



AUSTRALIAN CAPITAL TERRITORY

Rates and Land Rent (Relief) (Amendment) Act 1994

No. 34 of 1994

An Act to amend the *Rates and Land Rent (Relief) Act 1970*

[Notified in ACT Gazette S114: 28 June 1994]

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

Short title

1. This Act may be cited as the *Rates and Land Rent (Relief) (Amendment) Act 1994*.

Commencement

2. (1) The provisions of this Act, other than sections 5, 7 and 10, commence on the day on which this Act is notified in the *Gazette*.

(2) Sections 5, 7 and 10 commence, or shall be taken to have commenced, on 1 July 1994.

Principal Act

3. In this Act, “Principal Act” means the *Rates and Land Rent (Relief) Act 1970*.¹

Interpretation

4. Section 2 of the Principal Act is amended—

- (a) by omitting the definition of “pensioner” and substituting the following definition:

“ ‘pensioner’ means—

- (a) a person to whom, or in respect of whom, 1 of the following pensions or allowances under the *Social Security Act 1991* of the Commonwealth is being paid:
 - (i) an age pension under Part 2.2;
 - (ii) a disability support pension under Part 2.3;
 - (iii) a wife pension under Part 2.4;
 - (iv) a carer pension under Part 2.5;
 - (v) a sole parent pension under Part 2.6;
 - (vi) a widowed person allowance under Part 2.7;
 - (vii) a widow B pension under Part 2.8;
- (b) subject to subsection (2), a person who has attained the age of 60 years and to whom, or in respect of whom, 1 of the following allowances or benefits under the *Social Security Act 1991* of the Commonwealth is being paid:
 - (i) a job search allowance under Part 2.11;
 - (ii) a newstart allowance under Part 2.12;
 - (iii) a mature age allowance, or a mature age partner allowance under Part 2.12A;
 - (iv) a sickness allowance under Part 2.14;
 - (v) a special benefit under Part 2.15;
- (c) a service pensioner within the meaning of the *Veterans’ Entitlements Act 1986* of the Commonwealth;
- (d) a person to whom section 22 of the *Veterans’ Entitlements Act 1986* of the Commonwealth applies who is being paid at the maximum rate referred to in subsection 22 (3) of that Act; or
- (e) a person to whom a pension under Part II of the *Veterans’ Entitlements Act 1986* of the Commonwealth is being paid and to whom—
 - (i) subsection 22 (4), section 23 or 24 or subsection 30 (1) of that Act applies; or
 - (ii) section 27 of that Act applies by virtue of a war-caused injury or war-caused disease of

a kind specified in item 1, 2, 3, 4, 5 or 6 in the table in subsection 27 (1);” and

(b) by adding at the end the following subsection:

“(2) For the purposes of paragraph (b) of the definition of ‘pensioner’, a person shall not be taken to be a pensioner for the purposes of any application by him or her for a rebate or determination unless, for the period of 12 months immediately prior to the application—

- (a) he or she continuously received an allowance or benefit referred to in subparagraph (i), (ii), (iii) or (iv) of that paragraph (in this section called a ‘current benefit’); or
- (b) he or she received continuously but not concurrently—
 - (i) a pension or allowance referred to in paragraph (a) of the definition of ‘pensioner’; and
 - (ii) a current benefit.”.

Determinations under this Act

5. Section 3 of the Principal Act is amended by adding at the end the following subsection:

“(7) Nothing in this section prevents the owner of a parcel of land who has received a rebate under Part III in relation to the person’s liability for rates in respect of that parcel from making an application under subsection (1).”.

Effect of making a determination

6. Section 4 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “or” (last occurring);
- (b) by adding at the end of paragraph (1) (b) “or”;
- (c) by omitting from subsection (1) “or to pay all or part of the rent so due and all or part of the rates so due” and substituting the following paragraph:
 - “(c) to pay all or part of the rent so due and all or part of the rates so due;”;
- (d) by omitting from paragraph (2) (a) “or” (last occurring);
- (e) by adding at the end of paragraph (2) (b) “or”; and
- (f) by omitting from subsection (2) “or to pay all or part of each amount of rent, and all or part of each amount of rates, that is to become so due” and substituting the following paragraph:
 - “(c) to pay all or part of each amount of rent, and all or part of each amount of rates, that is to become so due;”.

Effect of rebate on determination

7. Section 8A of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “and”;
- (b) by omitting paragraph (1) (b) and substituting the following paragraphs:
 - “(b) a notice of assessment is given to that person or those persons under section 14 of the *Rates and Land Tax Act 1926*, section 19 of the *Sewerage Rates Act 1968* or section 24 of the *Water Rates Act 1959*; and
 - (c) in respect of the rates the subject of the notice, that person pays, or those persons pay, an amount in accordance with a declaration made by the Minister under section 21C;”; and
- (c) by omitting subsection (2).

Procedure to be followed before revocation of determination in cases other than under section 9

8. Section 10 of the Principal Act is amended—

- (a) by omitting subsection (3) and substituting the following subsection:

“(3) A notice under subsection (2) shall specify the prescribed ground which the Minister believes to exist for the revocation of the determination.”; and
- (b) by omitting subsection (5).

Determination may be revoked in certain cases

9. Section 11 of the Principal Act is amended by omitting from paragraph (c) “under subsection 10 (5)” and substituting “to the Tribunal under paragraph 23A (1) (e)”.

Rebate

10. Section 21B of the Principal Act is amended by omitting subsection (2) and substituting the following subsections:

“(2) The amount of the rebate in relation to land rates shall be calculated in accordance with the following formula:

$$\frac{RL}{2} \times \frac{D}{365};$$

where—

RL is the amount of the person’s liability for land rates for that year in respect of the parcel of land, including any land rates for that year deferred by determination under section 3; and

D is the number of days in the year on which, as an eligible person, the person occupied the parcel of land as the person's principal place of residence.

“(2A) The amount of the rebate in relation to sewerage rates and water rates shall be calculated in accordance with the following formula:

$$\text{RL} \times \frac{65}{100} \times \frac{\text{D}}{365};$$

where—

RL is the amount of the person's liability for sewerage rates and water rates for that year in respect of the parcel of land, including any sewerage rates and water rates for that year deferred by determination under section 3; and

D is the number of days in the year on which, as an eligible person, the person occupied the parcel of land as the person's principal place of residence.

“(2B) Where—

- (a) a person's liability for part of his or her rates for a year has been deferred by determination; and
- (b) he or she is entitled to, and has applied for, a rebate under this section in relation to the year;

the amount of the rebate shall be applied to reduce the amount of the person's liability for rates for that year, other than his or her deferred liability, and the remainder of the rebate, if any, shall be applied to reduce the deferred liability.”.

Adjustment of liability for rates

11. Section 21BAA of the Principal Act is amended by omitting subsections (2), (3) and (4).

Repeal

12. Sections 21D and 21FB of the Principal Act are repealed.

Insertion

13. After section 23 of the Principal Act the following sections are inserted:

Review of decisions

“23A. (1) Application may be made to the Tribunal for a review of a decision of the Minister—

- (a) under subsection 3 (1) refusing to make a determination;
- (b) under subsection 3 (1) determining a period of deferment other than that applied for;

- (c) under subsection 3 (1) making a determination for the deferral of an amount other than that applied for;
- (d) under section 7 varying a determination;
- (e) under subsection 10 (2) that a prescribed ground for revocation exists;
- (f) under subsection 21C (1) making a declaration;
- (g) under subsection 21C (1) refusing to make a declaration;
- (h) under subsection 21C (2) making a declaration;
- (i) under subsection 21C (2) refusing to make a declaration;
- (j) under paragraph 21FA (2) (a) varying a determination; or
- (k) under paragraph 21FA (2) (b) confirming a determination.

“(2) Application may be made to the Tribunal for a review of a decision of the Commissioner under subsection 21BAA (1) adjusting a person’s liability for rates.

Notification of decisions

“23B. (1) Where a decision of the kind referred to in subsection 23A (1) (other than paragraph (e)) is made, the Minister shall, within 28 days after the date of the decision, give notice in writing of the decision—

- (a) in the case of a decision referred to in paragraph 23A (1) (a), (b), (c), (j) or (k)—to the applicant;
- (b) in the case of a decision referred to in paragraph (d)—to the person to whom the determination relates;
- (c) in the case of a decision referred to in paragraph (f) or (h)—to the person to whom the declaration relates; or
- (d) in the case of a decision referred to in paragraph (g) or (i)—to the person who sought the declaration.

“(2) A notice under subsection (1), subsection 10 (2) or paragraph 21BAA (1) (b) shall—

- (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Administrative Appeals Tribunal for a review of the decision to which the notice relates; and
- (b) except where subsection 26 (11) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement under section 26 of that Act.

“(3) The validity of a decision referred to in subsection (1) or a decision under subsection 10 (2) or 21BAA (1) is not to be taken to be affected by a failure to comply with this section.”.

Further amendments

14. The Principal Act is further amended as set out in the Schedule.

SCHEDULE

Section 14

FURTHER AMENDMENTS

Subsection 3 (1)—

Insert “or she” after “he”.

Subsections 4 (1) and (2) and 10 (2)—

Insert “or her” after “his”.

Subsection 10 (4)—

Omit “one” (wherever occurring), substitute “1”.

Subsection 10 (7)—

Insert “or her” after “his”.

Paragraph 11 (b)—

Insert “or her” after “his”.

Subsection 15 (5)—

- (a) Insert “or her” after “his”.
- (b) Omit “he”, substitute “the person”.

Section 17—

Insert “or her” after “him”.

Section 18—

- (a) Omit “he”, substitute “the Minister”.
- (b) Insert “or her” after “him”.

Subsection 19 (2)—

Insert “or her” after “him”.

Subparagraph 21C (1) (b) (ii)—

Insert “or her” after “his”.

Subsection 21FA (1)—

Insert “or her” after “him”.

Paragraph 21FA (2) (a)—

- (a) Omit “he is”.

SCHEDULE—continued

(b) Omit “he”, substitute “the Minister”.

Paragraph 21FA (2) (b)—

Omit “he is”.

Subsection 21FA (3)—

Omit “his”, substitute “any”.

Section 21K—

(a) Insert “or her” after “him”.

(b) Insert “or she” after “he”.

Paragraph 22 (a)—

Insert “or her” after “him”.

Paragraph 22 (b)—

Insert “or her” after “his”.

Schedule 1, Forms 1 and 2—

Omit “*Land Rent and Rates (Deferment and Remission) Act 1970*”
(wherever occurring), substitute “*Rates and Land Rent (Relief) Act 1970*”.

NOTE

1. Reprinted as at 31 January 1994.

[Presentation speech made in Assembly on 14 June 1994]

© Australian Capital Territory 1994