

CONSULTATION DRAFT

(Prepared by Parliamentary Counsel's Office)

Urban Forest Regulation 2022

Subordinate Law SL2022-

The Australian Capital Territory Executive makes the following regulation under the *Urban Forest Act 2022*.

Dated 2022.

Chief Minister

Minister

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Part 1 Preliminary

1 Name of regulation

This regulation is the *Urban Forest Regulation 2022*.

2 Commencement

This regulation commences on the commencement of the *Urban Forest Act 2022*, section 3.

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

3 Dictionary

The dictionary at the end of this regulation is part of this regulation.

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

For example, the signpost definition ‘*homeowner*, for part 2 (Canopy contribution agreements)—see section 5.’ means that the term ‘homeowner’ is defined in that section for that part.

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

4 Notes

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

Part 2 Canopy contribution agreements

5 Meaning of *homeowner*—pt 2

(1) In this part:

homeowner—a person is a *homeowner* if—

- (a) the person is the lessee of land; and
- (b) the land is in a residential zone; and
- (c) the person provides written evidence that—
 - (i) the person has been living on the land for at least 2 years;
or
 - (ii) the person intends to live on the land for at least 2 years.

Note It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see Criminal Code, pt 3.4).

(2) In this section:

residential zone means an area identified in the territory plan as a residential zone (RZ).

6 Canopy contribution agreements—on-site canopy contribution—Act, s 36 (5) (a)

For an on-site canopy contribution, a person who is the lessee of land must plant the following number of trees on the land:

- (a) for a homeowner—2 trees for every protected tree on the land approved for removal;
- (b) for a person other than a homeowner—the number of trees decided by the decision-maker.

7 Canopy contribution agreements—financial settlement— Act, s 36 (5) (b)

- (1) For a financial settlement, a person who is the lessee of land must pay the following amount (the *financial settlement amount*):
 - (a) for a homeowner—\$1 200 for every protected tree on the land approved for removal;
 - (b) for a person other than a homeowner—the amount worked out as follows:

$$(AL - AG + RC) \times ZM$$

AG means the amount gained from planting a replacement tree over the period (the *canopy cover restoration period*) determined by the Minister under subsection (4).

AL means the amount lost from the tree being removed over the canopy cover restoration period.

RC means the cost of planting a replacement tree.

ZM means the modifying number (the *zone modifier*) for the zone where the lessee's land is located.

- (2) If the person agrees to make a partial on-site canopy contribution, the financial settlement amount payable may be reduced by an amount equal to the value of the number of replacement trees the person agrees to plant.

Note Under the Act, s 36 (2), a canopy contribution agreement is subject to an on-site canopy contribution, a financial settlement, or both.

- (3) The financial settlement amount payable by a homeowner who holds a Commonwealth concession card is reduced by 50%.
- (4) The Minister may determine the following:
 - (a) the amount lost from a tree being removed;
 - (b) the amount gained from planting a replacement tree;

- (c) the canopy cover restoration period;
 - (d) the cost of planting a replacement tree;
 - (e) the zone modifier for a zone.
- (5) A determination is a disallowable instrument.
- (6) In this section:

Commonwealth concession card means any of the following cards:

- (a) a current health care card issued under the *Social Security Act 1991* (Cwlth);
- (b) a current pensioner concession card issued under the *Social Security Act 1991* (Cwlth);
- (c) a current pensioner concession card issued in relation to a pension under the *Veterans' Entitlements Act 1986* (Cwlth) or the *Military Rehabilitation and Compensation Act 2004* (Cwlth);
- (d) a current gold card.

gold card means a card known as the Repatriation Health Card—For All Conditions that evidences a person's eligibility, under the *Veterans' Entitlements Act 1986* (Cwlth) or the *Military Rehabilitation and Compensation Act 2004* (Cwlth), to be provided with treatment for all injuries or diseases.

zone means an area identified as a zone in the territory plan.

Part 3 Tree bonds

8 Tree bond agreements—Act, s 92 (3)

The following documents are prescribed:

- (a) a report stating the condition of the protected tree;
- (b) a statement setting out—
 - (i) how the applicant proposes to protect the tree from damage (the *protection measures*); and

Examples—protection measures

fencing, signage

- (ii) how the protection measures are in accordance with any government policy relating to tree protection.

Example—government policy relating to tree protection

tree management plan guidelines

9 Tree bond amount—Act, s 93 (5) (a)

- (1) The amount of a tree bond is—
 - (a) for a registered tree—the greater of—
 - (i) \$3 000; and
 - (ii) 3 times the value of the tree; and
 - (b) for any other tree—the amount decided by the decision-maker.
- (2) For subsection (1) (b), the amount must be—
 - (a) at least—
 - (i) \$3 000; or
 - (ii) if the value of the tree is more than \$3 000—the value of the tree; but
 - (b) not more than 3 times the value of the tree.

- (3) The value of a tree is worked out as follows:

$$AL - AG + RC$$

AG—see section 7 (1).

AL—see section 7 (1).

RC—see section 7 (1).

10 Tree bond amount and period—matters decision-maker must and may consider—Act, s 93 (5) (b)

- (1) This section applies if a decision-maker is deciding—
- (a) the amount of a tree bond; or
 - (b) the period for which a tree bond has effect.
- (2) The decision-maker—
- (a) must take into account the following:
 - (i) for a young tree—the cost of replacing the tree;
 - (ii) whether the applicant for a tree bond agreement has a history of not complying with the Act or the repealed Act;
 - (iii) whether the decision-maker has previously refused to refund the amount of a tree bond to the applicant; and
 - (b) may take into account the following:
 - (i) the condition of the tree to which the tree bond relates;
 - (ii) the risk of damage to the tree, taking into consideration the tree's species;
 - (iii) the tree's proximity to any activity to be carried out for a plan, permit or development mentioned in the Act, section 92 (1) (a).

Examples—activities that may be carried out
demolition, excavation, construction

(3) In this section:

repealed Act means the *Tree Protection Act 2005*.

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions relevant to this regulation. For example:

- document
- in relation to
- land
- person (see s 160).

Note 2 Terms used in this regulation have the same meaning that they have in the *Urban Forest Act 2022*. For example, the following terms are defined in the *Urban Forest Act 2022*, dict:

- canopy contribution agreement (see s 35 (3))
- decision-maker
- financial settlement
- on-site canopy contribution
- protected tree (see s 9)
- registered tree (see s 10)
- tree bond (see s 92 (2) (b))
- tree bond agreement.

homeowner, for part 2 (Canopy contribution agreements)—see section 5.

Endnotes

1 Notification

Notified under the Legislation Act on 2022.

2 Republications of amended laws

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