



AUSTRALIAN CAPITAL TERRITORY

Rates and Land Tax (Amendment) Act (No. 2) 1990

No. 24 of 1990

An Act to amend the *Rates and Lands Tax Act 1926* and for a related purpose

[Notified in ACT Gazette S29: 22 June 1990]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Rates and Land Tax (Amendment) Act (No. 2) 1990*.

Commencement

2. (1) Sections 1, 2, 3 and 15 commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions of this Act commence on 1 July 1990.

Principal Act

3. In this Act, “Principal Act” means the *Rates and Land Tax Act 1926*.¹

Application of certain amendments

4. (1) Subsection 11 (3) of the Principal Act, as amended by this Act, applies only in relation to a redetermination under section 10 of the Principal Act where—

- (a) if paragraph 10 (1) (a) applies—the relevant clerical error occurs on or after 1 July 1990; or
- (b) if paragraph 10 (1) (b) applies—the relevant change in circumstances arises on or after 1 July 1990.

(2) Section 23 of the Principal Act, as amended by this Act, applies only in relation to a transfer of an estate or interest in land effected on or after 1 July 1990.

Application of determination or redetermination to rates

5. Section 11 of the Principal Act is amended—

- (a) by omitting from subsection (1) “year that commenced” and substituting “period commencing”;
- (b) by adding at the end of subsection (1) “and ending at the expiration of the day immediately before the day on which the next following redetermination under section 8 applies in respect of rates for that parcel of land.”; and
- (c) by omitting subsections (5), (5A) and (6) and substituting the following subsection:

“(3) A redetermination under section 10 applies in respect of rates for the period commencing—

- (a) where paragraph 10 (1) (a) applies—on the day on which the last previous determination or redetermination under section 7 or 8 applies, or applied, in respect of rates for the relevant parcel of land;

- (b) where paragraph 10 (1) (b) applies in consequence of a final order under section 11A of the *City Area Leases Act 1936*—on the date of the final order; or
- (c) where paragraph 10 (1) (b) applies in any other case—on the day of the relevant change of circumstances;

and ending at the expiration of the day immediately before the day on which the next following redetermination under section 8 applies in respect of rates for the relevant parcel of land.”.

Imposition

6. Section 13 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsections:

“(1) Rates are imposed in respect of each parcel of rateable land in the City Area, other than prescribed land, at the rate of 1.312% per annum of its unimproved value.

“(2) Rates are imposed in respect of—

- (a) each parcel of rateable land outside the City Area; and
- (b) each parcel of prescribed land;

at the rate of 0.656% per annum of its unimproved value.”.

Recovery of rates

7. Section 22 of the Principal Act is amended by inserting after subsection (4) the following subsection:

“(4A) Where a court enters judgment for the payment of an amount of rates, or of an amount that includes an amount of rates—

- (a) the amount, or the relevant amount, shall not be taken, for the purposes of subsection (3), to have ceased to be due for payment only because the judgment was entered; and
- (b) if interest is payable on the judgment debt—the amount that, but for this paragraph, would have been payable under subsection (3) shall be reduced—
 - (i) where the judgment is for an amount of rates—by the amount of interest on the judgment debt; or

- (ii) where the judgment is for an amount that includes an amount or rates—by the amount that bears the same proportion to the amount of interest on the judgment debt as the amount of rates bears to the amount of the judgment debt.”.

Insertion

8. After section 22 of the Principal Act the following section is inserted:

Payment by rate-payer’s debtor

“22AAA. (1) The Commissioner may, by notice in writing served on a debtor of a person liable to pay an amount of rates, require the debtor to pay to the Commissioner an amount equal to the debt owed by the debtor to the person, or equal to the amount payable in respect of the liability, whichever is less.

“(2) The Commissioner shall specify in the notice the time within which the amount payable by the debtor under subsection (1) is to be paid, not being a time before the debt becomes due.

“(3) If the debt is payable in instalments, the Commissioner may specify in the notice an amount to be paid by the debtor to the person out of each instalment as it becomes due until the amount of rates, or so much of it as is equal to the amount of the debt, as the case requires, has been paid.

“(4) The Commissioner shall cause a copy of the notice to be served on the person.

“(5) A payment made in accordance with the notice shall be taken to have been made with the authority of the person and of each other person served with the notice or a copy of it.

“(6) Where—

- (a) money has been paid by a person to a building society in respect of the issue of shares in the capital of the society (not being shares listed for quotation on a stock exchange); and

- (b) the money has not been repaid;

the money shall, for the purposes of this section, be taken—

- (c) if the money is repayable on demand—to be a debt due to the person; or
- (d) in any other case—to be money that will become a debt due to the person.

“(7) Where, but for this subsection, money is not due or repayable on demand to a person unless a condition is fulfilled, for the purposes of this section the money shall be taken to be respectively due or payable on demand notwithstanding that the condition has not been fulfilled.

“(8) A debtor who contravenes a requirement under subsection (1) without reasonable excuse is guilty of an offence punishable, on conviction, by a fine not exceeding \$1,000.

“(9) Where a debtor is convicted of an offence against subsection (8), the court may, in addition to imposing a penalty on the debtor, order the debtor to pay to the Commissioner an amount not exceeding the amount to which the relevant requirement under subsection (1) relates.

“(10) Where a person pays an amount to the Commissioner by virtue of a requirement under subsection (1), the Commissioner shall apply the amount against the relevant liability.

“(11) In this section, ‘rates’ includes—

- (a) interest payable under subsection 22 (3);
- (b) a judgment debt or costs in respect of rates; and
- (c) a fine or costs imposed by a court in respect of an offence against this Act.”.

Imposition

9. Section 22A of the Principal Act is amended by omitting from subsection (1) “0.75” and substituting “1.0”.

Repeal

10. Section 22FA of the Principal Act is repealed.

Remedies for non-payment of land tax

11. Section 22G of the Principal Act is amended by omitting “and 22AA” and substituting “, 22AAA and 22AA”.

Repeal

12. Section 23 of the Principal Act is repealed and the following section substituted:

Notice of transfer

“23. (1) Where the owner or lessee of rateable land transfers his or her estate or interest in the land, the transferor and transferee shall each give notice of the transfer to the Commissioner not later than 30 days after the date of transfer.

“(2) Notice given by a person under subsection (1) shall be in writing, in a form approved by the Commissioner, specifying the following particulars:

- (a) the person’s name, residential address and address for service of documents;
- (b) the distinguishing number or name given to the division, block or section by which the relevant land is described under the *Districts Act 1966*;
- (c) where the land or lease is registered under the *Real Property Act 1925*—particulars of the relevant entry in the Register Book;
- (d) the purpose for which the relevant land is used;
- (e) the value of the consideration for the transfer;
- (f) the value of any goods transferred because of the transfer;
- (g) the date of any agreement to make the transfer and the date on which the instruments to effect the transfer were executed;
- (h) such other particulars, if any, as are prescribed.

“(3) A person who contravenes subsection (1) without reasonable excuse is guilty of an offence punishable, on conviction, by a fine not exceeding \$500.”.

Unit subdivisions

13. Section 24A of the Principal Act is amended by omitting from paragraph (4) (a) “(5A)” and substituting “(3)”.

Repeal

14. The Second Schedule to the Principal Act is repealed.

Rates and Land Tax (Amendment) Act 1989—amendment

15. Section 14 of the *Rates and Land Tax (Amendment) Act 1989* is amended by omitting subsection (2).

NOTE

1. Ordinance No. 6, 1926 as amended to date. For previous amendments *see* Note 1 to Act No. 3, 1990 and *see also* Act No. 3, 1990.

[Presentation speech made in Assembly on 31 May 1990.]

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