

2003

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Treasurer)

# **Bushfire Reconstruction Levy Bill 2003**

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# **Bushfire Reconstruction Levy Bill 2003**

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## **A Bill for**

An Act to impose a levy on rateable land, and for related purposes

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Bushfire Reconstruction Levy Act 2003*.

4 **2 Commencement**

5 This Act commences on 1 July 2003.

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

8 **3 Dictionary**

9 The dictionary at the end of this Act is part of this Act.

10 *Note 1* The dictionary at the end of this Act defines certain words and  
11 expressions used in this Act, and includes references (*signpost*  
12 *definitions*) to other words and expressions defined elsewhere in this  
13 Act or in other legislation.

14 For example, the signpost definition '*owner*—see the Rates and Land  
15 Act, dictionary.' means that the word 'owner' is defined in that  
16 dictionary and the definition applies to this Act.

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

21 **4 Notes**

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

23 *Note* See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

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## Part 2                      Imposition and payment of levy

### 5            Imposition of levy

(1) A bushfire reconstruction levy (the *levy*) is imposed for a year on each parcel of rateable land.

(2) The levy imposed for a year on the parcel is:

$$\text{AUV} \times \text{determined rate.}$$

(3) This section is subject to section 10 (Unit subdivisions—levy).

(4) In this section:

*AUV* means the average unimproved value of the parcel of land.

*average unimproved value*—see Rates and Land Tax Act, dictionary.

*determined rate* means the rate determined by the Minister under the Taxation Administration Act, section 139.

### 6            When is levy imposed?

(1) The levy is imposed for a year on—

(a) 1 July in the year; or

(b) if another day is determined, in writing, by the Minister for the year—that other day.

(2) A determination is a notifiable instrument.

*Note*        A notifiable instrument must be notified under the Legislation Act.

1 **7 Notice of levy**

- 2 (1) In each year, the commissioner for revenue must give the owner of  
3 each parcel of land on which the levy is payable written notice of  
4 the amount of levy payable for the parcel for the year (a *levy*  
5 *notice*).

6 *Note* For how documents may be served, see Legislation Act, pt 19.5.

- 7 (2) The levy notice must state a date for payment (the *payment date*).  
8 (3) The payment date must not be earlier than 60 days after the day the  
9 levy notice is given to the owner.

10 **8 Payment of levy**

- 11 (1) The levy imposed on a parcel of land is payable to the Territory by  
12 the owner of the parcel of land.  
13 (2) The person who is for the time being the owner of a parcel of land is  
14 liable to pay to the Territory all or any part of the amount of the levy  
15 payable for the parcel of land that has not been paid.  
16 (3) The levy for a year imposed on a parcel of land is payable not later  
17 than the date stated as the payment date in the levy notice given to  
18 the owner of the parcel for the year.

19 **9 Unit subdivisions**

- 20 (1) For this Act, if a parcel of land is subdivided by the registration of a  
21 units plan under the *Unit Titles Act 2001*, the land making up the  
22 parcel is taken to continue to be a single parcel of land.  
23 (2) This section is subject to section 10 (Unit subdivisions—levy).

24 **10 Unit subdivisions—levy**

- 25 (1) This section applies to a parcel of land subdivided by the  
26 registration of a units plan.



- 1 (6) For the application of this Act to the parcel of land—
- 2 (a) a reference to a parcel of land is a reference to the unit; and
- 3 (b) a reference to the owner of a parcel of land is a reference to the
- 4 relevant unit owner.
- 5 (7) A term used in this section, and in the *Unit Titles Act 2001*, has the
- 6 same meaning as in that Act.
- 7 *Note* The following terms are defined in the *Unit Titles Act 2001*, dict:
- 8 • owners corporation
- 9 • unit
- 10 • unit owner
- 11 • units plan.

## 12 **11 Joint owners**

- 13 (1) Joint owners of a parcel of land are jointly and severally liable for
- 14 all or any part of an amount of the levy payable for the parcel of
- 15 land.
- 16 (2) However, as between themselves, each is liable only for the part of
- 17 the amount of the levy proportionate to the value of his or her
- 18 interest in the parcel of land.
- 19 (3) If any of them pays to the Territory more than his or her
- 20 proportionate part, he or she may recover the excess from the others.
- 21 (4) If 1 or more of them is exempt from liability for levy under this Act
- 22 because it is the Commonwealth, each of the other owners is liable
- 23 for the total of the following in relation to the parcel of land:
- 24 (a) the amount of the levy payable for the parcel that is unpaid;
- 25 and
- 26 (b) the amount of unpaid costs and expenses payable in relation to
- 27 the levy payable for the parcel; and
- 28 (c) any accumulated unpaid interest on an amount mentioned in
- 29 paragraph (a) or (b).



1       (5) For this section:

2           *Commonwealth* includes an authority established under a  
3           Commonwealth law that is exempt from payment of the levy.

## 4       **12    Objections**

5           The Taxation Administration Act, part 10 (Objections and appeals)  
6           does not apply to an assessment of an amount of the levy payable  
7           for a parcel of land.

8           *Note*       The Rates and Land Tax Act provides for review of decisions that land  
9                       is rateable and for objections about the unimproved value of parcels of  
10                      land.

- 1     **Part 3**                             **Exemptions, rebates, refunds**  
2   **and remissions**
- 3     **13     Exemption from levy—general**
- 4         (1) The Minister may, in writing, exempt an owner from payment of all  
5             or part of the amount of levy owing for a year on a stated parcel of  
6             land.
- 7         (2) An exemption under this section is a notifiable instrument.
- 8             *Note*         A notifiable instrument must be notified under the Legislation Act.
- 9     **14     Exemption from levy—foreign countries**
- 10         The levy is not payable for land owned by a foreign country.
- 11     **15     Exemption from levy—commissioner for housing**
- 12         The levy is not payable for land owned by the commissioner for  
13         housing.
- 14     **16     Rebate—pensioners**
- 15         (1) This section applies to a person in relation to a parcel of land if, on  
16             the imposition day for a year, the person is entitled to a rebate under  
17             *Rates and Land Rent (Relief) Act 1970*, part 3 (Rebate for  
18             pensioners) in relation to the parcel.
- 19         (2) The person is entitled to a rebate of the amount of the levy that  
20             would, apart from this section, be payable under this Act by the  
21             person for the parcel of land for the year.
- 22         (3) If the person is a joint owner of the land, the reference in  
23             subsection (2) to the amount of the levy that would, apart from this  
24             section, be payable under this Act by the person is taken to be a  
25             reference to the part of the amount of the levy proportionate to the  
26             value of his or her interest in the land.

1     **17     Refund or remission of levy amounts**

2             If the Minister is satisfied that it is just and equitable that all or part  
3             of the amount of the levy payable or paid for a parcel of land for a  
4             year should be remitted or refunded, the Minister may remit or  
5             refund the amount to the owner of the land.

6     **18     Interest on refunds**

7         (1) If the commissioner for revenue is satisfied that it is just and  
8             equitable that interest on an amount of the levy that is overpaid by a  
9             person liable to pay the amount of levy, the commissioner may pay  
10            interest to the person—

11           (a) at a rate determined, in writing, by the Minister; and

12           (b) worked out as from the day when the overpayment was made  
13           or a later day the commissioner considers appropriate.

14         (2) A determination is a disallowable instrument.

15           *Note*     A disallowable instrument must be notified, and presented to the  
16                       Legislative Assembly, under the Legislation Act.

17         (3) If no rate is determined for subsection (1) (a) for a day when interest  
18             is to be worked out, the interest rate applying to the day under the  
19             Taxation Administration Act, division 5.1 (Interest) applies to the  
20             day.

21           *Note*     The Taxation Administration Act, s 26 (Interest rate) sets out the  
22                       interest rate applying to any day for that Act, div 5.1.

2     **19     Charge on land for levy etc**

- 17      **20      Recovery of levy**

- 25           *Note*     The Legislation Act, s 177 (Recovery of amounts owing under laws)  
26                   provides that an amount owing by a person to another person may be  
27                   recovered as a debt in a court of competent jurisdiction.

- 1       (2) The interest payable is worked out—
- 2           (a) for each month during which, or during a part of which, an
- 3               amount mentioned in subsection (1) remains unpaid; and
- 4           (b) on the first day of that month; and
- 5           (c) at the interest rate applying to that day; and
- 6           (d) on the total of amounts mentioned in subsection (1) that are
- 7               unpaid on a day when the interest is worked out.
- 8       (3) The Minister may, in writing, determine an interest rate for this
- 9           section.
- 10       (4) A determination is a disallowable instrument.
- 11           *Note*     A disallowable instrument must be notified, and presented to the
- 12               Legislative Assembly, under the Legislation Act.
- 13       (5) For subsection (2) (c), the interest rate applying to a day is—
- 14           (a) if a determination under subsection (3) provides for an interest
- 15               rate for the day—that interest rate; or
- 16           (b) in any other case—the interest rate applying under the
- 17               Taxation Administration Act, division 5.1 (Interest) to the day.
- 18           *Note*     The Taxation Administration Act, s 26 (Interest rate) sets out the
- 19               interest rate applying to any day for that Act, div 5.1.
- 20       (6) If a court enters judgment for an amount of the levy (whether for the
- 21           amount only or for other amounts), the amount does not cease to be
- 22           unpaid only because of the entry of the judgment.
- 23       (7) If interest is payable on a judgment debt for an amount of overdue
- 24           levy, or for an amount that includes the amount of the levy, the
- 25           interest payable under subsection (1) (b) on the amount is reduced—
- 26           (a) for a judgment for the amount of the levy—by the amount of
- 27               interest payable on the judgment; or

**Part 4**                      Enforcement

Section 21

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1            (b) for a judgment for an amount that includes the amount of the  
2            levy—by an amount equal to the proportion of the judgment  
3            interest attributable to the levy.

4            (8) In this section:

5            *overdue levy*, for a parcel of land for a year, means an amount of  
6            levy that has become payable, but has not been paid, by the payment  
7            date for the year.

8            (9) This section has effect despite the Taxation Administration Act.

9            *Note*      This Act is a tax law for the Taxation Administration Act which  
10           includes general provisions in relation to the administration and  
11           enforcement.

12        **21      Remission of interest**

13           (1) The commissioner for revenue may remit all or part of an amount of  
14           interest payable by a person in relation to an amount of levy if the  
15           commissioner is satisfied that it would be fair and reasonable to do  
16           so.

17           (2) The commissioner must have regard to the circumstances that  
18           contributed to the delay in payment of the levy.

## Part 5                      Miscellaneous

### 22      Certificate of levy etc

(1) A person may apply to the commissioner for revenue for a certificate of—

(a) the amount of the levy payable under this Act for a parcel of land for the current year; and

(b) the amount of the levy and other amounts immediately payable to the Territory under this Act for the parcel.

*Note*      If a form is approved under the Taxation Administration Act, s 139C (Approved forms) for an application, the form must be used.

(2) The application may be included in an application to the commissioner under the Rates and Land Tax Act, section 34B (Certificate of rates, land tax and other charges).

(3) The commissioner must give the applicant a certificate—

(a) stating the amount of the levy payable under this Act for the land for the current year; and

(b) stating—

(i) the amount of the levy and any other amounts immediately payable to the Territory under this Act for land; or

(ii) that no amounts are immediately payable to the Territory under this Act for the land.

*Note*      The certificate may be included in a certificate for the land under the Rates and Land Tax Act, s 34B (see Legislation Act s 49).

(4) The certificate is conclusive proof for a genuine buyer for value of the matters certified.

Section 23

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- 1 (5) For this section, amounts of the levy and other amounts are taken to  
2 be payable immediately even if the period required after service of a  
3 notice has not ended.

4 **23 Statement of amounts payable and payments made**

- 5 (1) A person may apply to the commissioner for revenue for a statement  
6 of—

7 (a) the amounts that became payable to the Territory under this  
8 Act for a parcel of land in a stated year; and

9 (b) the payments received by the Territory in that year for amounts  
10 that became payable under this Act for the land.

11 *Note* If a form is approved under the Taxation Administration Act, s 139C  
12 (Approved forms) for an application, the form must be used.

- 13 (2) The application may be included in an application to the  
14 commissioner under the Rates and Land Tax Act, section 34C  
15 (Statement of amounts payable and payments made).

- 16 (3) The commissioner must give the applicant the statement requested.

17 *Note* The statement may be included in a statement for the land under the  
18 Rates and Land Tax Act, s 34C (see Legislation Act s 49).

19 **24 Adjustment of amounts**

- 20 (1) In working out an amount under this Act—

21 (a) a fraction of a cent that is not more than  $\frac{1}{2}$  a cent must be  
22 disregarded; and

23 (b) a fraction of a cent that is more than  $\frac{1}{2}$  a cent is taken to be  
24 1 cent.

- 25 (2) This section has effect despite the Taxation Administration Act.

26 *Note* This Act is a tax law for the Taxation Administration Act which  
27 includes general provisions in relation to the administration and  
28 enforcement.



1   **25   Regulation-making power**

2       The Executive may make regulations for this Act.

3       *Note*     Regulations must be notified, and presented to the Legislative  
4                Assembly, under the Legislation Act.

5   **26   Expiry of Act**

6       This Act expires—

7       (a) on 30 June 2005; or

8       (b) if, before 30 June 2005, another day is prescribed under the  
9           regulations—on the day prescribed.

10  **27   Taxation Administration Act 1999**  
11  **New section 4 (aa)**

12       *insert*

13       (aa) the *Bushfire Reconstruction Levy Act 2003*;

14  **28   Taxation Administration Act 1999**  
15  **Section 4**

16       *renumber paragraphs when Act next republished under the*  
17       *Legislation Act*

## Dictionary

(see s 3)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* In particular, the Legislation Act, dict, pt 1, defines the following terms:

- ACT
- commissioner for housing
- commissioner for revenue
- Commonwealth
- under.

***imposition day***, for a year, means the day the levy is imposed for the year under section 6.

***levy***—see section 5.

***levy notice***—see section 7.

***owner***—see Rates and Land Tax Act, dictionary.

***parcel***—see Rates and Land Tax Act, dictionary.

***payment date***—see section 7 (Notice of levy).

***rateable*** means rateable under the Rates and Land Tax Act.

***Rates and Land Tax Act*** means the *Rates and Land Tax Act 1926*.

***Taxation Administration Act*** means the *Taxation Administration Act 1999*.

***year*** means a financial year.

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## Endnote

### Republications of amended laws

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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