

2000

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

LAND (PLANNING AND ENVIRONMENT) ACT 1991

LAND (PLANNING AND ENVIRONMENT) REGULATIONS (AMENDMENT)

Subordinate Law No. 2 of 2000

EXPLANATORY STATEMENT

Circulated by Authority of
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Minister for Urban Services

Outline

The Land (Planning and Environment) Regulations (Amendment) amends certain provisions of the *Land (Planning and Environment) Regulations*. The changes reflect many of the outcomes of several reviews of the development assessment and land administration functions carried out under the *Land (Planning and Environment) Act 1991* (the Act). In particular, they address the matters set out below.

The Commissioner for Land and Planning will, in addition to the Minister, have the power to extend the period within which a development application must be determined.

Exemptions from the requirement for development approval (Schedule 1) will now extend to any “exempt building or structure” that is behind the front building line, and to the installation or removal of most services (electricity, gas, drainage, etc.) other than ‘reticulated’ or trunk services.

The exemption in Schedule 1 to the Regulations from the requirement for development approval will no longer apply to signs. The Act may make express provision for such exemptions.

Exemptions of development applications from the requirement for notification (under Schedule 4) are extended to dwellings with a “zero setback” at one (and one only) side boundary, on small blocks (no more than 450 m²), and to certain “public works”.

Schedule 4 also exempts from notification:

- Development consistent with ‘lease and development conditions’;
- Alteration of the schedule of unit entitlements in a Units Plan; and
- Any lease variation solely to permit another activity mentioned in Schedule 4.

Only ‘neighbour’ notification (rather than full notification) will now apply (under Schedule 5) to all single residential dwellings and “Class 10” structures (carports, pergolas, etc., of limited dimensions). Any lease variation to permit another activity mentioned in Schedule 5 is also required to be notified only to neighbours.

Schedule 6 is amended so that applicants may no longer apply to the administrative appeals tribunal for the review of decisions relating to development on unleased Territory Land.

Schedule 7 is amended so that third party appeals (in the administrative appeals tribunal) will no longer apply to:

- single dwellings, where there will only be one dwelling on the land;
- “Class 10” structures;
- Certain public works; and
- Lease variations solely to permit another activity mentioned in Schedule 7.

Some prescribed periods are converted from “days” to “business days”, to bring them into line with other provisions in the Act and the Regulations.

Financial Implications

The Government, business and the general community will benefit from less resource-intensive assessment and notification processes and the efficiencies and higher quality results of an improved system. Overall, the costs of administration of development assessment functions under the Act should decrease for industry and the community.

Notes

Regulation 1 - Commencement – is a machinery provision that specifies the manner of commencement of the amending regulations.

Regulation 2 – Regulations amended – provides that the Regulations being amended are the *Land (Planning and Environment) Regulations 1992*.

Regulation 3 - Interpretation – amends regulation 2 by inserting definitions of “building code” and “lease and development condition”.

Regulation 4 – Substitution – repeals regulation 5 and substitutes a new regulation 5. The reference to “42 days” has been changed to “30 business days”.

Regulation 5 – Prescribed period – s 230(2) – amends subregulation 16(5) to allow the “relevant authority” (the Minister or the Commissioner for Land and Planning) to extend the period prescribed under the regulation for determination of development applications. The former provision allowed only the Minister to extend the period.

Regulation 6 – Prescribed period – s 237(1) – In addition to some updated wording, references to “days” in regulation 18 are amended to “business days”, to make the references consistent with other provisions in the Act and the Regulations.

Regulation 7 – Schedule 1 – Schedule 1 to the Regulations (unconditional exemptions from the requirement for development approval) is amended as set out in Schedule 1 to the amending regulations. The amendments are as follows:

- Item 14 is omitted, and a new item 14 inserted. The effect of the amendment is that, in general, an “exempt building or structure” is now exempted from approval if it is located anywhere on the relevant parcel of land behind the front building line and will not be constructed of reflective metal or bright material. If the building or structure is a “Class 10” structure, it must be the only such structure on that boundary of the land. The exemption does not apply to an external deck, landing or stairs, or a retaining wall, that is not more than 0.4 metres in height – those structures are exempted under item 25 of Schedule 1.
- Item 22 is omitted and new items 22 and 22A inserted. The amendments ensure that removal, as well as installation, of services is covered by the exemption from approval. Item 22A separately exempts drainage services, which are not “supply” services.
- Item 27 is omitted. The item related to signs in an Industrial Area. The Act may expressly provide for the exemption of certain signs from the requirement for development approval.

- Item 30 is omitted, and a new item 30 substituted. The new item exempts from the requirement for formal approval any lease variation required solely to permit a development mentioned elsewhere in Schedule 1.

Regulation 8 – Schedule 2 – Schedule 4 to the Regulations (notification exemptions) is amended as set out in Schedule 2 to the amending regulations. The amendments are as follows:

- Item 10 is amended to include an exemption from notification of the erection or alteration of dwellings, or associated buildings, on parcels of no more than 450 square metres in area where the building is permitted to be set back at zero distance from one (but only one) of the side boundaries. The existing setback provisions now apply in relation to dwellings on parcels of more than 450 square metres.
- Item 15 is omitted and several new items substituted:
 - A new item 15 exempts from notification work relating to a public road or car park within a road reserve.
 - Items 16 and 17 exempt from notification a range of ‘public works’ on unleased Territory Land where any conditions on approval of the development, recommended in relation to an environmental assessment have been complied with, or a direction given that no such environmental assessment is required.
Item 16 applies the exemption to a floodway, sewerage or drainage works, a public road, a car park, or utilities work on unleased Territory Land.
Item 17 applies the exemption to trunk supply services, a building or structure for railway use, or a distribution reservoir, major electrical substation, major pump station, power generation station, treatment plant or water storage dam;
 - Item 18 exempts reticulated services on unleased Territory Land or on land leased for subdivision and development;
 - Item 19 exempts development that is consistent with ‘lease and development conditions’. Those are defined in regulation 2;
 - Item 20 exempts the alteration of a schedule of unit entitlements in a Units Plan;
 - Item 21 replaces the omitted item 15. It exempts any lease variation solely to permit a development mentioned elsewhere in Schedule 4.

Regulation 9 – Schedule 3 – Schedule 5 to the Regulations (partial notification exemptions – notify only adjoining lessees) is amended as set out in Schedule 3 to the amending regulations. The amendments are as follows:

- Item 1 is omitted and a new item 1 inserted. The amendment clarifies the application of the exemption to single residential development within a Residential Area.
- Item 3 is omitted and new items 3 and 4 substituted:

- The new item 3 exempts the development of “Class 10” structures on residential land (generally outbuildings and ancillary structures, defined in the building code under the *Building Act 1972*).
- Item 4 replaces the omitted item 3, and exempts any lease variation solely to permit a development mentioned elsewhere in Schedule 5.

Regulation 10 – Schedule 4 – Schedule 6 to the Regulations (exclusion of appeals by applicants) is amended as set out in Schedule 4 to the amending regulations. A new item 4 is added excluding appeals in relation to development on unleased Territory Land.

Regulation 11 – Schedule 5 - Schedule 7 to the Regulations (exclusion of appeals by objectors) is amended as set out in Schedule 5 to the amending regulations. The amendments are as follows:

- Item 5 is omitted and new items 5 and 5A inserted:
 - The new item 5 clarifies the application of the exemption to single residential development;
 - Item 5A is inserted to exempt the development of “Class 10” structures on residential land (generally outbuildings and ancillary structures, define in the building code under the *Building Act 1972*).
- Item 14 is omitted and new items 14, 15 and 16 inserted:
 - The new items 14 and 15 exclude third party appeals in relation to a range of ‘public works’ and certain facilities on unleased Territory Land;
 - Item 16 replaces the omitted item 14, and excludes any lease variation solely to permit a development mentioned elsewhere in Schedule 7.