

Rent concessions and hardship relief for Crown land tenure holders

The Department of Primary Industries (the Department) provides concessions by way of rebates and hardship relief to various Crown land tenure holders. Hardship relief is granted in recognition of circumstances such as limited income or cash flow problems where individuals or organisations experience difficulty making payments by the due date.

Under the *Crown Lands Regulation 2006* and *Western Lands Regulation 2004*, rebates/concessional rent are available to:

- eligible pensioners
- community, volunteer and emergency services groups
- single interest and sporting groups
- registered and licensed clubs
- water access only residents
- local government
- eligible western lands lessees.

Hardship relief is available to holders experiencing genuine financial hardship and is provided over varying periods of time, depending on the holder's circumstance. Concessions and hardship relief are considered on a case by case basis.

The NSW Government has adopted the Independent Pricing and Regulatory Tribunal (IPART) 2011 recommendations for changes to the calculation of rentals for domestic waterfront occupancies on Crown land.

1. Context

The Department acts within the framework of state legislation and the policies, procedures and guidelines of the NSW Government.

Relevant legislation under which the Department operates includes, but is not limited to:

- *Crown Lands Act 1989*
- *Crown Lands (Continued Tenures) Act 1989*
- *Western Lands Act 1901*
- *Privacy and Personal Information Protection Act 1998*

1.1 Protecting your personal information

The Department is committed to the principles of protecting, collecting, using and holding personal information in accordance with the *Privacy and Personal Information Protection Act 1998*.

2. Concessions

The Department offers concessions through rebated market rent and hardship relief. Rebates are granted to eligible holders described in 2.2 below. Hardship relief is available to holders experiencing financial hardship (see section 4).

2.1 Rebates/Concessional rents

Rebates apply to annual market rentals and are subject to meeting eligibility criteria. Under the *Crown Lands Act 1989*, the level of rebate granted cannot fall below the statutory minimum rent, currently \$431 + GST (as at 30/01/12) and is subject to quarterly CPI adjustments.

For western lands lessees, minimum rent varies depending on the type of holding. For more information, contact Western Region on (02) 6883 3000.

For domestic waterfront licences, the statutory minimum rent is waived and replaced by a two-part tariff which comprises of an annual administration fee and an annual rental charge. For more information on the charges for domestic waterfront licences, please refer to www.crownlands.nsw.gov.au

2.2 Eligibility for a rebate

Under the regulation the following holders who may be granted a rebate of rent are defined as:

- a) an eligible pensioner whose holding is occupied as his or her sole place of residence (or is an adjunct to that place of residence) and is not used for any commercial purpose
- b) a community service, sporting or recreational organisation:
 - (i) that is the holder of an authority under the *Charitable Fundraising Act 1991*, or
 - (ii) that is incorporated under the *Associations Incorporation Act 1984*, or

(iii) that the Minister is satisfied is a non-profit organisation, whose holding is used as a help or service facility of benefit to the general community or as an active sporting, passive recreational or youth advancement facility of general benefit to a local community

- c) an owner or occupier of residential property that is accessible only by water and whose holding contains a structure that is used for the purposes of obtaining access to the property and is not used for any commercial purpose
- d) a local council whose holding is used to provide facilities, without charge, for the benefit of the general community.

2.3 Pensioners

Eligibility for a rebate of rental is subject to the account holder producing a current Pensioner Concession Card. Cards are issued by Centrelink and the Commonwealth Department of Veterans Affairs (DVA) and recognise pension eligibility over a broad number of classes. These include a Centrelink Pensioner Concession Card and the following DVA cards.

- Repatriation health card (issued in the holder's name only).
- Gold card endorsed totally and permanently incapacitated.
- War widow or widower.
- a letter from the DVA stating the holder receives a disability pension of 70% or higher or an intermediate or extreme disablement adjustment pension.

Only holders who can produce one of the above are considered for a pensioner rebate. The relevant card must be sighted by a Departmental officer, or the holder must produce a photocopy with a statutory declaration duly certifying that it is a true copy of the original document.

2.4 Community service, sporting or recreational organisations

Rebates of market rental apply to volunteer community service organisations where:

- the holder of an authority under the *Charitable Fundraising Act 1991*, or
- is incorporated under the *Associations Incorporation Act 1984*, or
- the Minister is satisfied it is a non-profit organisation, whose holding is used as a help or service facility of benefit to the general community or as an active sporting, passive recreational or youth advancement facility of general benefit to a local community.

Such organisations must comply with the following criteria in order to be considered for a rebate of market rental. They must be:

- using the holding for the specified purpose, and
- clearly demonstrate the activities of the organisation are of benefit to the welfare of the community to justify a rebate of market rental.

2.5 Water access only residents

Water access only (WAO) licence holders are owners or occupiers of a residential property that is accessible only by water and whose holdings contain structures that are used for the purposes of obtaining access to their properties.

WAO licence holders are exempt from the rental charge for the area of occupancy that is for the sole purpose of accessing the adjoining waterfront property. There are no longer any WAO rebates.

This means that some WAO licence holders may be paying below the statutory minimum rent.

For more information on rental charges for WAO occupancies, please refer to www.crownlands.nsw.gov.au.

2.6 Western lands leases

For western lands lessees, minimum rent varies depending on the type of holding. For more information, contact Western Region on (02) 6883 3000.

2.7 Applying for a rebate

All those who meet the eligibility criteria (see section 2.2) can apply for a rebate by contacting the local office. Applicants will need to provide evidence that clearly demonstrates eligibility.

2.8 Level of rebate

Eligible pensioners whose holding is their sole place of residence are entitled to a 50% rebate of market rent provided the statutory minimum rent is met. The statutory minimum is currently \$431 + GST (as at 30/01/12) and is subject to quarterly CPI adjustments.

Community service, sporting and recreation organisations may be eligible to receive a rebate of up to 50% of market rent, depending on the nature of their operations. Rebates for these organisations are considered on a case-by-case basis.

2.9 Shared holdings

Where a holding is in two or more names and one of the holders is an eligible pensioner the rental may be reduced for that holder's share of the rent by 50% provided that the holding is his/her sole place of residence.

For example - a holding is in three names with market rental of \$900. One of the holders is eligible for a pensioner rebate so, the total rental (\$900) is divided by (3) three. One third (\$300) is then rebated by 50% (\$150). Therefore, the new rent payable would be \$750 (ie \$900 less \$150 rebate)

One of the essential criteria for an eligible pensioner rebate is 'the holding is his/her sole place of residence'.

2.10 Time limits on rebates

Rebates automatically apply until the next rent redetermination period unless the circumstances of a holder changes. Rent redeterminations are usually carried out on a three year cycle but can be made at other intervals depending on the terms and conditions of the tenure negotiated at commencement. For example, in the case of domestic waterfront tenures rent is re-determined annually.

3. Hardship relief

Hardship relief is designed to assist those experiencing short term financial difficulties which impact on their ability to pay Crown rents. Hardship relief includes payment plans or extension of time to pay, depending on each situation. Every hardship application is determined on its merits.

3.1 What hardship options are available?

If you are experiencing difficulty making your annual rental payments on time, you may contact the Debt Management Unit on 1300 052 637 (Option 4) to discuss your circumstances.

If your debt is greater than \$1,000 you will need to submit an *Application for hardship relief*, attach supporting documents clearly evidencing your financial hardship and return it to Business Finance and Administration, Crown Lands Division, PO Box 2155, Dangar NSW 2309.

If you have a western lands lease you may contact Western Region on (02) 6883 3000 or visit the office at 45 Wingewarra Street, Dubbo or write to PO Box 1840, Dubbo NSW 2830.

3.2 Supporting evidence

Any application on accounts greater than \$1,000 will need to be accompanied by supporting documents evidencing financial hardship. Supporting documentation from individuals includes any of the following.

- Centrelink – Exceptional circumstances certificate.
- Statement from bank manager.
- Rural Assistance Authority letter from rural financial councillors.
- Statement from accountant.

- Tax return/evidence of income.
- Medical certificate or letter from GP.

Organisations wishing to apply must provide audited financial statements, including income and expenditure statements, for the past two financial years.

3.3 Assessing and determining applications

Applications for hardship relief are assessed and determined by Business Finance and Administration Services. While each case is assessed on its merits the following criteria is also considered.

- The applicant's ability to meet current and future payments based on the evidence provided to the Department.
- Any outstanding debt incurred from previous year(s). In the case of holders who incurred debts from the previous year as a result of financial hardship, the Department may at its discretion recommend that debt be carried over as part of any hardship relief.
- The applicant's payment history including any concessions provided in the past.

The Department will advise the applicant of its determination and the reasons for its decision on a hardship application in writing.

3.4 Hardship appeals for domestic waterfront licence holders

Hardship relief may be applied for by domestic waterfront licence holders. In addition there is an appeals process whereby if the licence holder is not satisfied with the decision made by the Department, they can appeal the decision.

A hardship appeal will be considered by a Departmental officer not previously involved with the original hardship application. The case will be assessed on its merits and with consideration of the criteria outlined in section 3.3.

3.5 Payment plans

The Department will endeavour to negotiate a payment plan that is mutually convenient to both parties. When applying for hardship relief, you can select either an extension of time to make full payment or choose a payment plan. A payment plan includes the number of payments, the amount of each instalment and the frequency of payments you will need to make to clear the debt before your next payment falls due. Frequency of payments can be negotiated and usually range from monthly to quarterly. However, these arrangements attract interest for late payments on the reducing balance.

3.6 Quarterly payments

If you find your payment is too large to pay all at once, you can request to move to quarterly payments. You will

need to contact the Department at least eight (8) weeks prior to the due date and if approved, it can be on a permanent basis. You will be issued with a tax invoice every quarter reflecting the new arrangements.

3.7 Time limit on hardship relief

Hardship relief is granted for varying periods of time, depending when your next payment is due. Hardship relief can be in place for a maximum of 12 months. However, if financial circumstances have not changed, applicants may reapply when the next payment falls due.

4. Payments and interest

4.1 Payment options

The Department offers a range of payment options including: POSTBillpay with Australia Post, in person at any Australian Post outlet, by phone 13 18 16 or at www.postbillpay.com.au using MasterCard or Visa, BPay, by mail or in person at your local office using cash, cheque or money order.

4.2 Interest charged on outstanding amounts

Interest accrues on outstanding amounts payable to the Crown at the prescribed rate of 8% p.a. plus the 90-day Bank Accepted Bill rate.

Interest on outstanding payments for Crown land tenures is applied 28 days after the due date, and is charged from the date rent is due until the debt is cleared.

Interest on outstanding payments for Western Lands Leases is applied 90 days after the due date, and is charged from the date rent is due until the debt is cleared.

4.3 Default on payment arrangements

You will need to contact the Department to let us know if you cannot keep to the agreed payment arrangements. As long as you tell us, a re-negotiated arrangement may be put in place, depending on your situation.

However, continued non payment may lead to cancellation of the arrangement and the Department taking legal action against you to recover the debt. This will initially be in the form of a statement of claim being issued through the local court against you and you will incur costs. If legal action is instigated against you it could result in a default listing with a credit bureau. Action may also be taken to terminate or forfeit the holding for non payment of rent.

Further information

If you would like further information regarding the changes being introduced or in relation to your specific

account please contact 1300 052 637 or alternatively visit our website www.crownland.nsw.gov.au

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