

2004

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Planning)

Land (Planning and Environment) Amendment Bill 2004 (No 2)

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(Minister for Planning)

Land (Planning and Environment) Amendment Bill 2004 (No 2)

A Bill for

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

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 2004 (No 2)*.

2 Commencement

This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

3 Legislation amended

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

4 Section 178

substitute

178 Refund on lease surrender or termination

(1) This section applies if a lease of Territory land is surrendered or terminated under this Act.

(2) On application by the person surrendering the lease or the person whose lease has been terminated, the planning and land authority may authorise payment of the amount prescribed under the regulations to the person.

Note A fee may be determined under s 287 for this provision.

(3) The planning and land authority must not authorise the payment of an amount under this section otherwise than in accordance with criteria under subsection (4) for the authorisation of payments.

(4) The Minister may, in writing, determine criteria for the authorisation of payments under this section.

Note The power to make a statutory instrument (including the statement of criteria) includes power to amend or repeal the instrument (see Legislation Act, s 46).

(5) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

5 Transfer of land subject to building and development provision

Section 180 (2)

substitute

(2) The planning and land authority may, in writing, consent to a legal or equitable assignment or transfer of a lease, or an interest in a lease, mentioned in subsection (1) if—

(a) the authority—

(i) is satisfied that the proposed assignee or transferee intends to comply with the building and development provision; and

(ii) has been given the security (if any) required by the authority for compliance with the provision by the proposed assignee or transferee; and

(b) either—

(i) the authority is satisfied that the lessee cannot, for personal or financial reasons, comply with the building and development provision; or

- 1 (ii) the proposed transferee or assignee (the *homebuyer*) has a
2 contract with the person (the *builder*) proposing to
3 transfer or assign the lease and, under the contract, the
4 builder is required to build a home on the leased land for
5 the homebuyer.

6 *Note* A fee may be determined under s 287 for this provision.

- 7 (2A) The planning and land authority may also, in writing, consent to a
8 transfer of a lease, or an interest in a lease, mentioned in subsection
9 (1) if the proposed transfer is the first sale of an individual lease of
10 undeveloped land by the person who provided the infrastructure on,
11 and subdivided, the holding lease of which the individual lease is a
12 subdivision.

13 *Note* A fee may be determined under s 287 for this provision.

14 **6 Section 180 (3)**

15 *substitute*

- 16 (3) In deciding under subsection (2) or (2A) whether to consent to an
17 assignment or transfer of a lease, the planning and land authority
18 must take into consideration any matters determined by the
19 Minister, in writing, for the subsection.

20 **7 Section 180**

21 *renumber subsections when Act next republished under Legislation*
22 *Act*

8 Land (Planning and Environment) Regulations 1992, new regulation 14A

in division 3.1, insert

14A Amount of refund for surrender or termination—Act, s 178 (1)

- (1) The amount prescribed for a lessee is the lesser of the following amounts:
- (a) the amount paid for the grant or transfer of the lease to the lessee;
 - (b) the market value of the lease.
- (2) However, the amount prescribed for a lessee is the price paid for the grant if—
- (a) the lessee is the lessee originally granted the lease; and
 - (b) the lease was granted before this regulation commences.
- (3) Subregulation (2) and this subregulation expire 7 years after the day this regulation commences.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2004.

2 Notification

Notified under the Legislation Act on 2004.

3 Republications of amended laws

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

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