

No. 5 of 1981

AN ORDINANCE

To amend the *Land Rent and Rates (Deferment and Remission) Ordinance 1970*

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated this twelfth day of March 1981.

ZELMAN COWEN
Governor-General

By His Excellency's Command,

MICHAEL HODGMAN
Minister of State for the Capital Territory

LAND RENT AND RATES (DEFERMENT AND REMISSION) (AMENDMENT) ORDINANCE 1981

1. This Ordinance may be cited as the *Land Rent and Rates (Deferment and Remission) (Amendment) Ordinance 1981*.* Short title
2. In this Ordinance, "Principal Ordinance" means the *Land Rent and Rates (Deferment and Remission) Ordinance 1970*.† Principal Ordinance
3. The title of the Principal Ordinance is amended by inserting "and Remission" after "Deferment". Title
4. Before section 1 of the Principal Ordinance the following heading is inserted: Heading to Part I

"PART I—PRELIMINARY"
5. Section 2 of the Principal Ordinance is repealed and the following sections and heading are substituted: Interpretation

**"2. In this Ordinance, unless the contrary intention appears—
'excess water rates' means the amount referred to in sub-**

* Notified in the *Commonwealth of Australia Gazette* on 20 March 1981.

† Ordinance No. 5, 1970 as amended by No. 27, 1973; Nos. 10 and 70, 1976; and No. 46, 1978.

paragraph 6 (1) (b) (i) or (ii) of the *Water Rates Ordinance* 1959, paragraph 7A (1) (b) of that Ordinance, sub-paragraph 14 (1) (c) (ii) of that Ordinance or the amount referred to in paragraph 7B (1) (b) of that Ordinance that is calculated at the rate specified in that paragraph;

- 'land rates' means rates due under the Rates Ordinance;
- 'lease' means a lease of land for a term of years granted by or in the name of the Commonwealth;
- 'member of the Forces' means a male person who was at any time a member of the Forces within the meaning of—
 - (a) any provision of the *Repatriation Act* 1920;
 - (b) the *Repatriation (Far East Strategic Reserve) Act* 1956; or
 - (c) the *Repatriation (Special Overseas Service) Act* 1962;
- 'owner', in relation to a parcel of land, means—
 - (a) in the case of a parcel of land held under a lease, the lessee of the parcel of land or, in a case where 2 or more persons are lessees of the parcel of land, whether as joint tenants or tenants in common, each of those persons; and
 - (b) in the case of a parcel of land which is held in fee simple, the person in whom the fee simple is vested or in a case where the fee simple is vested in 2 or more persons, whether as joint tenants or tenants in common, each of those persons;
- 'pensioner' means—
 - (a) a person to whom or in respect of whom—
 - (i) there is being paid a pension or benefit under Part III, IV or IVAAA of the *Social Services Act* 1947; or
 - (ii) such a pension or benefit would be payable if the person were not a person in receipt of a training allowance under section 135D of that Act or a person to whom or in respect of whom there is being paid a sheltered employment allowance under Part VIIA of that Act or an allowance is payable under the *Tuberculosis Act* 1948, other than such a person who is a prescribed person within the meaning of section 83CA of the *Social*

Services Act 1947;

- (b) a person to whom or in respect of whom there is being paid a service pension under the *Repatriation Act 1920*, other than such a person who is a prescribed person within the meaning of section 123AB of that Act;
- (c) a person to whom or in respect of whom a pension is payable under the *Repatriation Act 1920* in accordance with any of the following provisions of that Act:
 - (i) Columns 2 or 3 or paragraph 6 of the table in Schedule 1;
 - (ii) Schedule 2;
 - (iii) Table B in Schedule 3;
 - (iv) any of the first 6 items in the table in Clause 1 of Schedule 5; or
- (d) a person to whom or in respect of whom a pension is payable under the *Repatriation Act 1920* by virtue of—
 - (i) that Act;
 - (ii) the *Repatriation (Far East Strategic Reserve) Act 1956*; or
 - (iii) the *Repatriation (Special Overseas Service) Act 1962*,

in accordance with Table A in Schedule 3 to the *Repatriation Act 1920*, by reason of the person being the widow of a deceased member of the Forces or having been recognised as the wife of a deceased member of the Forces though not legally married to him;

‘prescribed land’ means land included in the land specified in Schedule 2;

‘Rates Ordinance’ means the *Rates Ordinance 1926*;

‘rating year’ means the period of 12 months commencing on 1 July in any year;

‘Secretary’ means the Secretary to the Department of the Capital Territory;

‘sewerage rates’ means rates due under the *Sewerage Rates Ordinance 1968*;

'Tribunal' means the Administrative Appeals Tribunal established by the *Administrative Appeals Tribunal Act 1975*;

'unit' has the same meaning as in section 4 of the *Unit Titles Ordinance 1970*;

'water rates' means rates due under the *Water Rates Ordinance 1959* other than excess water rates.

Application

"2A. Nothing in this Ordinance affects the operation of section 28A of the *Rates Ordinance 1926*, section 23 of the *Sewerage Rates Ordinance 1968*, or section 29 of the *Water Rates Ordinance 1959*.

"PART II—DETERMINATIONS**Interpretation**

"2B. (1) In this Part, 'determination' means a determination made under section 3.

"(2) A reference in this Part to a person to whom a determination relates or a person to whom a determination related shall, in a case where a determination relates or related to 2 or more persons, be read as a reference to those persons.

"(3) A reference in this Part to the amount for which a person to whom a determination relates or related is or became indebted to the Commonwealth under this Part shall be read as including a reference to the amount payable by that person by way of interest under sub-section 4 (3) or section 16."

Effect of rebate on determination

6. Section 8A of the Principal Ordinance is amended—

(a) by omitting paragraph (1) (b) and substituting the following paragraph:

"(b) a notice of assessment is given to that person or those persons under section 14 of the *Rates Ordinance* and in respect of the rates the subject of that notice—

(i) that person, or each of those persons, lodges an application in accordance with section 21B on or before the due date specified in the notice of assessment; or

(ii) that persons pays, or those persons pay, an amount in accordance with a declaration made by the Minister under section 21c,";

(b) by omitting from sub-section (2) "a declaration" and substituting "an application"; and

(c) by omitting from sub-section (2) "declaration" (last occurring) and substituting "application".

7. Section 10 of the Principal Ordinance is amended—

- (a) by omitting paragraphs (3) (b) and (c) and substituting the following word and paragraph:

“and (b) contain a statement that the person to whom the determination relates may apply to the Tribunal for a review of the Minister’s decision.”; and

- (b) by omitting sub-sections (5) and (6) and substituting the following sub-section:

“(5) Application may be made to the Tribunal for a review of a decision of the Minister under sub-section (2) that a prescribed ground exists.”.

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

8. Sections 11 to 14 (inclusive) of the Principal Ordinance are repealed and the following section is substituted:

“ 11. Where—

- (a) the Minister has decided under sub-section 10 (2) that a prescribed ground exists for revocation of a determination;
- (b) the Minister has given notice of his intention to revoke the determination and has not cancelled that notice; and
- (c) in relation to the decision of the Minister, an application under paragraph 10 (5) (a)—
- (i) has not been made within the time that is the prescribed time within which such an application may be lodged in accordance with section 29 of the *Administrative Appeals Tribunal Act 1975*;
 - (ii) was so made but was withdrawn by the applicant;
 - (iii) has been made and the Tribunal has dismissed the application; or
 - (iv) has been made and the decision of the Tribunal affirms the decision under review or is based on a finding that another prescribed ground exists,

the Minister may, by instrument in writing, revoke the determination.”.

Determination may be revoked in certain cases

9. Section 19 of the Principal Ordinance is amended by omitting sub-section (1).

Information relating to determination

10. Section 20 of the Principal Ordinance is amended by omitting “ 9, 12 or 13 ” and substituting “ 9 or 11 ”.

Notice of revocation to be given

11. Section 21B of the Principal Ordinance is repealed and the following Part substituted:

“ PART III—REBATE FOR PENSIONERS

Interpretation

“ 21A. In this Part, unless the contrary intention appears—
‘ entitled person ’ means—

- (a) a person who is the spouse of a special Repatriation pensioner and is not separated from the pensioner; and
- (b) a person who was the spouse of a special Repatriation pensioner until the death of the pensioner, was not separated from the pensioner immediately before his death and has not, since the death of the pensioner, become the spouse of another person;

‘ parcel of land ’ means a parcel of land or a unit that is a Class 1 parcel of rateable land for the purposes of the *Sewerage Rates Ordinance 1968*;

‘ special Repatriation pensioner ’ means a person to whom or in respect of whom a pension is payable under the *Repatriation Act 1920* at the special rate in accordance with Schedule 2 to that Act;

‘ spouse ’, in relation to a pensioner, includes a person who has lived with the pensioner as the husband or wife of the pensioner on a permanent and *bona fide* domestic basis, although not legally married to the pensioner.

Applications for rebates of rates by pensioners and entitled persons

“ 21B. (1) Subject to sub-sections (4) and (5), where—

- (a) liability is imposed under an Ordinance on a person for payment of land rates, sewerage rates or water rates that are payable in a rating year in respect of a parcel of land; and
- (b) the person, on 1 July of that rating year—
 - (i) was a pensioner or an entitled person;
 - (ii) was the owner of that parcel; and
 - (iii) occupied that parcel solely as his principal or only place of residence (whether or not the person was present in person on that parcel on that day),

he may lodge with the Secretary an application in writing for a rebate of those rates in accordance with section 21BA.

“ (2) Subject to sub-sections (4) and (5), where liability is imposed under an Ordinance on 2 or more persons for payment of land

rates, sewerage rates or water rates that are payable in a rating year in respect of the same parcel of land, each of those persons who on 1 July of that rating year—

- (a) was a pensioner or an entitled person;
- (b) was the owner of that parcel; and
- (c) occupied that parcel solely as his principal or only place of residence (whether or not the person was present in person on that parcel on that day),

may lodge with the Secretary an application in writing for a rebate of those rates in accordance with section 21BA.

“ (3) Where, in relation to a parcel of land, the persons referred to in sub-section (2) comprise or include a special Repatriation pensioner and his spouse and the spouse is not separated from the pensioner, the spouse shall, for the purpose of lodging an application under that sub-section in relation to that parcel, be treated as if the spouse were a pensioner.

“ (4) An application referred to in sub-section (1) or (2) shall contain or be accompanied by a declaration signed by the applicant stating the facts relied upon in support of his application.

“ (5) An application referred to in this section shall be lodged before the expiration of the rating year during which the rates to which the application relates become payable.”.

“ 21BA. (1) In this section, ‘ rate liability ’ means—

- (a) in the case of a person referred to in sub-section 21B (1) who is liable for payment of land rates (not being land rates referred to in paragraph (c)), sewerage rates or water rates—the amount of those rates;
- (b) in the case of a person referred to in sub-section 21B (2) who is liable for payment of land rates (not being land rates referred to in paragraph (c)), sewerage rates or water rates—the amount of those rates which is proportionate to the value of his interest in the land or unit in respect of which the rates are payable; and
- (c) in the case of a person who is liable for the payment of land rates the payment of part of which has been deferred by the Minister under section 21G—the amount of those rates remaining payable after that deferment.

Rebate of
rates for
pensioners
and entitled
persons

“ (2) Subject to this section, where a person lodges an application in accordance with sub-section 21B (1) or (2) relating to land rates,

sewerage rates or water rates, the person is discharged from his liability for those rates by payment of an amount equal to one-half of his rate liability.

“(3) Sub-section (2) does not affect the operation of section 24 of the *Rates Ordinance* 1926, section 27 of the *Sewerage Rates Ordinance* 1968 or section 32 of the *Water Rates Ordinance* 1959.

“(4) In the case of land rates payable in respect of a parcel of prescribed land sub-section (2) does not operate to discharge any part of the liability for those rates unless the Minister has deferred payment of part of those rates under section 21G.”

Heading to
Part IV

12. Before section 21C of the Principal Ordinance the following heading and section are inserted:

“PART IV—REBATE IN CASES OF HARDSHIP

Interpretation

“21BB. In this Part, unless the contrary intention appears, ‘parcel of land’ means a parcel of land or a unit that is a Class 1 parcel of rateable land for the purposes of the *Sewerage Rates Ordinance* 1968.”

Rebate of
rates in
cases of
hardship

13. Section 21C of the Principal Ordinance is amended—

(a) by omitting paragraphs (1) (a) and (b) and substituting the following paragraphs:

“(a) liability is imposed under an Ordinance on a person for payment of land rates, sewerage rates or water rates that are payable in a rating year in respect of a parcel of land; and

(b) the Minister is satisfied—

(i) that the payment by that person of those rates would cause undue hardship to that person; and

(ii) that the person occupied that parcel solely as his principal or only place of residence during any part of that rating year;” and

(b) by omitting paragraphs (2) (a) and (b) and substituting the following paragraphs:

“(a) liability is imposed under an Ordinance on 2 or more persons for payment of land rates, sewerage rates or water rates that are payable in a rating year in respect of the same parcel of land; and

(b) the Minister is satisfied—

(i) that the payment by those persons of those rates would cause undue hardship to 1 or more of those persons; and

- (ii) that those persons occupied that parcel solely as their principal or only place of residence during any part of that rating year.”.

14. Section 21D of the Principal Ordinance is repealed and the following sections and heading are substituted:

“ 21D. Application may be made to the Tribunal for a review of a decision of the Minister refusing or making a declaration under sub-section 21C (1) or (2). Review of decisions of Minister

**“ PART V—DEFERMENT OF LAND RATES AFFECTING
PRESCRIBED LAND**

“ 21DA. (1) In this Part, unless the contrary intention appears— Interpretation
‘attributable part’, in relation to the unimproved value of a parcel of land, means—

- (a) the amount by which the unimproved value of a parcel is greater than the notional unimproved value of the parcel determined by the Minister under section 21F; or
- (b) where a determination made under section 21F in respect of the parcel is varied in accordance with sub-section 21FA (2)—the amount by which the unimproved value of the parcel is greater than the amount substituted in the determination by virtue of that variation as the notional unimproved value of the parcel;

‘notional unimproved value’, in relation to a parcel of prescribed land, means the value that would be the unimproved value of the parcel if the land included in the prescribed land had no greater potential for more valuable use than land adjoining the prescribed land;

‘unimproved value’ has the same meaning as in the Rates Ordinance.

“ (2) A reference in this Part to a determination made under section 21F shall be read as including a reference to a re-determination made under that section.”.

15. Section 21FB of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1) “or his delegate”; and Review of decisions of Minister
- (b) by omitting sub-section (2).

Payment of
deferred
rates

16. Section 21J of the Principal Ordinance is amended by omitting from sub-section (5) "calculated in accordance with paragraph (1) (c)" and substituting "referred to in paragraph (2) (c)".

17. After section 21J of the Principal Ordinance the following heading and section are inserted:

" PART VI—MISCELLANEOUS

Information
relating to
application

" 21K. Notwithstanding anything contained in this Ordinance, where a person—

- (a) has made an application to the Minister under this Ordinance; or
- (b) has lodged an application with the Secretary under this Ordinance,

the Minister or the Secretary, as the case may be, may require that person to furnish him with such information in relation to the application as he specifies."

Schedule 1

18. Schedule 1 to the Principal Ordinance is amended—

- (a) by omitting from Forms 1 and 2 "*(Deferment)*" (wherever occurring) and substituting "*(Deferment and Remission)*";
- (b) by omitting from Forms 1 and 2 "Interior" (wherever occurring) and substituting "Capital Territory"; and
- (c) by omitting Form 3.

Further
Amendments
Application

19. The Principal Ordinance is amended as set out in the Schedule.

20. The amendments made by this Ordinance apply to and in relation to the rating year that commenced on 1 July 1979 and in respect of all subsequent rating years.

SCHEDULE

Section 19

1. In this Schedule, "double-year citation" means a citation of an Act or an Ordinance that contains figures referring to 2 years.

2. Each of the following provisions of the Principal Ordinance is amended by omitting from each double-year citation in that provision so much of that citation as follows the reference to the first year in that citation:

- Section 5
- Section 18
- Section 21
- Sub-section 21J (1) (definition of "securities").

3. The Principal Ordinance is further amended as set out in the following table:

Provision	Amendment
Sub-section 3 (1)	(a) Omit from paragraph (b) "two", substitute "2". (b) Omit from paragraph (b) "one", substitute "1".
Sub-section 3 (6)	Omit "one", substitute "1".

SCHEDULE—*continued*

Provision	Amendment
Sub-section 4 (3)	Omit " five per centum ", substitute " 5 per cent ".
Sub-section 8A (1)	Omit from paragraph (a) " two ", substitute " 2 ".
Sub-section 10 (1)	(a) Omit from sub-paragraph (b) (i) " two ", substitute " 2 " . (b) Omit from sub-paragraph (b) (iii) " one ", substitute " 1 " .
Sub-section 10 (4)	Omit " one ", substitute " 1 " .
Sub-section 15 (4)	Omit " two ", substitute " 2 " .
Sub-section 16 (2)	(a) Omit " one ", substitute " 1 " . (b) Omit " five per centum ", substitute " 5 per cent " .
Sub-section 16 (3)	(a) Omit " one ", substitute " 1 " . (b) Omit " five per centum ", substitute " 5 per cent " .
Sub-section 16 (4)	(a) Omit " one ", substitute " 1 " . (b) Omit " eight per centum ", substitute " 8 per cent " .
Sub-section 16 (5)	Omit " eight per centum ", substitute " 8 per cent " .