

1997

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

RATES AND LAND RENT (RELIEF) BILL 1997

EXPLANATORY MEMORANDUM

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Rates and Land Rent (Relief) Bill 1997

Summary

The Rates and Land Rent (Relief) Bill 1997 will cap the maximum general rates concession available to eligible pensioners who apply for the concession from 1 July 1997 at 50% of the rates charges or \$250, whichever is the lesser. At the same time the Bill will preserve the entitlements of all eligible pensioners receiving a rates rebate as at 30 June 1997 at the current levels and makes these entitlements portable should the eligible pensioner/s relocate residence to another property owned by the eligible pensioner/s in the ACT, provided such transfer of residence is completed within six months.

The Bill increases the Minister's powers of discretion to defer rates. The Bill will allow the Minister to defer rates where inequities arise as a result of the introduction of the \$250 cap and in situations where a co-owner spouse is not an eligible pensioner or a co-owner has no capacity to contribute to the payment of rates.

The Bill also provides that in situations where a property is jointly owned and one of the owners is unable to contribute to the payment of rates then the remaining owner's entitlement to a pensioner rebate will be assessed as if that owner was the sole owner.

The Bill makes a pensioner having a life or term interest in a property under the terms of a will or a court order, and who is responsible for the payment of rates, eligible to receive a rebate of rates in the same proportion as if that pensioner were the owner.

The Bill abolishes the rebate of rates on hardship grounds.

The Bill revokes the provisions prescribing that certain residential land in Griffith and Kingston is to be notionally valued, discounting redevelopment potential.

Financial Implications

Savings from the capping scheme are expected to be minimal in the short to medium term. This is due to the fact that the number of new pensioners becoming eligible annually (where savings are made) is small, compared to the total number of existing pensioners. Based on an average of 400 new pensioners per annum, savings are estimated at approximately \$40,000 per annum.

Details of the Rates and Land Rent (Relief) Bill 1997

Title

Clause 1 - provides for the short title of this Act to be the *Rates and Land Rent (Relief) (Amendment) Act 1997*

Commencement

Clause 2(1) - provides for this Act, except for section 12, to commence on the day the Act is notified in the Gazette

Clause 2(2) - provides for section 12 to commence on 1 July 1997

Principal Act

Clause 3 - states that in this Act, "Principal Act" means the *Rates and Land Rent (Relief) Act 1997*.

Interpretation

Clause 4 - provides for the following changes to definitions of terms used in the Principal Act

- Section 2(1) - omits the definition of "prescribed land", and
- Section 2(1) - includes the definition of 'domestic partner' - 'domestic partner', in relation to a pensioner, means a person who provides personal or financial commitment and support of a domestic nature for the material benefit of the pensioner, although not legally married to the pensioner, and includes a *de facto* husband or wife

Deferment of rent and rates

Clause 5 widens the circumstances under which the Minister may grant deferment of rates to include cases where a co-owner spouse of an eligible pensioner is not an eligible pensioner, where a co-owner of an eligible pensioner has no capacity to contribute to the payment of rates and to address inequities arising as a consequence of the introduction of the \$250 cap

Repeal

Clause 6 repeals sections 5 and 8A of the Principal Act This provision removes the requirement for the Minister to advise the Registrar-General of any determination of rates deferral for registration on the title The clause also deletes the provisions

dealing with the effect of a hardship rebate on a deferment as this Bill abolishes hardship rebates

Substitution. Revocation of determination on prescribed grounds

Clause 7 repeals section 11 of the Principal Act and substitutes a new section 11. The new provision sets out the conditions under which a determination may be revoked. The section also prevents revocation of a determination in cases where the period allowed for lodging an objection has not expired, where an objection has not been decided, where the period allowed for lodging an appeal has not expired and where an appeal has not been decided.

Substitution. Memorandum in relation to registered notice of determination

Clause 8 repeals section 18 of the Principal Act and substitutes a new section 18. The effect of this substitution is to require the Minister to present a Memorandum of Discharge, where appropriate, to the Registrar-General only in cases where determinations of deferment of rates are registered by the Registrar-General on the title.

Repeal

Clause 9 repeals section 21 of the Principal Act. Determinations of deferral of rates will no longer be advised to the Registrar-General for registration on the title so the provision requiring notification of the registration to be given to proprietors of mortgages or encumbrances registered is no longer required.

Interpretation. Rebate for pensioners

Clause 10(a) inserts 'domestic partner' into the definition of 'eligible person' in Section 21A(1)(b) of the Principal Act in relation to special rate pensioners.

Clause 10(b) inserts 'domestic partner' into the definition of 'eligible person' in Section 21A(1)(c) of the Principal Act in relation to deceased special rate pensioners.

Clause 10(c) omits the definition of 'spouse' from section 21A(1) of the Principal Act. This definition has been replaced by the definition of 'domestic partner' in section 2(1) of the Principal Act.

Clause 10(d) makes a person having a life or term interest in a property under the terms of a will or court order, and who is required to pay the rates by that will or court order, eligible for a pensioner rebate in respect of that property (subject to satisfying other eligibility criteria imposed by the Act).

Clause 10(e) refers to the non-contributing co-owner provision set out in clause (f) and its application in assessing an eligible pensioner's liability for payment of rates.

Clause 10(f) states that where a co-owner of a property cannot contribute to the payment of rates then that co-owner's interest in the property will be ignored in assessing the pensioner rebate entitlement/s of the remaining co-owner/s

Clause 10(g) deletes section 21A(4) of the principal Act. This section deals with rates deferred under provisions relating to properties with notional values in Kingston/Griffith. The provisions dealing with notional values are abolished by this Bill and this section of the Principal Act is no longer required.

Rebates of water and sewerage rates.

Clause 11(a) restricts the entitlement to a rebate under section 21B(1) of the Principal Act to sewerage rates and water rates. Clause 12 of this Bill inserts new rebate provisions in respect of land rates into the Principal Act.

Clause 11(b) repeals section 21B(2), (2B), (3), (4), (5) and (6) of the Principal Act. This Bill reinserts these provisions in the Act as sections 21BAAA(3) and 21BAAB(4), 21BAAC, 21BAAD(1) and (2), 21BAAE and 21BAAF.

Insertion

Clause 12 inserts new provisions into the Principal Act dealing with pensioner rebate eligibility. Summarised briefly these provisions are:

Rebates of land rates - uncapped:

section 21BAAA of the Principal Act provides for an owner who is in receipt of a pensioner rates rebate as at 30 June 1997 to retain that level of concession (fifty percent of their proportion of the rates) while their eligibility for the concession remains current. This concession is portable should the eligible pensioner relocate to a new residence, provided the transfer takes place within six months. The Minister may extend the six months transfer period if the circumstances justify such extension.

Rebates of land rates - capped:

section 21BAAB of the Principal Act provides for an owner who becomes eligible for a pensioner rebate on or after 1 July 1997 to be eligible for a rebate of fifty percent of the rates charges or \$250, whichever is the lesser. The maximum rebate that can be granted in such a case is \$250 and in the case of multiple owners each owners' entitlement would be so much of \$250 as is proportional to the value of the owner's interest in the land.

Rebates and deferred liability:

section 21BAAC of the Principal Act replaces section 21(2B) repealed by clause 11(b) above. This provision stipulates the way in which rebate will be applied in a case where a deferment is also in place.

Application for rebates:

section 21BAAD of the principal Act replaces section 21(3) and (4) repealed by clause 11(b) above. These provisions set out the requirements for an application for a rebate.

Non-eligibility for past years:

section 21BAAE of the Principal Act replaces section 21(5) repealed by clause 11(b) above. This provision prevents retrospective application of a pensioner rates rebate.

Joint and several liability for rates:

section 21BAAF of the Principal Act replaces section 21(6) repealed by clause 11(b) above. This provision re-affirms that nothing in Part III of the Principal Act shall affect the joint and several liability of joint owners for the payment of rates.

Notice of change of circumstances

Clause 13 updates the reference to an application for a rebate to reflect the changes in eligibility introduced by other provisions of this Bill.

Adjustment of liability for rates

Clause 14 again updates the reference to entitlement to a rebate to reflect the changes in eligibility introduced by other provisions of this Bill. The Bill also provides that where the Commissioner alters or ceases an owner's rates rebate the Commissioner will give the owner written notice of that decision.

Cessation and resumption of entitlement

Clause 15 updates the reference to the section of the Act dealing with applications for a rebate.

Repeal

Clause 16 repeals Part IV of the principal Act which provided for rates rebates on the grounds of 'undue' hardship and Part V of the Principal Act which provided for notional valuations (values discounted to eliminate redevelopment potential) for residential properties in prescribed areas of Griffith and Kingston.

Substitution. Review of decisions and notification of decisions.**Objections**

Clause 17 repeals sections 23A and 23B of the principal Act and substitutes new sections 23A and 23B. The effect of this substitution is to give owners who have applied for a deferment of rates the right to object to the 'original decision maker' against decisions relating to rates deferments. The 'original decision maker' is required to give the applicant written notification of the result of the review resulting from the objection.

Clause 17 also gives an owner whose rates rebate has been adjusted the right to object against that decision.

Clause 17 also specifies that objections shall be made to the 'original decision maker' within 60 days after notification of the original decision and shall be in writing and set out the grounds of objection

Review of decisions

Clause 17 also makes provision for an owner who is dissatisfied with the outcome of the objection process to appeal that decision to the Administrative Appeals Tribunal

Effect of pending objection or review

Clause 17 also contains a provision which states that in cases where an objection has been lodged rates may be assessed and recovered 'as if no objection had been made '

Repeal

Clause 18 repeals Schedule 1 to the Principal Act which sets out the form of advice of determination of a deferment of rates or a discharge of a deferment of rates to the Registrar-General. These forms of advice to the Registrar-General will no longer be used

Clause 18 also revokes Schedule 2 to the Principal Act. This Schedule identifies "prescribed land" in the redevelopment areas of Griffith and Kingston. The relevant sections of the Principal Act are abolished by this Bill. This Schedule is no longer required

Renumbering of provisions

Clause 19 simplifies the numbering of sections of the amended Principal Act