

# Land Rent (Total income of lessee— post-1 October 2013 leases) Determination 2015 (No 1)

## Disallowable Instrument DI2015–223

made under the

*Land Rent Act 2008*, section 9A (Total income of lessee)

## **EXPLANATORY STATEMENT**

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1. The *Land Rent Act 2008* (the Act) allows a lessee the option of renting land through a land rent lease rather than purchasing the land to build a home.
2. As part of the Government's affordable housing measures, and as announced in the 2013–14 Budget, amendments were made to the Act, effective 1 October 2013. These amendments retargeted the Land Rent Scheme by restricting entrance to only those applicants who are eligible for the discount land rent rate of 2 per cent. The amendments applied to land rent leases entered on or after 1 October 2013.
3. For land rent leases entered into before 1 October 2013, the income threshold amount for discount rate eligibility is determined by lessee income only. This income threshold amount is determined in a separate disallowable instrument.
4. Section 9A of the Act authorises the Minister to determine, by disallowable instrument, how the total income of a lessee is worked out.
5. The income threshold amount (as determined by the separate disallowable instrument) includes the total income of a lessee and their domestic partner (a household income approach). This approach is more reflective of applicant income and ensures the Land Rent Scheme is retargeted to appropriate households. It also provides a consistent approach to income assessment for both the Land Rent Scheme and the Home Buyer Concession Scheme.
6. This instrument therefore determines what constitutes total income. It is taken to have commenced on 1 July 2015, but only applies to a land rent lease entered into on or after 1 October 2013.
7. In this instrument, total income is worked out as the income of all people named in the land rent lease. The total income of a person and the person's domestic partner must be combined.
8. Income is included from all sources, for example, benefits from a salary packaging arrangement and income classified as exempt income under the *Income Tax Assessment Act 1997* (Cth). For a self-employed person, total income includes the net trading profit or gain made in the ordinary course of carrying on business, rather than the business's turnover.

9. This instrument excludes certain employment termination payments and workers compensation payments for the purpose of working out total income.
10. Under section 169 of the *Legislation Act 2001*, a reference to a person's ***domestic partner*** in a statutory instrument is a reference to someone who lives with the person in a domestic partnership and includes a reference to a spouse, civil union partner or civil partner of the person. A ***domestic partnership*** is a relationship between 2 people, whether of a different or the same sex, living together as a couple on a genuine domestic basis. Section 169 (2) of the Legislation Act provides some examples of indicators used to decide whether or not 2 people are in a domestic partnership.
11. This instrument revokes DI2013–246.