

2008

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

Land Rent Bill 2008

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THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

Land Rent Bill 2008

A Bill for

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

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Land Rent Act 2008*.

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

7 **2 Commencement**

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

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

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

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

18 **3 Dictionary**

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

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

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

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

1 **4** **Notes**

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

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

5 **5** **Application of Act**

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

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

11 (2) However, this Act applies only in relation to a single dwelling house
12 lease—

13 (a) granted to a person eligible for a discount under section 11
14 (Discount—eligibility); or

15 (b) transferred by the person to someone else.

16 (3) In this section:

17 *single dwelling house lease* means a residential lease for a single
18 dwelling house granted under the *Planning and Development*
19 *Act 2007*, section 240.

20 (4) Subsection (2), and this subsection expire on—

21 (a) 31 December 2008; or

22 (b) if, before 31 December 2008, another date is fixed by
23 regulation—the date fixed.

24 **6** **Application—Taxation Administration Act**

25 (1) The Taxation Administration Act applies to this Act as if—

26 (a) land rent payable under this Act were a tax; and

Part 1 Preliminary

Section 6

- 1 (b) the lessee under a land rent lease were a taxpayer in relation to
2 land rent under the lease.
- 3 (2) However, the following provisions of the Taxation Administration
4 Act do not apply to unpaid overdue land rent:
- 5 (a) section 25 (Interest in relation to tax defaults);
- 6 (b) division 5.2 (Penalty tax) and section 110 (Interest payable on
7 amounts to be paid by taxpayer).

1 **Part 2** **Land rent—lease**

2 **7** **Application to pay land rent**

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

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

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

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

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

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

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

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

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

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

1 **8 Land rent payable**

2 (1) The land rent payable for a land rent lease for the year the lease is
3 first granted is—

4 (a) if the lessee is eligible for discounted land rent—the discount
5 percentage of the unimproved value of the parcel of land under
6 the lease; or

7 (b) if the lessee is not eligible for discounted land rent—the
8 standard percentage of the unimproved value of the parcel of
9 land under the lease.

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

11 (2) The land rent payable for a land rent lease for a year after the year
12 the lease is first granted is—

13 (a) if the lessee is eligible for discounted land rent—the lesser
14 of—

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

17 (ii) the amount worked out as follows:

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

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

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

1 (ii) the amount worked out as follows:

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

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

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

8 (ii) the amount worked out as follows:

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

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

12 (3) In this section:

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

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

18 (a) for subsection (1)—determined under the *Rates Act 2004*,
19 section 9 (First determination of unimproved value) for the
20 year; and

21 (b) for subsection (2)—determined under the *Rates Act 2004*,
22 section 10 (1) (Annual redeterminations) for the year.

1 **Part 3 Land rent—discount**

2 **9 Meaning of lessee—pt 3**

3 In this part:

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

6 **10 Discount—application**

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

9 *Note* If a form is approved under the Taxation Administration Act, s 139C for
10 this provision, the form must be used.

11 (2) An application must include—

12 (a) evidence of the income of each lessee—

13 (i) for the year before the application is made; and

14 (ii) for the year in which the application is made; and

15 (b) details of any real property owned by each lessee.

16 (3) An application may be made—

17 (a) before the grant of the lease; or

18 (b) at any time during the term of the lease.

19 **11 Discount—eligibility**

20 (1) The lessee of a land rent lease is eligible to pay discounted land rent
21 only if—

22 (a) the lessee, or any of the lessees, does not own other real
23 property; and

1 (b) the total income of the lessee, or all of the lessees, does not
2 exceed the income threshold amount; and

3 (c) if a certificate of occupancy is issued for the lease—the lessee,
4 or at least 1 of the lessees, lives on the parcel of land under the
5 lease.

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

7 (2) In this section:

8 **certificate of occupancy**—see the *Building Act 2004*, dictionary.

9 **12 Discount—decision on application**

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

12 (a) if the commissioner believes on reasonable grounds that the
13 applicant is eligible to pay discounted land rent—grant the
14 discount; or

15 (b) in any other case—refuse to grant the discount.

16 (2) The commissioner must give the applicant written notice of—

17 (a) the decision under subsection (1); and

18 (b) if the discount is refused—a written statement of the reasons
19 for the refusal.

20 (3) Subject to section 13, a discount granted during the term of a lease
21 commences at the start of the next year.

22 *Note* For the amount of land rent payable with a discount, see s 8 (1) (a)
23 and (2) (a).

1 **13 Discount—hardship**

2 (1) This section applies if an application under section 10, made at any
3 time during the term of the lease—

4 (a) includes an application for the discount to be applied from the
5 date the application is made; and

6 (b) sets out details of the grounds on which that part of the
7 application is made.

8 (2) The commissioner must—

9 (a) if the commissioner believes on reasonable grounds that the
10 lessee is eligible to pay discounted land rent, and would suffer
11 substantial financial hardship without an immediate discount—
12 apply the discount from the date the application is made; or

13 (b) in any other case—refuse to apply the discount immediately.

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

16 (3) If subsection (2) (b) applies, the notice given under section 12 (2)
17 must also include a written notice of the reasons not to apply the
18 discount from the date the application is made.

19 **14 Discount—review of eligibility**

20 (1) This section applies to a lessee entitled to pay discounted land rent
21 in a year.

22 (2) The lessee must tell the commissioner if—

23 (a) the lessee, or any of the lessees, of the lease becomes the
24 owner of other real property; or

25 (b) if a certificate of occupancy is issued for the lease—all the
26 lessees stop living on the parcel of land under the lease.

27 (3) The lessee must tell the commissioner about an event mentioned in
28 subsection (2) not later than 30 days after the day the event happens.

- 1 (4) The lessee must, before 30 September in the following year,
2 declare—
- 3 (a) if there is only 1 lessee of the lease—the income of the lessee
4 for the year; and
- 5 (b) if there is more than 1 lessee of the lease—the total income of
6 all the lessees for the year; and
- 7 (c) whether the lessee, or any other lessee of the lease, owns any
8 other real property; and
- 9 (d) whether the lessee, or any of the lessees, of the lease continues
10 to live on the parcel of land under the lease.
- 11 (5) In this section:
- 12 *certificate of occupancy*—see the *Building Act 2004*, dictionary.

13 **15 Discount—loss of eligibility because of income**

- 14 (1) This section applies if a lessee, previously eligible to pay discounted
15 land rent for a year, becomes ineligible for the discount because the
16 total income of the lessee, or all of the lessees, exceeds the income
17 threshold amount.
- 18 (2) The land rent payable by the lessee for the land rent lease for the
19 following year is—
- 20 (a) from 1 July to 30 September of the year—the land rent that
21 would be payable for the period if the lessee were eligible for a
22 discount; and
- 23 (b) from 1 October to 30 June of the year—75% of the lesser of—
- 24 (i) the standard percentage of the unimproved value of the
25 parcel of land under the lease; and

1 (ii) the amount worked out as follows:

2 land rent payable
for the previous year × $\frac{\text{standard percentage}}{\text{discount percentage}}$ × $\left(1 + \frac{\text{relevant}}{\text{percentage}} \right)$
3 with discount

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

5 (3) In this section:

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

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

12 **16 Discount—loss of eligibility for other reasons**

13 (1) This section applies if a lessee, previously eligible to pay discounted
14 land rent for a year, becomes ineligible for the discount because of
15 1 of the following circumstances:

16 (a) the lessee, or any of the lessees, of the lease becomes the
17 owner of other real property;

18 (b) if a certificate of occupancy is issued for the lease—all the
19 lessees stop living on the parcel of land under the lease.

20 (2) The lessee is taken to become ineligible for the discount on the
21 1st day of the 1st quarter after the circumstance in subsection (1) (a)
22 or (b) happens.

1 (3) The land rent payable by the lessee for the land rent lease is, on and
2 from the day the lessee becomes ineligible for the discount, the
3 lesser of—

4 (a) the standard percentage of the unimproved value of the parcel
5 of land under the lease; and

6 (b) the amount worked out as follows:

7 discounted land rent × standard percentage
 payable for the year discount percentage

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

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

12 (4) In this section:

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

1 **Part 4 Land rent—transfers**

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

6 **17 Transfer of lease—land rent**

- 7 (1) This section applies if a land rent lease is transferred.
- 8 (2) Subject to section 11 (Discount—eligibility), section 29 (Land
9 rent—part of year) and section 30 (Land rent—discount for part of
10 year), the land rent payable for the land rent lease transferred is the
11 standard percentage of the unimproved value of the parcel of land
12 under the lease.

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

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

- 18 (3) In this section:
- 19 **unimproved value**, of a parcel of land under a transferred land rent
20 lease, means the unimproved value—
- 21 (a) for a land rent lease transferred in the year the lease is first
22 granted—determined under the *Rates Act 2004*, section 9 (First
23 determination of unimproved value) for the year; and
- 24 (b) for a land rent lease transferred in a year after the year the lease
25 is first granted—determined under the *Rates Act 2004*,
26 section 10 (1) (Annual redeterminations) for the year.

1 **Part 5** **Land rent—payment and**
2 **recovery of unpaid rent**

3 **18** **Meaning of *related*—pt 5**

4 In this part:

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

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

16 **19** **Lessee to pay land rent**

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

19 **20** **When is land rent payable?**

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

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

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

1 **21 Unpaid land rent—interest**

2 (1) If the lessee of a land rent lease fails to pay an amount of land rent
3 by the payment date, the lessee is liable to pay interest at the
4 determined rate on the amount of unpaid land rent from the day the
5 amount becomes payable until the day the amount is paid.

6 (2) In this section:

7 *determined rate*, of interest, means the rate determined under the
8 Taxation Administration Act, section 139.

9 **22 Unpaid land rent—calculation of interest**

10 (1) Interest on an amount of unpaid land rent is worked out—

11 (a) for each calendar month when the amount remains unpaid; and

12 (b) on the 1st day of that month; and

13 (c) at the interest rate applying to that day; and

14 (d) on the total amount of land rent that is unpaid on a day when
15 the interest is worked out.

16 *Note* The Minister may determine an interest rate for this section under the
17 Taxation Administration Act, s 139.

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

3 **Example**

4 Andrew's land rent is due on 1 April. He doesn't pay it until 15 May. Andrew
5 has to pay interest worked out for the overdue period from 2 April to 15 May.
6 Because of the operation of s (2), Andrew has to pay interest for the period from
7 2 April to 1 June. Interest for the month from 2 April to 1 May is at the rate
8 applying on 2 April, which is the 1st day of the 1st month that the amount remains
9 unpaid (see s (1)). Interest for the month from 2 May to 1 June is at the rate
10 applying on 2 May, which is the 1st day of the 2nd month that the amount remains
11 unpaid (see s (1)).

12 *Note* An example is part of the Act, is not exhaustive and may extend, but
13 does not limit, the meaning of the provision in which it appears (see
14 Legislation Act, s 126 and s 132).

15 **23 Unpaid land rent—recovery**

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

18 *Note* If an amount is owing under a law to a person by another person, the
19 person may recover the amount as a debt owing to the person in a court
20 of competent jurisdiction (see Legislation Act, s 177).

- 21 (2) The liability to pay the amount is joint and several if the liability
22 attaches to 2 or more people.

23 (3) The liability is a first charge on the lessee's interest in the lease.

24 (4) The commissioner may enter into an arrangement (which may
25 include provision for the payment of interest) for payment of the
26 amount by instalments.

27 (5) The commissioner may remit or refund all or part of an amount of
28 interest paid or payable by the lessee.

29 (6) The commissioner may write off the whole or part of a liability to
30 pay the amount if satisfied that action, or further action, to recover
31 the amount outstanding is impracticable or unwarranted.

24 Land rent—charge on the land

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

25 Land rent—notice of rent in arrears

- 14 (1) If land rent payable for a land rent lease has been in arrears for at
15 least 1 year, the commissioner may give the lessee written notice
16 that the land rent is in arrears.
17
- 18 (2) At any time after giving notice, the commissioner may declare, in
19 writing, that the land rent for the land rent lease is in arrears.
- 20 (3) A declaration is a notifiable instrument.

21 *Note* A notifiable instrument must be notified under the Legislation Act.

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

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

- 1 (c) land rent payable for the land rent lease is in arrears for at least
2 90 days after the day of notification under section 25 in
3 relation to the lease.
- 4 (2) The commissioner may apply to a court of competent jurisdiction
5 for an order for the sale of—
- 6 (a) the land rent lease; and
- 7 (b) any improvements made on or to the parcel of land under the
8 land rent lease.
- 9 (3) In the application, the commissioner may ask that the proceeds of
10 the sale also be applied in paying the total amount of any land tax or
11 rates in arrears for the land rent lease, and any land rent, land tax or
12 rates in arrears for 1 or more related parcels of land stated in the
13 application.
- 14 (4) If the court is satisfied that this section applies to the land rent lease,
15 the court must—
- 16 (a) order the sale by public auction of the land rent lease, and any
17 improvements made on or to the parcel of land under the land
18 rent lease, to pay the total of the following:
- 19 (i) the total amount of land rent in arrears for the lease at the
20 time the court makes the order;
- 21 (ii) costs and expenses in relation to the declaration,
22 application and sale in relation to the lease;
- 23 (iii) if the commissioner has made a request mentioned in
24 subsection (3) in the application in relation to the lease or
25 another parcel of land—
- 26 (A) the total amount of any land tax or rates in arrears
27 for the lease at the time the court makes the order;
28 and

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

8 **27 Sale of land rent lease—application of proceeds**

- 9 (1) This section applies to the proceeds of the sale of a land rent lease
10 under section 26.
- 11 (2) The proceeds of the sale are to be applied in the following order:
- 12 (a) payment of the market value of the lease to the Territory;
- 13 (b) payment of the total of the amounts mentioned in
14 section 26 (4) (a) (i) to (iii) (A);
- 15 (c) payment of the amount owing to a person under a mortgage of
16 the improvements (or, if that amount is more than the amount
17 of any remaining proceeds, the remaining proceeds);
- 18 (d) subject to subsection (4), payment of the total of amounts to
19 which section 26 (4) (a) (iii) (B) applies (or, if that amount is
20 more than the amount of any remaining proceeds, the
21 remaining proceeds);
- 22 (e) subject to subsection (5), the payment of any balance to the
23 lessee.
- 24 (3) If there were 2 or more mortgagees of the improvements before the
25 sale, the court may make the orders about their respective
26 entitlements that the court considers just.

- 1 (4) On application by a person who has an interest in the improvements
2 otherwise than as lessee or mortgagee, the court may order that the
3 person is entitled to be paid the value of the person's interest (as
4 decided by the court) in priority to the commissioner's entitlement
5 under subsection (2) (d).
- 6 (5) On application by any other interested person, the court may order
7 payment out of court of all or part of any balance to a person other
8 than the person who was the lessee before the sale if the court
9 considers it just to do so.
- 10 (6) Any sale of the land rent lease under this section must be abandoned
11 if the lessee pays—
- 12 (a) the total land rent in arrears for the land rent lease; and
- 13 (b) if the commissioner has made a request under section 26 (3) in
14 the application in relation to any land tax or rates in arrears for
15 the land rent lease—the total amount of any land tax or rates in
16 arrears for the land rent lease at the time of the payment; and
- 17 (c) the costs and expenses incurred up to the time of payment in
18 relation to the declaration, application and sale in relation to
19 the land rent lease; and
- 20 (d) the costs and expenses reasonably incurred in relation to the
21 abandonment of the sale; and
- 22 **Example**
23 advising the public that an auction has been cancelled
- 24 *Note* An example is part of the Act, is not exhaustive and may extend,
25 but does not limit, the meaning of the provision in which it
26 appears (see Legislation Act, s 126 and s 132).
- 27 (e) if the commissioner has made a request under section 26 (3) in
28 the application in relation to 1 or more related parcels of
29 land—the total amount of any land rent, land tax or rates in
30 arrears for the related parcel or parcels at the time of the
31 payment.

- 1 **28 Sale of land rent lease—application of proceeds without**
2 **court order**
- 3 (1) This section applies to the proceeds of the sale of a land rent lease
4 under section 26.
- 5 (2) The commissioner must be paid out of court any amounts to which
6 the commissioner is entitled under section 27 (2) without a court
7 order.
- 8 (3) If a person who was the lessee or mortgagee of the land rent lease
9 before the sale hands over to the court the certificate or other title to
10 the lease, the person must be paid out of court any amount to which
11 the person is entitled under section 27 (2) without a court order.

1 **Part 6** **Miscellaneous**

2 **29** **Land rent—part of year**

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

$$12 \quad \begin{array}{l} \text{land rent otherwise} \\ \text{payable for year} \end{array} \times \frac{\text{lessee's rental days in year}}{\text{days in year}}$$

- 13 (3) In this section:

14 *land rent otherwise payable for year* means the land rent that would

15 have been payable by a lessee if the lessee were the lessee under a

16 land rent lease for the whole year.

17 *lessee's rental days in year* means the number of days in a year that

18 the lessee was liable to pay land rent under the land rent lease.

19 **30** **Land rent—discount for part of year**

- 20 (1) This section applies to a land rent lease if, in a year, the lessee—
- 21 (a) starts paying discounted land rent; or
- 22 (b) stops paying discounted land rent.

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

3
$$\left(DR \times \frac{DRD}{D} \right) + \left(SR \times \frac{SRD}{D} \right)$$

- 4 (3) In this section:

5 ***D*** means the number of days in the year.

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

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

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

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

13 **31 Certificate of land rent and other charges**

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

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

19 *Note 2* If a form is approved under the Taxation Administration Act, s 139C for
20 an application, the form must be used.

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

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

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

4 **32 Determination of fees**

- 5 (1) The Minister may, in writing, determine fees for this Act

6 *Note* The Legislation Act contains provisions about the making of
7 determinations and regulations relating to fees (see pt 6.3)

- 8 (2) A determination is a disallowable instrument.

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

11 **33 Objections**

12 The following decisions are prescribed for the Taxation
13 Administration Act, section 100 (Objection):

14 (a) a decision under section 12 (Discount—decision on
15 application);

16 (b) a decision under section 13 (Discount—hardship).

17 *Note* Objections relating to the commissioner's determination of the
18 unimproved value of a parcel of land are dealt with under the *Rates*
19 *Act 2004*, s 71.

20 **34 Review by AAT**

- 21 (1) This section applies to a determination by the commissioner of an
22 objection to a decision mentioned in section 33.

- 23 (2) The determination is prescribed by the Taxation Administration Act,
24 section 107.

25 *Note* Applications for review by the AAT may also be made in relation to
26 determination by the commissioner of a decision on an objection to an
27 assessment.

1 **35 Regulation-making power**

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

3 *Note* A regulation must be notified, and presented to the Legislative
4 Assembly, under the Legislation Act.

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

7 **Examples**

8 1 evidence that the applicant has obtained advice from a registered financial
9 adviser, or attended a course, on the effect of a land rent lease and any
10 advantages and disadvantages of leasing a land rent lease

11 2 a certificate by the commissioner about the applicant's eligibility for
12 discounted land rent

13 *Note* An example is part of the Act, is not exhaustive and may extend, but
14 does not limit, the meaning of the provision in which it appears (see
15 Legislation Act, s 126 and s 132).

16 (3) A regulation may provide that a provision of the *Planning and*
17 *Development Act 2007* does not apply, or applies with stated
18 modifications, to a land rent lease.

19 (4) Subsection (3) is a law to which the Legislation Act, section 88
20 (Repeal does not end effect of transitional laws etc) applies.

21 (5) Subsections (3) and (4) and this subsection, and any regulation in
22 force under subsection (3), expire 2 years after the day this section
23 commences.

24 **36 Legislation amended—sch 1**

25 This Act amends the legislation mentioned in schedule 1.

1 **Schedule 1** **Consequential amendments**

2 (see s 36)

3 **Part 1.1** **Land Tax Act 2004**

4 **[1.1] Section 24 (3)**

5 *omit*

6 land tax

7 *substitute*

8 land tax, land rent

9 **[1.2] Section 24 (4) (a) (iv)**

10 *omit*

11 land tax

12 *substitute*

13 land tax, land rent

14 **[1.3] Section 41 (1), note 3**

15 *substitute*

16 *Note 3* A single application form may be approved for this section and the
17 *Land Rent Act 2008*, s 31 and the *Rates Act 2004*, s 76 (see Legislation
18 Act s 255 (7)).

1 **Part 1.2 Planning and Development Act**
2 **2007**

3 **[1.4] Section 238 (2)**

4 *substitute*

5 (2) A lease granted under this section must include—

6 (a) a statement about whether the lease is a concessional lease; and

7 (b) for a land rent lease—a statement that the lease is a land rent
8 lease.

9 *Note* A grant must be lodged with the registrar-general under the *Land Titles*
10 *Act 1925* (see *Land Titles Act 1925*, s 17 (2)).

11 **[1.5] New section 246 (2) (ab)**

12 *insert*

13 (ab) a land rent lease; or

14 **[1.6] New section 266A**

15 *in part 9.5, insert*

16 **266A Application to land rent—pt 9.5**

17 This part does not apply to a variation of land rent in accordance
18 with the provisions of a land rent lease.

19 **[1.7] Section 271 (4)**

20 *substitute*

21 (4) Subsections (2) and (3) do not apply to a variation of—

22 (a) a rental lease—

23 (i) to reduce the rent payable to a nominal rent; or

24 (ii) otherwise affecting the rental provisions of the lease; or

1 (b) a land rent lease.

2 **[1.8] Section 272 (1) (b)**

3 *substitute*

4 (b) the lease is a lease (other than a land rent lease) under which
5 rent or additional rent is payable.

6 **[1.9] Section 272A (1)**

7 *substitute*

8 (1) This section applies to the following leases:

9 (a) a land rent lease;

10 (b) a lease that is included in a class of leases prescribed by
11 regulation.

12 **[1.10] New section 272B (2) (ab)**

13 *insert*

14 (ab) for a land rent lease, all rent and other amounts payable to the
15 commissioner for revenue under the *Land Rent Act 2008* up to
16 the day of variation in relation to the land comprised in the
17 lease have been paid; and

18 **[1.11] Dictionary, new definition of *land rent lease***

19 *insert*

20 *land rent lease*—see the *Land Rent Act 2008*, section 7 (4).

1 **Part 1.3 Rates Act 2004**

2 **[1.12] Section 26 (3)**

3 *omit*

4 rates

5 *substitute*

6 rates, land rent

7 **[1.13] Section 26 (4) (a) (iv)**

8 *omit*

9 rates

10 *substitute*

11 rates, land rent

12 **[1.14] Section 76 (1), note 3**

13 *substitute*

14 *Note 3* A single application form may be approved for this section and the
15 *Land Rent Act 2008*, s 31 and the *Land Tax Act 2004*, s 41 (see
16 Legislation Act s 255 (7)).

17 **Part 1.4 Taxation Administration Act 1999**

18 **[1.15] New section 4 (fa)**

19 *insert*

20 (fa) the *Land Rent Act 2008*;

1 **[1.16] New section 139 (1) (i) and (j)**

2 *insert*

3 (i) a percentage for the *Land Rent Act 2008*, section 8 (Land rent
4 payable), section 15 (Discount—loss of eligibility because of
5 income), section 16 (Discount—loss of eligibility for other
6 reasons) and section 17 (Transfer of lease—land rent);

7 (j) an income threshold amount for the *Land Rent Act 2008*,
8 section 11.

1 Dictionary

2 (see s 3)

3 *Note 1* The Legislation Act contains definitions and other provisions relevant to
4 this Act.

5 *Note 2* For example, the Legislation Act, dict, pt 1 defines the following terms:

- 6 • commissioner for revenue
- 7 • financial year
- 8 • person
- 9 • planning and land authority
- 10 • quarter
- 11 • territory authority.

12 *commissioner* means the commissioner for revenue.

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

15 *discount percentage* means the discount percentage determined
16 under the Taxation Administration Act, section 139.

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

19 *income threshold amount* means the income threshold amount
20 determined under the Taxation Administration Act, section 139.

21 *Note* Different amounts may be determined in relation to different matters or
22 classes of matters (see Legislation Act, s 48).

23 *land rent* means land rent payable under this Act for a land rent
24 lease.

25 *land rent lease*—see section 7 (4).

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

28 *relevant percentage* means the relevant percentage determined
29 under the Taxation Administration Act, section 139.

1 *standard percentage* means the standard percentage determined
2 under the Taxation Administration Act, section 139.

3 *Taxation Administration Act* means the *Taxation Administration*
4 *Act 1999*.

5 *tax law*—see the Taxation Administration Act, section 4.

6 *year* means a financial year.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2008.

2 Notification

Notified under the Legislation Act on 2008.

3 Republications of amended laws

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