

**2014**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**PLANNING AND DEVELOPMENT (EXTENSION OF TIME) AMENDMENT BILL  
2014**

**EXPLANATORY STATEMENT**

**Presented by  
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Treasurer**



# **Planning and Development (Extension of Time) Amendment Bill 2014**

The purpose of the *Planning and Development (Extension of Time) Amendment Bill 2014* (the Bill) is to enact the changes to the Extension of Time (EOT) system announced as part of the government's stimulus package.

The Bill sets out the legislative changes to the *Planning and Development Act 2007* (the Act) and the *Planning and Development Regulation 2008* (the Regulation) required to achieve its purpose.

The changes to the EOT system outlined in this bill include:

- a new fee structure to come into effect from 1 April 2014, based on one times the general rates;
- abolition of commencement provision in new Crown Leases;
- the removal of the trigger for EOT fees to be paid on breaches of the commencement clause; and
- changes to the hardship provisions for a fee reduction.

## **Clause 1**

The name of the Act is the *Planning and Development (Extension of Time) Amendment Bill 2014*.

## **Clause 2**

The Bill commences on the day after its notification day.

## **Clause 3**

The Bill amends the *Planning and Development Act 2007* and the *Planning and Development Regulation 2008*.

## **Clause 4**

This clause inserts a new division heading: *Division 9.9.1 Building and development provisions – certificates of compliance*.

## **Clause 5**

This clause inserts a new division heading: *Division 9.9.2 Building and development provisions – transfer of land*.

## Clause 6

This clause inserts a new division in the Act to replace the existing sections 298A to 298C. It outlines the changes from the current system, where an indefinite period of extension will now be provided to lessees. This is a significant change from the current system where lessees have to nominate a future expected completion date and pay fees up until that date. This will provide flexibility for lessees who are unsure how long it will take them to complete their development to continue to pay their EOT fee on an annual basis until the development is complete.

**Section 298A** provides for transitional arrangements for the Territory to approve extensions of Crown Lease covenants for a period of two years.

**Section 298B** allows for the Territory to grant an indefinite extension to completion covenants. This will replace the current system where lessees have traditionally had to nominate a completion date. Under these changes, lessees will not be provided with a specified completion date and will continue to pay Extension of Time fees on an annual basis for every year that their Crown Lease covenants are in breach.

However, in rare circumstances, the Territory will be able to either:

- extend the completion covenants to another specified time; or
- refuse to grant an extension of the completion covenants.

This power will only be used in extreme cases under the criteria prescribed in regulation.

In certain circumstances where the Territory has previously agreed to extend a lessee's completion covenants indefinitely, the Territory is able to instate a set completion date. This will only be used in rare circumstances and will provide the Territory with flexibility to deal with certain cases where development has not occurred over a long period of time. There are strict controls around the Territory's ability to do this as outlined in the prescribed criteria.

**Section 298D** sets out the calculation of the EOT fee. Under the new system, the EOT fee will be calculated and payable on an annual basis. The general rates that will be used to calculate the debt will be the general rates for that financial year. For example, if a lessee is in breach in 2015-16, their EOT fee will be their amount of 2015-16 general rates. If they continue to be in breach in 2016-17, their EOT fee will be their amount of 2016-17 general rates.

The Territory will give the lessee written notice of the EOT fee, which must be paid within the required timeframes. Under these changes, EOT debt will no longer be allowed to accrue and will be required to be paid in set timeframes in the same manner as general rates.

**Section 298E** provides for the definition of 'required fee.'

**Section 298F** outlines the conditions under which an individual may apply for hardship. The bill proposes changes that will give greater flexibility to the hardship provisions, thereby ensuring access for those most in need of assistance.

**Section 298G** states that once an application for hardship has been received by the Territory, the Territory must either approve or refuse the application to reduce the fee.

**Section 298H** outlines the special circumstances under which the EOT fees associated with a Crown Lease can be waived.

**Section 298I** states that on application of a request for a waiver under Section 298H, the Territory must either approve or refuse the request.

**Section 298J** states that a lessee may apply to the Territory for a waiver based on external reasons, including inability to complete the works because of specified reasons.

**Section 298K** states that on application of a request for a waiver under section 298J, the Territory must either approve or refuse the request.

#### **Clause 7**

The Territory can terminate a lease if the terms of the Crown Lease are contravened. This clause allows for the Territory to terminate a Crown Lease if the lessee fails to pay their EOT fees.

#### **Clause 8**

This clause provides for transitional arrangements for the Territory to determine the EOT fee payable.

This chapter expires two years after its commencement date.

#### **Clause 9**

This clause ensures that a decision to extend time remains a reviewable decision.

#### **Clause 10**

This clause provides that a breach of the commencement provisions is no longer a Controlled Activity.

#### **Clause 11**

This clause inserts a definition for 'required fee'.

# **Planning and Development Regulation 2008**

## **Clause 12**

This clause outlines the new fee structure to come into effect 1 April 2014.

The Bill provides a new fee structure to come into effect from 1 April 2014. Lessees will have four years past the breach of their commencement clause before an EOT fee is payable. From the fifth year of breach onwards, this fee will be calculated at one times the general rates of the block.

Under this change, a standard residential block will have a period of up to six years to develop before any fees will accrue. A commercial development would typically have eight years.