (ii) costs and expenses in relation to the declaration, application and sale in relation to the lease;
 - (iii) if the commissioner has made a request mentioned in subsection (3) in the application in relation to the lease or another parcel of land—
 - (A) the total amount of any land tax or rates in arrears for the lease at the time the court makes the order; and

- (B) if the court is satisfied that a parcel is a related parcel of land—the total amount of any land rent, land tax or rates in arrears for the other parcel, at the time the court makes the order; and
- (b) order that the proceeds be paid into court; and
- (c) order that the title to the lease be transferred to the purchaser free from mortgages and other encumbrances; and
- (d) make any other order the court considers appropriate.

26A Sale of post-1 October 2013 lease for loss of eligibility to pay land rent

- (1) This section applies if—
 - (a) a land rent lease is held by a lessee under a lease from the Commonwealth for a term of years; and
 - (b) the commissioner has given the lessee a notice under section 16AA (2) (Post-1 October 2013 lease—loss of eligibility to pay land rent) in relation to the land rent lease; and
 - (c) the lessee has not within 2 years after the day the notice is given—
 - (i) varied the lease to reduce the land rent payable to a nominal rent; or
 - (ii) transferred the lease to an eligible transferee.
- (2) The commissioner may apply to a court of competent jurisdiction for an order for the sale of—
 - (a) the land rent lease; and
 - (b) any improvements made on or to the parcel of land under the land rent lease.

- (3) In the application, the commissioner may ask that the proceeds of the sale also be applied in paying the total amount of any land rent, land tax or rates in arrears for the land rent lease, and any land rent, land tax or rates in arrears for 1 or more related parcels of land stated in the application.
- (4) If the court is satisfied that this section applies to the land rent lease, the court may—
- (a) order the sale by public auction of the land rent lease, and any improvements made on or to the parcel of land under the land rent lease, to pay the total of the following:
 - (i) costs and expenses in relation to the declaration, application and sale in relation to the lease;
 - (ii) if the commissioner has made a request mentioned in subsection (3) in the application in relation to the lease or another parcel of land—
 - (A) the total amount of any land rent, land tax or rates in arrears for the lease at the time the court makes the order; and
 - (B) if the court is satisfied that a parcel is a related parcel of land—the total amount of any land rent, land tax or rates in arrears for the other parcel, at the time the court makes the order; and
 - (b) order that the proceeds be paid into court; and
 - (c) order that the title to the lease be transferred to the purchaser free from mortgages and other encumbrances; and
 - (d) make any other order the court considers appropriate.

27 Sale of land rent lease—application of proceeds

- (1) This section applies to the proceeds of the sale of a land rent lease under section 26 or section 26A.

- (2) The proceeds of the sale are to be applied in the following order:
- (a) payment of the market value of the lease to the Territory;
 - (b) payment of the total of the amounts mentioned in section 26 (4) (a) (i) to (iii) (A) or section 26A (4) (a) (i) to (ii) (A);
 - (c) payment of the amount owing to a person under a mortgage of the improvements (or, if that amount is more than the amount of any remaining proceeds, the remaining proceeds);
 - (d) subject to subsection (4), payment of the total of amounts to which section 26 (4) (a) (iii) (B) or section 26A (4) (a) (ii) (B) applies (or, if that amount is more than the amount of any remaining proceeds, the remaining proceeds);
 - (e) subject to subsection (5), the payment of any balance to the lessee.
- (3) If there were 2 or more mortgagees of the improvements before the sale, the court may make the orders about their respective entitlements that the court considers just.
- (4) On application by a person who has an interest in the improvements otherwise than as lessee or mortgagee, the court may order that the person is entitled to be paid the value of the person's interest (as decided by the court) in priority to the commissioner's entitlement under subsection (2) (d).
- (5) On application by any other interested person, the court may order payment out of court of all or part of any balance to a person other than the person who was the lessee before the sale if the court considers it just to do so.
- (6) Any sale of the land rent lease under this section must be abandoned if the lessee pays—
- (a) the total land rent in arrears for the land rent lease; and

- (b) if the commissioner has made a request under section 26 (3) or section 26A (3) in the application in relation to any land rent, land tax or rates in arrears for the land rent lease—the total amount of any land rent, land tax or rates in arrears for the land rent lease at the time of the payment; and
- (c) the costs and expenses incurred up to the time of payment in relation to the declaration, application and sale in relation to the land rent lease; and
- (d) the costs and expenses reasonably incurred in relation to the abandonment of the sale; and

Example

advising the public that an auction has been cancelled

Note An example is part of the Act, 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).

- (e) if the commissioner has made a request under section 26 (3) or section 26A (3) in the application in relation to 1 or more related parcels of land—the total amount of any land rent, land tax or rates in arrears for the related parcel or parcels at the time of the payment.

28 Sale of land rent lease—application of proceeds without court order

- (1) This section applies to the proceeds of the sale of a land rent lease under section 26 or section 26A.
- (2) The commissioner must be paid out of court any amounts to which the commissioner is entitled under section 27 (2) without a court order.
- (3) If a person who was the lessee or mortgagee of the land rent lease before the sale hands over to the court the certificate or other title to the lease, the person must be paid out of court any amount to which the person is entitled under section 27 (2) without a court order.

Part 6 Miscellaneous

29 Land rent—part of year

- (1) This section applies to a land rent lease if, in a year—
- the lessee starts paying land rent because the lease was transferred to the lessee; or
 - the lessee stops paying land rent because the lease has been varied to reduce the rent payable to a nominal rent; or
 - the lessee stops paying land rent because the lessee transferred the lease.
- (2) The amount of land rent payable by the lessee for the lease for the year is the amount worked out as follows:

$$\frac{\text{land rent otherwise payable for year}}{\text{payable for year}} \times \frac{\text{lessee's rental days in year}}{\text{days in year}}$$

- (3) In this section:

land rent otherwise payable for year means the land rent that would have been payable for the lease if it had been a land rent lease, leased to the lessee, for the whole of the year.

lessee's rental days in year means the number of days in a year that the lessee was liable to pay land rent under the land rent lease.

30 Land rent for pre-1 October 2013 lease—discount for part of year

- (1) This section applies to a land rent lease first granted under a contract entered into before 1 October 2013 if, in a year, the lessee—
- starts paying discounted land rent; or
 - stops paying discounted land rent.

- (2) The amount of land rent payable by the lessee for the lease for the year is the amount worked out as follows:

$$\left(DR \times \frac{DRD}{D} \right) + \left(SR \times \frac{SRD}{D} \right)$$

- (3) In this section:

D means the number of days in the year.

DR means the discounted land rent payable for the land rent lease.

DRD means the number of days in the year that the lessee is eligible to pay discounted land rent for the lease.

SR means the land rent payable for the land rent lease without a discount.

SRD means the number of days in the year that the lessee is not eligible to pay discounted land rent for the lease.

31 Certificate of land rent and other charges

- (1) A person may apply to the commissioner for a certificate of—
- (a) the land rent payable for a land rent lease for a stated year; and
 - (b) the land rent and any other amount immediately payable to the commissioner under this Act in relation to the lease.

Note 1 A fee may be determined under s 32 for this provision.

Note 2 If a form is approved under the [Taxation Administration Act](#), s 139C for an application, the form must be used.

Note 3 A single application form may be approved for this section and the [Land Tax Act 2004](#), s 41 and the [Rates Act 2004](#), s 76 (see [Legislation Act](#) s 255 (7)).

- (2) The commissioner must give the applicant the certificate.
- (3) The certificate is conclusive proof of the matters certified for an honest buyer of the lease for value.

- (4) For this section, land rent and other amounts are taken to be payable immediately even though any necessary time after service of a notice has not ended.

32 Determination of fees

- (1) The Minister may determine fees for this Act.

Note The [Legislation Act](#) contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

33 Objections

The following decisions are prescribed for the [Taxation Administration Act](#), section 100 (Objection):

- (a) a decision under section 12 (Discount—decision on application);
- (b) a decision to give a notice under section 16AA (2) (Post-1 October 2013 lease—loss of eligibility to pay land rent).

Note Objections relating to the commissioner's determination of the unimproved value of a parcel of land are dealt with under the [Rates Act 2004](#), s 71.

34 Review of decisions by ACAT

- (1) This section applies to a determination by the commissioner of an objection to a decision mentioned in section 33.
- (2) The determination is prescribed for the [Taxation Administration Act](#), section 107A (Meaning of *reviewable decision* etc—div 10.2).

Note Applications for review by the ACAT may be made in relation to a determination by the commissioner of a decision on an objection to an assessment.

35 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (2) A regulation may prescribe requirements in relation to an application under section 7 (2) (Application to pay land rent).

Examples

- 1 evidence that the applicant has obtained advice from a registered financial adviser, or attended a course, on the effect of a land rent lease and any advantages and disadvantages of leasing a land rent lease
- 2 a certificate by the commissioner about the applicant's eligibility for discounted land rent

Note An example is part of the Act, 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).

Part 10 Transitional—Land Rent Amendment Act 2013

50 Pre-1 October 2013 lease—application to pay land rent

- (1) This section applies if—
 - (a) a person enters into a contract for the grant of a land rent lease before 1 October 2013; and
 - (b) a land rent lease has not been granted to the person before 1 October 2013.
- (2) Section 7, and the *Land Rent Regulation 2008*, section 3, as in force immediately before the commencement of the *Land Rent Amendment Act 2013*, section 4 continue to apply to the person.

51 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Land Rent Amendment Act 2013*.
- (2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything else in this Act or another territory law.

52 Expiry—pt 10

This part expires on 1 October 2015.

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see *Legislation Act*, s 88).

Dictionary

(see s 3)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

Note 2 For example, the [Legislation Act](#), dict, pt 1 defines the following terms:

- ACAT
- commissioner for revenue
- domestic partner (see s 169 (1))
- financial year
- person (see s 160)
- planning and land authority
- quarter
- territory authority
- territory plan.

commissioner means the commissioner for revenue.

discounted land rent means land rent discounted under part 3 (Land rent—discount).

discount percentage means the discount percentage determined under the [Taxation Administration Act](#), section 139.

Note Different percentage rates may be determined in relation to different matters or classes of matters (see [Legislation Act](#), s 48).

eligible transferee, in relation to the transfer of a land rent lease, means a person who has been granted a discount under section 12 in relation to the lease no earlier than 6 months before the day the lease is transferred.

income threshold amount means the income threshold amount determined under the [Taxation Administration Act](#), section 139.

Note Different amounts may be determined in relation to different matters or classes of matters (see [Legislation Act](#), s 48).

land rent includes—

- (a) the costs and expenses reasonably incurred by the Territory in attempting to recover the land rent; and
- (b) interest payable in relation to the land rent.

land rent lease—see section 7 (4).

lessee, in relation to a proposed land rent lease, for part 3 (Land rent—discount)—see section 9.

own, in relation to real property, includes having a legal or beneficial interest in the property.

registered affordable housing provider, for part 3 (Land rent—discount)—see section 16A.

related, for a parcel of land, for part 5 (Land rent—payment and recovery of unpaid rent)—see section 18.

relevant percentage means the relevant percentage determined under the [Taxation Administration Act](#), section 139.

standard percentage means the standard percentage determined under the [Taxation Administration Act](#), section 139.

Taxation Administration Act means the [Taxation Administration Act 1999](#).

tax law—see the [Taxation Administration Act](#), section 4.

year means a financial year.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

Land Rent Act 2008 A2008-16

notified LR 30 June 2008
s 1, s 2 commenced 30 June 2008 (LA s 75 (1))
remainder commenced 1 July 2008 (s 2 and [CN2008-10](#))

as amended by

[ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 \(No 2\) A2008-37 sch 1 pt 1.60](#)

notified LR 4 September 2008
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))
sch 1 pt 1.60 commenced 2 February 2009 (s 2 (1) and see [ACT Civil and Administrative Tribunal Act 2008](#) A2008-35, s 2 (1) and [CN2009-2](#))

[Statute Law Amendment Act 2009 A2009-20 sch 3 pt 3.46](#)

notified LR 1 September 2009
s 1, s 2 commenced 1 September 2009 (LA s 75 (1))
sch 3 pt 3.46 commenced 22 September 2009 (s 2)

[Statute Law Amendment Act 2011 \(No 3\) A2011-52 sch 3 pt 3.32](#)

notified LR 28 November 2011
s 1, s 2 commenced 28 November 2011 (LA s 75 (1))
sch 3 pt 3.32 commenced 12 December 2011 (s 2)

[Land Rent Amendment Act 2012 A2012-18](#)

notified LR 17 May 2012
s 1, s 2 commenced 17 May 2012 (LA s 75 (1))
remainder commenced 18 May 2012 (s 2)

[Community Housing Providers National Law \(ACT\) Act 2013 A2013-18 sch 1 pt 1.2](#)

notified LR 23 May 2013
s 1, s 2 commenced 23 May 2013 (LA s 75 (1))
sch 1 pt 1.2 commences 1 January 2014 (s 2 and [CN2013-10](#))

[Land Rent Amendment Act 2013 A2013-38 pt 2](#)

notified LR 26 September 2013
s 1, s 2 commenced 26 September 2013 (LA s 75 (1))
pt 2 commenced 1 October 2013 (s 2)

Endnotes

4 Amendment history

4 Amendment history

Commencement

s 2 om LA s 89 (4)

Application of Act

s 5 (2), (4) exp 31 December 2008 or on a date fixed by regulation
(s 5 (4))
ss renum R2 LA
am [A2012-18](#) s 4; [A2013-38](#) s 4

Application to pay land rent

s 7 am [A2013-38](#) ss 5-7

Pre-1 October 2013 lease—land rent payable

s 8 hdg sub [A2013-38](#) s 8
s 8 am [A2013-38](#) s 9, s 10; ss renum R9 LA

Post-1 October 2013 lease—land rent payable

s 8AA ins [A2013-38](#) s 11

Lessees generally

div 3.1 hdg ins [A2012-18](#) s 5

Application—div 3.1

s 8A ins [A2012-18](#) s 5

Meaning of lessee—div 3.1

s 9 hdg sub [A2012-18](#) s 6
s 9 am [A2012-18](#) s 7

Total income of lessee

s 9A ins [A2013-38](#) s 12

Discount—application

s 10 am [A2013-38](#) s 13, s 14

Discount—eligibility

s 11 am [A2013-38](#) s 15, s 16

Discount—decision on application

s 12 am [A2009-20](#) amdt 3.110; [A2012-18](#) s 8, s 9; [A2013-38](#) s 17

Discount—hardship

s 13 om [A2012-18](#) s 10

Discount—review of eligibility

s 14 am [A2012-18](#) s 11; ss renum R7 LA; [A2013-38](#) s 18

Pre-1 October 2013 lease—loss of eligibility for discount because of income

s 15 hdg sub [A2013-38](#) s 19
s 15 am [A2013-38](#) s 20

Pre-1 October 2013 lease—loss of eligibility for discount for other reasons

s 16 hdg sub [A2013-38](#) s 21
 s 16 am [A2013-38](#) s 22

Post-1 October 2013 lease—loss of eligibility to pay land rent

s 16AA ins [A2013-38](#) s 23

Registered affordable housing providers

div 3.2 hdg ins [A2012-18](#) s 12

Meaning of *registered affordable housing provider*—pt 3

s 16A ins [A2012-18](#) s 12

Discount—registered affordable housing providers

s 16B ins [A2012-18](#) s 12

Transfer of post-1 October 2013 lease

s 16C ins [A2013-38](#) s 24

Transfer of pre-1 October 2013 lease—land rent

s 17 hdg sub [A2013-38](#) s 25
 s 17 am [A2013-38](#) s 26, s 27

Unpaid land rent—recovery

s 23 am [A2011-52](#) amdt 3.118

Land rent—sale of land rent lease for non-payment

s 26 am [A2013-38](#) s 28, s 29

Sale of post-1 October 2013 lease for loss of eligibility to pay land rent

s 26A ins [A2013-38](#) s 30

Sale of land rent lease—application of proceeds

s 27 am [A2013-38](#) ss 31-35

Sale of land rent lease—application of proceeds without court order

s 28 am [A2013-38](#) s 36

Land rent—part of year

s 29 am [A2013-38](#) s 37

Land rent for pre-1 October 2013 lease—discount for part of year

s 30 hdg sub [A2013-38](#) s 38
 s 30 am [A2013-38](#) s 39

Determination of fees

s 32 am [A2009-20](#) amdt 3.111

Objections

s 33 sub [A2012-18](#) s 13
 am [A2013-38](#) s 40

Review of decisions by ACAT

s 34 sub [A2008-37](#) amdt 1.264

Endnotes

4 Amendment history

Regulation-making power

s 35 (3)-(5) exp 1 July 2010 (s 35 (5) (LA s 88 declaration applies))

Legislation amended—sch 1

s 36 om LA s 89 (3)

Transitional—Land Rent Amendment Act 2013

pt 10 hdg ins [A2012-18](#) s 14
exp 18 May 2013 (s 51)
ins [A2013-38](#) s 41
exp 1 October 2015 (s 52)

Pre-1 October 2013 lease—application to pay land rent

s 50 ins [A2012-18](#) s 14
exp 18 May 2013 (s 51)
ins [A2013-38](#) s 41
exp 1 October 2015 (s 52)

Transitional regulations

s 51 ins [A2012-18](#) s 14
exp 18 May 2013 (s 51)
ins [A2013-38](#) s 41
exp 1 October 2015 (s 52)

Expiry—pt 10

s 52 ins [A2013-38](#) s 41
exp 1 October 2015 (s 52)

Consequential amendments

sch 1 om LA s 89 (3)

Dictionary

dict am [A2008-37](#) amdt 1.265; [A2013-38](#) s 42
def *eligible transferee* ins [A2013-38](#) s 43
def *land rent* sub [A2013-38](#) s 44
def *lessee* ins [A2009-20](#) amdt 3.112
def *own* ins [A2013-38](#) s 45
def *registered affordable housing provider* ins [A2012-18](#)
s 15

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 1 July 2008	1 July 2008– 31 Dec 2008	not amended	new Act
R2 1 Jan 2009	1 Jan 2009– 1 Feb 2009	A2008-37	commenced expiry
R3 2 Feb 2009	2 Feb 2009– 21 Sept 2009	A2008-37	amendments by A2008-37
R4 22 Sept 2009	22 Sept 2009– 1 July 2010	A2009-20	amendments by A2009-20
R5 2 July 2010	2 July 2010– 11 Dec 2011	A2009-20	commenced expiry
R6 12 Dec 2011	12 Dec 2011– 17 May 2012	A2011-52	amendments by A2011-52
R7 18 May 2012	18 May 2012– 18 May 2013	A2012-18	amendments by A2012-18
R8 19 May 2013	19 May 2013– 30 Sept 2013	A2012-18	expiry of transitional provisions (pt 10)

Endnotes

6 Expired transitional or validating provisions

6 Expired transitional or validating provisions

This Act may be affected by transitional or validating provisions that have expired. The expiry does not affect any continuing operation of the provisions (see *Legislation Act 2001*, s 88 (1)).

Expired provisions are removed from the republished law when the expiry takes effect and are listed in the amendment history using the abbreviation ‘exp’ followed by the date of the expiry.

To find the expired provisions see the version of this Act before the expiry took effect. The ACT legislation register has point-in-time versions of this Act.

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