

**2015**

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

**REVENUE LEGISLATION AMENDMENT BILL 2015**

**EXPLANATORY STATEMENT**

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# REVENUE LEGISLATION AMENDMENT BILL 2015

## Summary

The Revenue Legislation Amendment Bill 2015 amends the following taxation legislation:

- 1) the *Duties Act 1999* (Duties Act);
- 2) the *First Home Owner Grant Act 2000* (FHOG Act);
- 3) the *Land Rent Act 2008* (Land Rent Act);
- 4) the *Land Tax Act 2004* (Land Tax Act);
- 5) the *Payroll Tax Act 2011* (Payroll Tax Act);
- 6) the *Rates Act 2004* (Rates Act); and
- 7) the *Taxation Administration Act 1999* (TAA).

## Overview

The Revenue Legislation Amendment Bill 2015 amends various taxation Acts to improve how the ACT tax system runs for taxpayers and administrators. The amendments in the Bill:

- simplify processes and reduce red tape;
- clarify processes and correct errors;
- harmonise legislation with other jurisdictions; and
- align legislation with the original policy intent.

## Duties Act

### *Concession for deceased estates*

This Bill amends the Duties Act to allow a pro-rata concession for the transfer of deceased estates where the dutiable transaction is not in complete conformity with a will and is made for valuable consideration. The amendment does not affect the amount of duty collected, but would reduce red tape and increase equity for parties lodging documents (for example, by removing the need to lodge multiple transfer documents in some cases).

As is currently the case, beneficiaries will not be charged duty on any portion of dutiable property that is transferred to them in accordance with the trusts contained in a will; duty is only levied where a transfer of dutiable property is made but is *not* in accordance with a will. The amendment simplifies the administration of wills in this area and clarifies the taxation implications for deceased estates.

### *Corporate reconstruction duty*

This Bill provides full (100 per cent) duty relief on a corporate reconstruction transaction in relation to dutiable property transactions, landholder duty and motor vehicle registration duty.

Corporations are currently liable to pay 5 per cent of the normal duty in the case of eligible and approved corporate reconstructions. However, the revenue collected in the ACT from corporate reconstruction duty has declined due to the abolition of many tax lines over recent years, such as duty on commercial subleases, marketable securities and non-land business assets.

The removal of the remaining 5 per cent duty liability will harmonise the ACT with other jurisdictions, while full duty relief will reduce the costs and red tape for eligible corporations carrying out reconstructions in the ACT by allowing the transfer of assets without the impediment of tax implications.

### *Status of Forces Agreements*

Amendments to the Duties Act will provide an express exemption from motor vehicle registration duty for foreign military personnel who are eligible to import their vehicles duty-free under a Status of Forces Agreement (SOFA) between Australia and their home country.

Current administrative practice requires military personnel to request a waiver of duty from the ACT Revenue Office on each individual vehicle import. The proposed amendment will remove the need for the Commissioner for ACT Revenue to waive motor vehicle registration duty for affected personnel on a case-by-case basis and will provide a blanket duty exemption under a SOFA.

This amendment has the added benefit of removing the need for military personnel to contact both the ACT Revenue Office and then the motor registry. Under these new provisions, personnel can receive the SOFA exemption when registering the vehicle without prior approval of a waiver. This presents an administrative efficiency and reduction of red tape for both taxpayers and the ACT Revenue Office.

### *Other amendments*

The Bill makes minor and technical amendments to the Duties Act. A minor amendment is made to section 16A of the Duties Act to clarify when duty liability arises for ‘off the plan’ purchases. The substantive effect of the provision is not changed, but the amendment seeks to clarify the provision for taxpayers, clients and administrators through clearer language.

The definition of *tax avoidance scheme* under the Duties Act has been amended to align with the definition found in the TAA, as previously these two Acts contained differing definitions.

While the Duties Act definition focused only on avoidance schemes that reduce, refund or exempt a duty liability, the definition in the TAA provides for tax avoidance schemes across all tax lines. The TAA definition also provides clarification on what will be considered when establishing the existence of a tax avoidance scheme, such as the form and substance of the scheme, the extent to which the scheme reduces tax, and the length of time during which the scheme was carried out. For these reasons, the TAA definition is considered preferable to the current Duties Act definition.

### FHOG Act

#### *‘New home’ definition*

This Bill amends the FHOG Act to clarify that a ‘new home’ for the purposes of the First Home Owner Grant means a home that has not been previously occupied or sold as a place of residence, regardless of the term of occupation or intended occupation.

This amendment will clarify that any property that has previously been occupied, even on a short-term or intermittent basis, is not intended to be an eligible property for the purposes of the First Home Owner Grant scheme. The applicant for the grant must be the first individual to occupy the home.

This amendment will ensure that the policy intent is maintained of targeting the First Home Owner Grant scheme to first home owners, and to newly built homes that have never been occupied. For example, a ‘new home’ will not include properties such as serviced apartments that may have later been repurposed as places of residence for individual buyers.

#### *Other amendments*

This Bill makes minor technical amendments to section 13 (7) of the FHOG Act to correct a missing reference that a ‘contract for the purchase of a home’ only relates to a new home. The Bill also amends section 24 (2) to remove the words ‘without conditions’ in relation to the grant payment. The payment of the First Home Owner Grant is always subject to conditions and there are no circumstances under which the Grant is given without stated requirements being met.

#### Land Rent Act

##### *Relevant years of income*

This Bill amends the Land Rent Act to clarify that applications for discounted land rent are not always required to include evidence of a lessee’s income for two financial years (the previous year and the current year to date).

As lessees do not become ineligible for discounted land rent until they exceed the income threshold in *two* consecutive years, the Commissioner for ACT Revenue does not always require evidence of the current year’s income of the lessees. Only if the previous year’s income exceeded the threshold will the Commissioner require the current year’s income.

This amendment will reduce the documentary requirements for land rent lessees, create administrative efficiencies for the ACT Revenue Office, and reduce red tape for both lessees and the Revenue Office.

##### *Backdating applications for discount land rent*

This Bill amends the Land Rent Act to give the Commissioner for ACT Revenue the discretion to approve an application for discounted land rent, and apply an approval retrospectively in appropriate cases.

For example, if a discounted land rent application was made after the land rent lease was granted and during the term of the lease, the Commissioner will be able to grant the discount beginning from the date of the initial grant of the lease.

The retrospective application of discounted land rent is of benefit to land rent lessees, allowing successful applicants access to a lower rate and reduced land rent payments. Any

retrospective application of discount land rent eligibility is therefore not prejudicial to any party and is a benefit to clients of the ACT Revenue Office.

The Bill also amends the Land Rent Act to allow the Minister to remit land rent payable on a 'fair and reasonable' basis. This amendment harmonises the approach to land rent remission with other taxes administered by the ACT Revenue Office, such as the existing Ministerial discretion to remit land tax or rates payable for a property.

## Land Tax Act

### *Application for corporate builder's exemption*

Amendments to the Land Tax Act introduce a new application process for an existing land tax exemption under section 11 (2).

The Land Tax Act imposes land tax on residential land owned by a corporation. However, corporations carrying on business as a builder or developer are exempt from land tax for a period of two years. The exemption is applied on the condition that the relevant parcel of land is used only to construct new residential premises, to be sold when finished.

The provision is currently expressed as an exemption, and it automatically applies once the ACT Revenue Office determines that a corporation meets (or will meet) the criteria. Therefore, some corporations are unaware that they are eligible for and receiving the exemption. They may also be unaware that conditions apply. After the 2-year period lapses, land tax is raised on the parcel and an assessment issued, which may be the first time builders and developers are made aware that an exemption was in place.

The Bill amends section 11 (2) to require a builder or developer to apply to the ACT Revenue Office for the exemption, rather than have the exemption automatically apply without application. This arrangement allows the ACT Revenue Office to inform corporate builders and developers about the requirements of the exemption, decreasing the chance of tax defaults and penalties when the exemption ceases after the two-year period.

Corporate builders and developers will be required to apply in writing to the Commissioner for ACT Revenue in order to receive the exemption, via an application form made available by the ACT Revenue Office. This form will clearly state the conditions imposed on the exemption as per the legislation.

### *Objections to land tax interest*

This Bill amends the TAA to give taxpayers the right to object to interest imposed on land tax. Taxpayers currently cannot object to interest-related decisions under the Land Tax Act because they are not prescribed for the purposes of objections under the TAA. However, interest imposed under the TAA or the FHOG Act is reviewable.

Allowing taxpayers the right to object to interest imposed on land tax harmonises land tax with the approach taken on other tax lines, and thus improves equity and access to objection rights.

The amendment allows taxpayers to object to the refusal to remit interest, but this is classified as a ‘commissioner-reviewable decision’ only. Accordingly, the application of interest cannot be judged by the tribunals or courts, which aligns with the current practice in other tax lines.

#### *Other amendments*

Minor and technical amendments are made to section 18 (2) of the Land Tax Act, to correct grammar, and to section 19A (1) and (5), which reference incorrect provisions.

#### Payroll Tax Act

The Payroll Tax Act is amended to make clarifying amendments to the owner-driver exemption under section 32 (2) (c). The New South Wales Court of Appeal considered the owner-driver exemption in *Smith’s Snackfood Company Ltd v Chief Commissioner of State Revenue (NSW)* [2013] NSWCA 470, where independent contractors had been engaged to refill Smith’s vending machines using their own vehicles.

The Court held that the contracts were not subject to payroll tax despite the inclusion of several additional services in the contracts, which may or may not have been ancillary to the conveyance of goods.

In response to that decision, this Bill amends the Act to clarify that contracts are not subject to payroll tax if they are solely or purely for the conveyance of goods by an owner-provided vehicle, but they are subject to payroll tax if the contract includes the performance of any additional services or work which are not covered by another exemption under section 32.

This harmonises ACT payroll tax legislation with similar amendments made in other jurisdictions regarding this provision.

#### Rates Act

##### *Objections to rates interest*

As with the Land Tax Act, the Rates Act will be amended to allow taxpayers to object to the interest payable on overdue rates, through an objection to a decision of the Commissioner for ACT Revenue refusing to remit rates interest.

Notes in the Rates Act are amended to reflect the new right to object.

#### TAA

This Bill makes a number of minor technical amendments to the TAA:

- 1) A note to section 14 is amended to correct an inaccurate statement.
- 2) The summary table of penalty tax at section 34 has been updated to correct terminology and include additional detail about circumstances when no penalty tax is imposed.

- 3) The Act is amended to allow the Under Treasurer to make acting arrangements for the Commissioner for ACT Revenue in the Commissioner's absence (currently determined by the Minister).
- 4) The Bill removes references to remitting interest on 'application' by a taxpayer from various notes in the TAA, as there is generally no formal application process for requesting a remission of interest.

### *Sale of land provisions*

The Rates Act and Land Tax Act both contain provisions that allow the Commissioner to sell property through an application to a court where general rates or land tax are in arrears and have been for a number of years. This Bill consolidates this sale of land system into one section within the TAA and makes a number of changes to the provisions.

The Commissioner will now be required to give public notice that a parcel is in arrears once the owner has been notified. This public notice will provide details on the parcel of land, such as block and section. This provision reflects and verifies the current administrative practice of the Commissioner issuing a notice in the local ACT newspaper.

Previously, once giving this notice, the Commissioner can only apply to a court to commence sale proceedings after waiting another year from the date of the initial notice. Under this Bill, the waiting period for court applications to sell a parcel of land has been reduced from 1 year to 90 days.

The Commissioner will be able to recover the costs and expenses incurred in relation to the declaration that the land is arrears, and in relation to the application process in the application to a court of competent jurisdiction to sell the parcel that is in arrears.

Finally, obsolete and unused provisions will be removed in relation to taking possession of land and renting it out to recover land tax debt.

### **Human rights**

This Bill does not any have human rights implications.

### **Commencement**

The amendments will commence on the day after notification.

## Details of the Revenue Legislation Amendment Bill 2015

### **Part 1 Preliminary**

#### **Clause 1 Name of Act**

This clause provides that the name of the Act is the *Revenue Legislation Amendment Act 2015*.

#### **Clause 2 Commencement**

This clause provides that the Act commences on the day after its notification day.

#### **Clause 3 Legislation amended**

This clause provides that the Act amends the legislation mentioned in Schedule 1, being:

- the *Duties Act 1999* (Duties Act);
- *First Home Owner Grant Act 2000* (FHOG Act);
- *Land Rent Act 2008* (Land Rent Act);
- *Land Tax Act 2004* (Land Tax Act);
- *Payroll Tax Act 2011* (Payroll Tax Act);
- *Rates Act 2004* (Rates Act); and
- *Taxation Administration Act 1999* (TAA).

### **Part 2 Duties Act 1999**

#### **Clause 4 Section 16A (1)**

#### **Clause 5 Section 16A (2) (a)**

These amendments clarify that liability for duty on an ‘off the plan’ purchase agreement arises on the first (i.e. earliest) of the events listed in section 16A (1), and that duty is payable within 14 days of that event. This amendment does not change the operation of the existing provision, but refines the language used.

#### **Clause 6 Deceased Estates, New section 69 (2) to (4)**

This clause makes provision for a reduction in the dutiable value of property by the amount of the transfer made in conformity with a trust contained in a will. If the transfer of dutiable property under an estate is made for valuable consideration, the dutiable value will be determined via application of the new formula inserted into section 69.

To determine the dutiable value of a conveyance, the unencumbered value of all dutiable property the subject of the transfer will be reduced by the unencumbered value of the dutiable property that the transferee holds as an express beneficial interest in accordance with the trusts contained in the will of the deceased person or arising on intestacy.

That is, the transferee will not pay duty on the portion of dutiable property to which they are already entitled to under a will.

**Clause 7      Sections 70A and 91A**

This clause omits a provision that imposes duty on dutiable transactions at 5 per cent of the usual amount (that is, 95 per cent relief), where the transaction is part of an eligible corporate reconstruction. Omitting this section and including new provisions at section 232A will provide eligible corporate reconstructions with full (100 per cent) duty relief.

This clause likewise omits a provision that imposes landholder duty on relevant acquisitions at 5 per cent of the usual amount (that is, 95 per cent relief), where the transaction is part of an eligible corporate reconstruction. Omitting this section and including new provisions at section 232A will provide eligible corporate reconstructions with full (100 per cent) duty relief.

**Clause 8      Rate of duty, Section 208 (1)**

This clause omits a reference to section 208AA as a result of another amendment.

**Clause 9      Section 208AA**

This clause omits a provision that imposes duty on motor vehicle registrations at 5 per cent of the usual amount (that is, 95 per cent relief), where the transaction is part of an eligible corporate reconstruction. Omitting this section and including new provisions at section 232A will provide eligible corporate reconstructions with full (100 per cent) duty relief.

**Clause 10     New Section 209C**

This clause provides an exemption from motor vehicle registration duty on an application to register a motor vehicle if the vehicle being registered is subject to a Status of Forces Agreement between Australia and another country.

This new section provides a blanket exemption for such vehicles and removes an administrative burden that required each vehicle registration under a Status of Forces Agreement to be individually assessed for exemption.

**Clause 11     New section 232A**

This clause consolidates omitted corporate reconstruction provisions and provides that duty is not chargeable on an eligible corporate reconstruction transaction approved by the Commissioner for ACT Revenue. The approval for a corporate reconstruction must be in accordance with any guidelines determined by the Minister, as a disallowable instrument. This aligns with the current practice and policy, with the main amendment providing full duty relief.

*A corporate reconstruction transaction* is defined as including certain dutiable transactions, relevant acquisitions and applications to register a motor vehicle that occur within corporate group members.

**Clause 12 Section 252 (d), (j) and (u)**

This clause omits the objection rights in relation to corporate reconstruction provisions that were previously found at sections 70A, 91A and 208AA of the Duties Act. This Bill consolidates these three sections into new section 232A. The right to object to a corporate reconstruction decision under this new section is inserted by another amendment.

**Clause 13 New section 252 (zb)**

This clause transfers objection rights from the omitted sections 252 (d), (j) and (u), and inserts a new clause providing these objection rights under the new section 232A. Taxpayers can object to a condition imposed on an approval given for duty relief as part of an eligible corporate reconstruction.

**Clause 14 Dictionary, definitions of *scheme* and *tax avoidance scheme***

This clause clarifies the definition of a ‘scheme’ for the purposes of the Duties Act, which relates to the definition of a ‘tax avoidance scheme’ (see below; Clause 1.14). A scheme includes a variety of actions, arrangements and agreements that may be undertaken as part of a scheme to evade or avoid tax liabilities as part of a tax avoidance scheme.

This clause also amends the definition of a tax avoidance scheme in the Duties Act to harmonise with the definition and terminology used in the TAA. Prior to this Bill, these two Acts contained differing definitions and the TAA definition has been adopted as the most appropriate definition.

**Part 3 First Home Owner Grant Act 2000**

**Clause 15 Section 12B (2), new definition of *occupied***

This clause inserts a new definition of *occupied*. This term is used in the definition of *new home* under subsection (1). It clarifies that *occupied* includes occupation on a short-term basis, regardless of the length or intended length of occupation.

**Clause 16 Section 13 (4) (a) and (6) (a)**

This clause amends the name of the definition of a *contract for a purchase of a home* to the *contract for the purchase of a new home*. This is consequential amendment to the retargeting of the First Home Owner Grant in 2013 to apply only to new or substantially renovated homes.

**Clause 17 Section 13 (7), definition of *contract for the purchase of a home***

**Clause 18 Section 13 (7), new definition of *contract for the purchase of a new home***

Clause 17 omits a redundant definition of a ‘contract for the purchase of a home’ while Clause 18 provides a new definition of a ‘contract for the purchase of a new home’. This is consequential amendment to the retargeting of the First Home Owner Grant in 2013 to apply only to new or substantially renovated homes.

**Clause 19      Notification of decision, Section 24 (2)**

This clause omits the words ‘without conditions’ from provisions relating to the notification of a First Home Owner Grant decision. As the First Home Owner Grant is always provided to an applicant subject to conditions that the applicant must meet, removing ‘without conditions’ is considered appropriate so that the payment constitutes sufficient notice of the decision.

**Part 4            *Land Rent Act 2008***

**Clause 20      Section 10 (2) (a) (ii)**

This clause clarifies the evidentiary requirements for land rent lessees who must have their income assessed each year and who cannot exceed the determined income threshold for discount land rent for more than two consecutive years. This amended provision stipulates that proof of income for a second year only needs to be provided if the income threshold is exceeded in the prior year.

**Clause 21      Section 11 (1) (b)**

This clause provides further clarification on the eligibility for discount land rent in relation to the determined income threshold amount, namely that the total income of the lessee, or the sum of the total incomes of all the lessees, doesn’t exceed the income threshold amount for two consecutive years.

**Clause 22      Section 12 (3) (b)**

This clause provides that, if the Commissioner for ACT Revenue approves an application for discount land rent, this approval can now be applied retrospectively. This could be from the day the application was made or from any other day prior to application if the Commissioner considers it appropriate to do so.

This retrospectivity is non-prejudicial—the extension of approval is of benefit to land rent lessees and assists them in their eligibility for the Land Rent Scheme.

**Clause 23      New section 30A**

This clause allows the Minister to remit land rent in circumstances where it is considered fair and reasonable to do so. Guidelines for the execution of this function can also be created through a disallowable instrument. This new instrument aligns the remission of land rent with long-standing similar provisions for general rates and land tax.

**Part 5            *Land Tax Act 2004***

**Clause 24      Section 11 (2)**

This clause amends an existing and automatic 2-year exemption from land tax for builders and land developers, if a parcel of land is being developed for residential premises to be sold at the end of construction.

The amendment provides that builders and land developers must now make an application for the exemption, in writing, to the ACT Revenue Office. This process will ensure that developers are aware of the legislated conditions and requirements of the exemption, particularly that it expires after two years.

**Clause 25      Section 18 (2), formula**

This is a technical amendment to correct a typographical error.

**Clause 26      Section 19A (1) (a)**

This clause clarifies that penalty tax and interest may be imposed in cases where the owner of a parcel is a trustee that fails to comply with section 14A of the Land Tax Act (Commissioner to be told if residential land owned by an individual as trustee).

**Clause 27      Section 19A (1) (b)**

This clause clarifies that penalty tax and interest may be imposed in cases where the owner of a parcel is a trustee that fails to comply with section 14A of the Land Tax Act (Commissioner to be told if residential land owned by an individual as trustee).

**Clause 28      Section 19A (5) (a)**

This clause is a minor amendment to reflect the other amendments to section 19A and the occurrence of a tax default if the Commissioner is not informed that residential land is owned by an individual in their capacity as a trustee.

**Clause 29      Sections 20 to 25**

These omissions are a result of the consolidation of the sale of land provisions for the non-payment of tax into the TAA. See part 1.7 below for details on the consolidated provisions.

**Clause 30      Objections; New section 38 (ba)**

This clause provides taxpayers with the ability to object to the Commissioner of ACT Revenue's refusal to remit interest charged on an assessment of land tax. Currently, taxpayers have no right of objection in relation to interest on land tax, unlike other tax lines where this objection right already exists. This amendment thus increases equity and access to the objection process.

The decision to refuse to remit interest can only be reviewed by the Commissioner, and not the tribunal or courts.

**Clause 31      Review of decisions by ACAT; Section 39 (1)**

This clause reflects the new objection rights, as provided in clause [1.29], to the refusal to remit interest on land tax, and clarifies that this decision is not reviewable by the ACT Civil and Administrative Tribunal or the courts.

**Part 6**      *Payroll Tax Act 2011*

**Clause 32**      **Section 32 (2) (c)**

This clause amends section 32 (2) (c) to clarify that the contractor payroll tax exemption for owner-drivers will apply whether:

- the employment contract is *solely* for conveyance of goods by an owner-provided vehicle, or
- the contract is for the conveyance of goods by an owner-provided vehicle *and* other ancillary services.

Previously, the interpretation was ambiguous as to whether section 32 (2) (c) applied only to the ancillary services and not to the ‘core’ service of conveyance.

**Clause 33**      **Section 32 (3)**

This amended provision clarifies that any contract that includes any additional services or work not already covered by the exemption categories in section 32, are not exempt from payroll tax.

This addresses a situation where a relevant contract includes a type of service exempt from payroll tax under section 32 (2) (a) to (c), but also includes additional services that do not meet any of the exemptions.

However, the exemption will not apply if the contract includes the performance of any additional services or work which are not covered by another exemption under section 32 (2). This harmonises ACT payroll tax legislation with similar amendments made in other jurisdictions regarding this provision.

This clause also clarifies anti-avoidance provisions that allow the commissioner to not apply a payroll tax exemption under section 32 of the Payroll Tax Act, if satisfied that the contract was entered into for the purposes of tax avoidance or evasion by anyone, either directly or indirectly.

**Part 7**      *Rates Act 2004*

**Clause 34**      **Sections 22 to 27**

These omissions are a result of the consolidation of the sale of land provisions for the non-payment of tax into the TAA – see Part 1.7 below for details on the consolidated provisions.

**Clause 35**      **New section 70 (aa)**

This clause provides taxpayers with the ability to object to the Commissioner’s refusal to remit interest charged on an assessment of general rates. Currently, taxpayers have no right of objection in relation to interest on rates, unlike other tax lines where this objection right already exists. This amendment thus increases equity and access to the objection process. The

decision to refuse to remit interest can only be reviewed by the Commissioner, and not the tribunal or courts.

**Clause 36      Section 73 (1)**

This clause reflects the new objection rights, as provided in clause [1.34], to the refusal to remit interest on rates, and clarifies that this decision is not reviewable by the ACT Civil and Administrative Tribunal or the courts.

**Part 8            *Taxation Administration Act 1999***

**Clause 37      Section 14 (1), note**

This is a minor amendment to a note to better reflect the process of how a taxpayer is given notice of their objection rights, through an internal review notice.

**Clause 38      Section 29 (1), note**

This is a minor amendment to a note to better reflect the process of how taxpayers can make a submission to the Commissioner for ACT Revenue in relation to the remission of interest applied to a tax assessment.

**Clause 39      Table 34**

This clause substitutes the existing table in the TAA with an updated table that provides correct terminology and includes further detail on the circumstances when no penalty tax is imposed. This amendment will assist taxpayers in better understanding their tax obligations and the possible outcomes of tax defaults.

**Clause 40      New division 7.3**

This clause inserts a new division into the TAA to consolidate the sale of land provisions that can be invoked when general rates or land tax accounts have been in arrears for a number of years. The provisions in new Division 7.3 are a consolidation of the existing sale of land provisions in the Rates Act and Land Tax Act, with minor amendments. The sale of land provisions help to protect the Territory's revenue base and ensures that all taxpayers in the ACT meet their taxation obligations.

**Section 56F**

This section provides that sale of land provisions for tax in arrears applies to a tax under the Land Tax Act and the Rates Act.

**Section 56G**

This section provides a definition of 'owner' for a parcel of land. These definitions reflect the current terms as in the Rates Act and Land Tax Act. This section also defines a 'parcel' and provides guidance to the definition of a 'declared land sublease.'

## **Section 56H**

This section stipulates that tax payable in relation to a parcel of land is a charge on the interest held by the owner of the parcel. This charge takes priority over a sale, conveyance, transfer, mortgage, charge, lien or encumbrance in relation to the parcel, except in specified circumstances. This provision ensures that the Commissioner for ACT Revenue can properly collect outstanding tax on a parcel of land and helps to protect revenue by preventing the sale of a parcel that has outstanding debts.

## **Section 56I**

This section allows the Commissioner for ACT Revenue to give a notice to the owner of a parcel that the tax is in arrears, if the tax payable for a parcel of land has been in arrears for at least 1 year. After giving notice, the Commissioner may declare, in writing in the form of a notifiable instrument, that the tax for the parcel is in arrears. These processes form part of the current debt recovery action for outstanding debts against a parcel of land, and help to properly collect Territory taxes.

New section 56I (4) provides that if the Commissioner has given an owner notice that the parcel has been in arrears for more than 1 year, the Commissioner must also issue a public notice, for example on an ACT Government website or in a local newspaper. This is a new provision that confirms the current practice of the ACT Revenue Office, which issues public notices in the local ACT newspaper.

## **Section 56J**

This section will apply if the Commissioner for ACT Revenue has complied with section 56I in issuing a notice to the owner of a parcel in arrears, and the tax payable for the parcel remains in arrears for at least 90 days after the day of the notification issued under section 56I. In these circumstances, the Commissioner may apply to a court of competent jurisdiction for an order for the sale of the lease and any improvements made on the parcel of land under the lease.

If the court is satisfied that the conditions for the sale application have been met, the court may order the sale of the parcel. Section 56J details how the proceeds of such a sale should be distributed, and the circumstances in which the sale process must be abandoned.

These provisions are the same as those currently in force under the Rates Act and the Land Tax Act, and they have been transferred to the TAA as part of the consolidation process.

## **Section 56K**

This section allows the Commissioner for ACT Revenue to issue an application to the courts in relation to more than one parcel, even if the various parcels belong to different owners or the notices were given at different times. This application can only be made if a notice of arrears, in accordance with section 56I, has been appropriately issued. Section 56K allows for administrative efficiencies in declaring parcels in arrears by allowing more than one parcel to be included on the notifiable instrument that forms the declaration, rather than issuing an individual instrument for each parcel.

**Clause 41     New section 73A**

This clause allows the Under Treasurer or Director-General to appoint an acting Commissioner for ACT Revenue for a period of three months or less. Currently, only the Minister holds the authority to appoint an acting commissioner. This amendment will create administrative efficiencies by allowing the Under Treasurer to appoint an acting Commissioner for the short-term absence without ministerial involvement. For any appointments longer than 3 months, the Minister must still provide the approval.

**Clause 42     Schedule 2, section 2.2 (a)**

This is a minor amendment to a note to better reflect the process of how taxpayers can make a submission to the Commissioner for ACT Revenue in relation to the remission of interest applied to a tax assessment.

**Clause 43     Dictionary, new definitions**

This clause inserts new definitions as a consequence of amendments made throughout the Bill, such as the consolidation of the sale of land provisions for parcels in long-term arrears, and the new provision allowing the Under Treasurer to appoint an acting Commissioner for ACT Revenue in the Commissioner's absence.