

2003

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

BUSHFIRE RECONSTRUCTION LEVY BILL 2003

EXPLANATORY STATEMENT

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Bushfire Reconstruction Levy Bill 2003

Summary

The *Bushfire Reconstruction Levy Bill 2003* (the Bill) provides the legislative basis to impose a levy announced in Budget 2003-04 to help finance the recovery activities after the January 18 bushfire disaster in the ACT.

The Bill is designed to raise revenue by way of a levy to partially meet the net cost of the bushfires.

In brief:

- ◆ the levy will be charged annually for a 2 year period from 2003-04;
- ◆ the levy will apply to all rateable property in the ACT except those owned by ACT Housing and foreign countries;
- ◆ eligible pensioners will receive a 100% rebate on their portion of the property ownership;
- ◆ the Minister will determine a rate each year to raise approximately \$5m net revenue; and
- ◆ the levy will be calculated by applying the determined rate to the Average Unimproved Value (AUV) of each liable property.

The resulting *Bushfire Reconstruction Levy Act 2003* will be administered under the *Taxation Administration Act 1999* and the Bill provides for an amendment to this Act to include the new Act as a tax law.

The levy will be raised and collected by the ACT Revenue Office using the Rates and Land Tax database and computer system, but the revenue collected will be identified separately from other land-based charges.

Revenue/Cost Implications

This levy will raise approximately \$5m net in both 2003-04 and 2004-05. The cost of implementation and administration in 2003-04 is estimated to be \$390,000.

Details of the Bill are attached.



Details of the Bushfire Reconstruction Levy Bill 2003

Part 1 Preliminary

Clause 1 Name of Act

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

Clause 2 Commencement

This Act commences on 1 July 2003.

Clause 3 Dictionary

This specifies that the legislation contains a dictionary found at the end of the Act.

Clause 4 Notes

This deals with notes found in the legislation and provides that a note in the legislation is for explanatory purposes and is not part of the Act.

Part 2 Imposition and payment of levy

Clause 5 Imposition of levy

The levy is a charge imposed for a year on each parcel of rateable land. Rateable land means rateable under the Rates and Land Tax Act and, because the levy is charged for a whole year, there is no provision for pro rata adjustments.

There is a formula to calculate the levy, which also applies to units. The Average Unimproved Value (AUV) of the land used in the formula is the same as that in the Rates and Land Tax Act dictionary, and the determined rate is that determined by the Minister under the Taxation Administration Act section 139.

Clause 6 When is levy imposed?

The levy is imposed for a year on 1 July, or on any other day determined by the Minister. If the Minister determines a different day, that determination is a notifiable instrument. This allows for a flexible implementation date to ensure that all software and administrative processes are in place when the levy commences.

Clause 7 Notice of levy

The levy notice requires the commissioner for revenue to give the owner of each parcel of land on which the levy is payable, written notice of the levy payable for the year. The payment date is the date on the levy notice and it must be at least 60 days after the levy notice is given to the owner.

Clause 8 Payment of levy

The levy is payable to the Territory by the owner (as defined in the Rates and Land Tax Act) of the parcel of land, and the owner at any particular time is liable to pay all or any part of the levy that has not been paid. The date for payment is that stated in the levy notice.

Clause 9 Unit subdivisions

This clause ensures a parcel of land that is subdivided by the registration of a units plan continues to be a single parcel of land, but that unit subdivisions are subject to the levy.

Clause 10 Unit subdivisions - levy

Except for the first year in which a units plan is registered, the levy imposed for the parcel is payable by the unit owners and not by the owners corporation. In the first year of registration, if the levy is imposed on a day before the units plan is registered and it is not paid before the registration day, the levy is payable by the person who was the owner on the day before registration of the units plan.

The levy is imposed on a unit as if it was the parcel of land in section 5 of the Act, and as if the AUV of the unit was the AUV of the parcel apportioned according to the unit fraction.

Clause 11 Joint owners

Joint owners are jointly and severally liable for all of the amount of levy payable on the land. Where joint ownership is with the Commonwealth (who is exempt from the levy), each of the other joint owners is liable for the total of the unpaid levy and other related costs and accumulated unpaid interest. Any distribution of payment according to their proportionate interest in the land is between the joint owners.

Clause 12 Objections

The Objections and appeals part of the Taxation Administration Act does not apply to the assessment of the levy under this Act. Objection and appeal rights already exist under the Rates and Land Tax Act in relation to the decision that the land is rateable, and to the determination of the unimproved value of the land.

Part 3 Exemptions, rebates, refunds and remissions**Clause 13 Exemption from levy - general**

The Minister may exempt an owner from payment of the levy, or part of the levy, by notifiable instrument. This power is normally only used in exceptional circumstances.

Clause 14 Exemption from levy – foreign countries

As foreign countries are exempt from the payment of taxes, land owned by a foreign country is exempt from the payment of the levy.

Clause 15 Exemption from levy - commissioner for housing

Land owned by the commissioner for housing is exempt from payment of the levy.

Clause 16 Rebate - pensioners

This clause allows for a rebate of the levy to a person who is an eligible pensioner and entitled, on the imposition day, to a rebate of rates under the Rates and Land Rent (Relief) Act. If the person is a joint owner, the amount of levy rebated is proportionate to the value of their interest in the land. Any other joint owner who is not an eligible pensioner remains liable to pay the levy in proportion to the value of their interest in the land.

Clause 17 Refund or remission of levy amounts

The Minister may remit or refund the levy, or any part of the levy, to the owner if satisfied it is just and equitable to do so.

Clause 18 Interest on refunds

The commissioner for revenue will pay interest on an amount of overpaid levy to an owner where satisfied it is just and equitable to do so. The rate of interest is determined by the Minister, or is the rate applying under the Taxation Administration Act.

For example, if a successful valuation objection under the Rates and Land Tax Act reduces the unimproved value of the parcel of land, thus reducing the AUV on which the levy is calculated, the levy will be recalculated on the amended AUV and any overpaid levy will be refunded with interest calculated under this section.

Part 4 Enforcement

Clause 19 Charge on land for levy etc

The levy and the total of any costs and expenses, and interest payable on these amounts is a charge on the estate or interest held by the owner of the land, taking priority over other charges on the land. Any charge on the land attaches to the land when it is transferred.

This charge on the land, however, does not apply where a genuine purchaser was not notified of the amounts owing after obtaining a certificate of levy under section 22 of this Act.

Clause 20 Recovery of levy

This clause allows for the recovery of amounts owing to the Territory by the owner, including the amount of unpaid overdue levy, interest, and costs and expenses reasonably incurred by the Territory in attempting to recover the amounts unpaid.

Interest is calculated for a month on the total of the abovementioned amounts if they remain unpaid for a month, or part of a month, on the day interest is calculated. The interest rate is determined by the Minister, or is the rate applying under the Taxation Administration Act.

This method of interest calculation is compatible with the Rates and Land Tax computer system and is effective despite the Taxation Administration Act.

Clause 21 Remission of interest

The commissioner for revenue may remit all or part of the interest payable if satisfied that it is fair and reasonable to do so, having regard to the circumstances which delay payment of the levy.

Part 5 Miscellaneous

Clause 22 Certificate of levy etc

A person may apply to the commissioner for revenue for a certificate of the levy payable for the current financial year, and the levy and other amounts immediately payable (or that no amounts are immediately payable). The commissioner must give the applicant the certificate requested.

This application may be included in an application to the commissioner under the Rates and Land Tax Act section 34B, and there is no further charge for the provision of a certificate of levy. The certificate provided by the commissioner may contain all amounts charged against the land, including rates, land tax and the levy, interest and penalties, costs and expenses.

Clause 23 Statement of amounts payable and payments made

A person may apply to the commissioner for revenue for a statement of amounts payable under this Act and payments made for a stated financial year. The commissioner must give the applicant the statement requested.

This application may be included in an application to the commissioner under the Rates and Land Tax Act section 34C, and there is no further charge for the provision of a statement of the levy amounts and payments. The statement provided by the commissioner may contain all amounts payable and payments made for the stated year, including rates, land tax and the levy, interest and penalties, costs and expenses.

Clause 24 Adjustment of amounts

All amounts calculated under this Act will disregard a fraction of a cent that is ½ a cent or less, and a fraction of a cent that is greater than ½ a cent will be taken to be 1 cent. This method of adjustment is compatible with the Rates and Land Tax computer system and has effect despite the Taxation Administration Act.

Clause 25 Regulation - making power

This section allows the Executive to make regulations for this Act.

Clause 26 Expiry of Act

This is a sunset clause stating that the Act expires on 30 June 2005 or on another day prescribed under the regulations.

Clause 27 Taxation Administration Act 1999 - New section 4(aa)

This clause inserts a new section 4 (aa) so that the *Bushfire Reconstruction Levy Act 2003* is a tax law under the Taxation Administration Act.

Clause 28 Taxation Administration Act 1999 - Section 4

This section renumbers paragraphs when the Act is next republished under the *Legislation Act 2001*.

Dictionary

The dictionary is inserted at the end of this Act to provide definitions used throughout the Act.