



Australian Capital Territory

Land Rent Amendment Act 2013

A2013-38

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Australian Capital Territory

Land Rent Amendment Act 2013

A2013-38

An Act to amend the *Land Rent Act 2008* and the *Land Rent Regulation 2008*

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

Part 1 Preliminary

1 Name of Act

This Act is the *Land Rent Amendment Act 2013*.

2 Commencement

This Act commences on 1 October 2013.

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 Rent Act 2008* and the *Land Rent Regulation 2008*.

Part 2 Land Rent Act 2008

4 Application of Act Section 5 (2)

substitute

(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.

5 Application to pay land rent Section 7 (1)

after

applications

insert

from eligible applicants

6 Section 7 (2) and (3)

before

applicant

insert

eligible

7 New section 7 (5)

insert

(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 Section 8 heading

substitute

8 Pre-1 October 2013 lease—land rent payable

9 New section 8 (1A)

before subsection (1), insert

(1A) This section applies to a land rent lease first granted under a contract entered into before 1 October 2013.

10 Section 8 (1) and (2)

omit

a land rent lease

substitute

the land rent lease

11 New section 8AA*in part 2, insert***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.

12 New section 9A

insert

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](#).

**13 Discount—application
Section 10 (2) (a)**

before

income

insert

total

14 Section 10 (3) (b)

substitute

- (b) for a pre-1 October 2013 lease—at any time during the term of the lease.

**15 Discount—eligibility
Section 11 (1) (b)**

omit

or all of the lessees

substitute

or the sum of the total incomes of all the lessees

16 Section 11 (1), new note 1

insert

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

**17 Discount—decision on application
Section 12 (3), including notes**

substitute

- (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.

**18 Discount—review of eligibility
Section 14 (4) (a)**

before

income

insert

total

19 Section 15 heading

substitute

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

20 Section 15 (1)

substitute

- (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.

21 Section 16 heading

substitute

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

22 Section 16 (1)

substitute

- (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.

23 New section 16AA

in division 3.1, insert

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.

24 New section 16C

in part 4, insert

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](#).

25 Section 17 heading

substitute

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

26 Section 17 (1)

substitute

(1) This section applies if a land rent lease (other than a lease to which section 16C applies) is transferred.

27 Section 17 (2)

omit

(Land rent—discount for part of year)

substitute

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

**28 Land rent—sale of land rent lease for non-payment
Section 26 (4)**

omit

must

substitute

may

29 New section 26 (4) (d)

insert

(d) make any other order the court considers appropriate.

30 New section 26A

insert

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.

**31 Sale of land rent lease—application of proceeds
Section 27 (1)**

after

section 26

insert

or section 26A

32 Section 27 (2) (b)

after

section 26 (4) (a) (i) to (iii) (A)

insert

or section 26A (4) (a) (i) to (ii) (A)

33 Section 27 (2) (d)

after

section 26 (4) (a) (iii) (B)

insert

or section 26A (4) (a) (ii) (B)

34 Section 27 (6) (b)

substitute

- (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

35 Section 27 (6) (e)

after

section 26 (3)

insert

or section 26A (3)

**36 Sale of land rent lease—application of proceeds without court order
Section 28 (1)**

after

section 26

insert

or section 26A

**37 Land rent—part of year
Section 29 (3), definition of *land rent otherwise payable for year***

substitute

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.

38 Section 30 heading

substitute

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

39 Section 30 (1)

after

land rent lease

insert

first granted under a contract entered into before 1 October 2013

40 Section 33

substitute

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.

41 New part 10*insert***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).

42 Dictionary, note 2

insert

- domestic partner (see s 169 (1))
- [territory plan](#)

43 Dictionary, new definition of *eligible transferee*

insert

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.

44 Dictionary, definition of *land rent*

substitute

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.

45 Dictionary, new definition of *own*

insert

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

Part 3 Land Rent Regulation 2008

46 Application to pay land rent—Act, s 7 (2) Section 3

before

applicant

insert

eligible

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 15 August 2013.

2 Notification

Notified under the [Legislation Act](#) on 26 September 2013.

3 Republications of amended laws

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

I certify that the above is a true copy of the Land Rent Amendment Bill 2013, which was passed by the Legislative Assembly on 19 September 2013.

Clerk of the Legislative Assembly

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