

AUSTRALIAN CAPITAL TERRITORY

Rates and Land Tax Ordinance 1986

No. 89 of 1986

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 18 December 1986.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

G. SCHOLES
Minister of State for Territories

An Ordinance to amend the *Rates Ordinance 1926* and for other purposes

Short title

1. This Ordinance may be cited as the *Rates and Land Tax Ordinance 1986*.¹

Commencement

2. This Ordinance shall come into operation on 1 January 1987.

Principal Ordinance

3. In this Ordinance, "Principal Ordinance" means the *Rates Ordinance 1926*.²

Long title

4. The title of the Principal Ordinance is repealed and the following title substituted: “An Ordinance to provide for the levying, imposition and payment of rates and land tax on land in the Territory”.

Heading to Part I

5. Before section 1 of the Principal Ordinance the following heading is inserted:

“PART I–PRELIMINARY”.

Short title

6. Section 1 of the Principal Ordinance is amended by inserting “*and Land Tax*” after “*Rates*”.

Heading to Part II

7. Before section 5 of the Principal Ordinance the following heading is inserted:

“PART II–UNIMPROVED VALUE”.

Repeal

8. Section 12A of the Principal Ordinance is repealed.

Headings to Part III and Division 1

9. Before section 13 of the Principal Ordinance the following headings are inserted:

“PART III–RATES

Division 1–Imposition and payment”.

Heading to Division 2

10. Before section 17 of the Principal Ordinance the following heading is inserted:

“Division 2–Enforcement”.

Unoccupied land let for non-payment of rates

11. Section 18 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1) “and penalty due thereon”;
- (b) by omitting from paragraph (2) (b) “and penalty due thereon”; and
- (c) by omitting from sub-section (3) “and penalty”.

Sale of land for non-payment of rates

12. Section 19 of the Principal Ordinance is amended by omitting from sub-section (1) “and penalty due thereon”.

Recovery of rates

13. Section 22 of the Principal Ordinance is amended by omitting “, together with the penalty due thereon,”.

14. After section 22 of the Principal Ordinance the following Part and heading are inserted:

“PART IV—LAND TAX

Division 1—Imposition and payment

Imposition

“22A. (1) Except as provided in section 22B, land tax as declared under sub-section (2) is imposed in respect of all parcels of rateable land in the Territory.

“(2) The Minister may, by instrument published in the *Gazette*, declare that land tax for a specified year in respect of each parcel of rateable land in the Territory, other than a parcel exempted under section 22B, shall be imposed at a specified percentage of the unimproved value of the parcel of land.

“(3) Land tax for any year in respect of a parcel of land shall not be imposed at a percentage exceeding 4 per centum of the unimproved value of the parcel of land.

Exempt land

“22B. (1) The following parcels of land are exempt from the land tax imposed under section 22A:

- (a) parcels of land leased solely for residential purposes;
- (b) parcels of land leased primarily for the purpose of primary production;
- (c) parcels of land leased primarily for residential purposes but also for the purpose or primary production;

- (d) parcels of land used for the provision by the Commonwealth of welfare services.

“(2) In this section ‘primary production’ means production resulting directly from—

- (a) the cultivation of land;
- (b) the maintenance of animals or poultry for the purpose of selling them or their bodily produce, including natural increase;
- (c) fishing operations; or
- (d) forest operations,

and includes the manufacture of dairy produce by the person who produced the raw material used in that manufacture.

“(3) In this section, a reference to parcels of land leased solely for residential purposes shall be read as including a reference to parcels of land on which are erected buildings in the nature of boarding houses, hostels, refuges or the like maintained by the Commonwealth.

Assessment

“22C. (1) The Minister shall cause to be prepared assessments of the amounts of land tax payable for each year in respect of all parcels of land in the Territory in respect of which land tax is imposed and shall cause to be given to the owner of each parcel notice in writing of the assessment of land tax prepared in respect of that parcel and of the due date for the payment of the tax.

“(2) Where an error has been made in the preparation of an assessment under sub-section (1), the Minister shall cause a corrected assessment to be prepared and notice in writing of it given in accordance with sub-section (1).

“(3) Where a corrected assessment is prepared and given under sub-section (2), this Part has effect in relation to the relevant parcel of land as if the erroneous assessment had not been prepared or given.

“(4) A notice of assessment to be given under this section may, where convenient, be incorporated in a notice of assessment of rates given under section 14 in respect of the same parcel of land.

Special provision for period to 30 June 1987

“22D. (1) Subject to this section, this Part and Part V apply in relation to the period of 6 months that commences on 1 January 1987 as if that period were a year.

“(2) In the application of this Part and of Part V to the period of 6 months referred to in sub-section (1)—

- (a) the due date for the payment of land tax payable for that period in respect of a parcel of land is the date specified in the notice given under section 22C to the owner of the parcel of land as the due date for the payment of that land tax, being a date not earlier than 28 days after the date of the notice;
- (b) that owner may pay the land tax payable for that period—
 - (i) by paying the total amount of the tax on or before the due date for payment of the tax; or
 - (ii) by paying the amount of the tax by two equal instalments, the first on or before the due date for payment of the tax and the second on or before 15 April 1987;
- (c) where, but for this paragraph, the amount of an instalment would be an amount that includes a fraction of a cent, the amount of the last instalment is increased, and the amount of the first instalment is reduced, by the least amount that will result in each instalment being of an amount that does not include a fraction of a cent;
- (d) the total amount of land tax payable in respect of that period of 6 months shall be one-half of the amount that would, but for this paragraph, otherwise be payable; and
- (e) sub-sections 22E (8) and (9) apply as if, for the words ‘of a year’, ‘that year’, ‘for the whole of the year’, ‘of the year’ and ‘three hundred and sixty-five’ there were substituted the words ‘of the period of 6 months referred to in sub-section 22D (1)’, ‘that period of 6 months’, ‘payable in respect of that period of 6 months’, ‘of that period of 6 months’ and ‘181 days’ respectively.

Payment of land tax

“22E. (1) Land tax imposed by section 22A in respect of a parcel of land is payable to the Commonwealth by the owner of the parcel of land.

“(2) The person who is for the time being the owner of a parcel of land is liable to pay to the Commonwealth the whole or any part of land tax payable in respect of the parcel of land that has not been paid.

“(3) The due date for the payment of land tax payable for a year in respect of a parcel of land is the date specified in the notice given under section

22C to the owner of that parcel of land as the due date for the payment of that land tax, being a date not earlier than 28 days after the date of the notice.

“(4) Where the date of a notice given under section 22C to the owner of a parcel of land is a date later than 28 days before the last instalment day in the relevant year, land tax as assessed in that notice is payable on the date specified in the notice as the due date for payment of that tax.

“(5) Subject to sub-section (4), a person may pay the land tax payable by him or her—

- (a) by paying the total amount of the land tax on or before the due date for the payment of the tax;
- (b) by paying instalments—
 - (i) the number and amount of which are ascertained in accordance with sub-sections (6) and (7);
 - (ii) the first on or before the due date for the payment of that land tax; and
 - (iii) the remainder on the succeeding instalment days in the year in respect of which the tax is imposed; or
- (c) by paying such amounts on such days as the person wishes so long as the total amount paid by the person on or before a day in a year is not less than the total amount that a person would have paid by that day if the person were paying the tax by instalments in accordance with paragraph (b).

“(6) For the purpose of paragraph 5 (b)—

- (a) the number of instalments is a number equal to one more than the number of instalment days remaining, after the due date for the payment of the land tax, in the year for which the tax is imposed; and
- (b) the amount of each instalment is an amount calculated by dividing the total amount of land tax payable by the number of instalments ascertained in accordance with paragraph (a).

“(7) Where, but for this sub-section, the amount of an instalment would be an amount that includes a fraction of a cent, the last instalment in a year is increased, and the amount of the earlier instalments in total is reduced, by the least amount that will result in each instalment for that year being an instalment of an amount that does not include a fraction of a cent and in the earlier instalments for that year being equal instalments.

“(8) Subject to sub-section (9), where a parcel of land is subject to land tax for a part only of a year, the amount of tax payable for that year is that amount which bears the same proportion to the amount of land tax that would have been payable if that parcel had been subject to land tax for the whole of the year as the number of days in that part of the year bears to 365.

“(9) If the amount of land tax paid for a year by an owner of a parcel of land to which sub-section (8) applies exceeds the amount payable by him or her under that sub-section, the owner is entitled to a refund of an amount equal to the excess.

“(10) In this section, ‘instalment days’ means 15 October, 15 December, 15 February and 15 April.

“Division 2–Enforcement

Notice of land tax arrears

“22F. Where land tax payable in respect of a parcel of land has been unpaid and in arrears for a period of 1 year, the Minister may, at any time after the expiration of that period, give notice, by registered letter addressed to the owner of the parcel of land at his or her last known place of residence, that the land tax is due and is unpaid and in arrears and may at any time after the giving of that notice publish in the *Gazette* a notice that land tax payable in respect of that parcel of land is due and unpaid and in arrears.

Remedies for non-payment of land tax

“22G. Sections 18, 19, 20, 21 and 22 apply in relation to land tax payable under this Part as if the references in those sections to ‘rates’, ‘rateable property’, ‘section seventeen’ and ‘section nineteen’ were references to ‘land tax’, ‘property subject to land tax’, ‘section 22F’ and ‘section 22G’ respectively.

“PART V–MISCELLANEOUS”.

Owner to give notice of alienation

15. Section 23 of the Principal Ordinance is amended by omitting from sub-section (1) “and penalties” and substituting “, and land tax, if any,”.

Joint owners, lessees and licensees

16. Section 24 of the Principal Ordinance is amended—

- (a) by inserting “, and for the whole amount of the land tax, if any,” after “rates” (first occurring); and

- (b) by inserting “, and for the part of the land tax, if any,” after “rates” (second occurring).

17. After section 24 of the Principal Ordinance the following section is inserted:

Special provisions applicable to unit sub-divisions

“24A. (1) Where a parcel of land is sub-divided by the registration of a units plan, the land comprising the parcel shall, except as provided in this section, notwithstanding the sub-division, be taken, for the purposes of this Ordinance, to continue to comprise the one parcel of land.

“(2) The rates, and land tax, if any, imposed in respect of a parcel of land sub-divided by the registration of a units plan for the year in which the units plan is registered shall, if those rates, and that tax, if any, have not been paid before the registration of the units plan, be payable by the person who was the owner of the parcel of land on the day immediately before the day on which the units plan was registered.

“(3) On and after the first day of July following the date on which a units plan is registered, or if a units plan is registered on the first day of July, on and after that first day of July—

- (a) the rates imposed under this Ordinance in respect of the parcel of land are payable by the members of the corporation, the amount payable by each member being an amount that bears to the total amount of rates the same proportion as the unit entitlement of his or her unit bears to the aggregate unit entitlement of all the units;
- (b) no rates in respect of the parcel are payable by the corporation;
- (c) the land tax, if any, imposed under this Ordinance in respect of the parcel of land is payable by the members of the corporation whose units are subject to land tax, the amount payable by each of those members being an amount that bears to the total amount of land tax the same proportion as the unit entitlement of his or her unit bears to the aggregate unit entitlement of all the units that are subject to land tax; and
- (d) no land tax in respect of the parcel is payable by the corporation.

“(4) For the purposes of the application of this Ordinance in relation to a parcel of land that has been sub-divided into units and common property—

- (a) a reference in sections 5, 5A and 7, sub-section 8 (1), sections 9 and 10, sub-sections 11 (1), (2), (3), (3A) and (5A) and sections 12, 13 and 22A to a parcel of land shall be read as a reference to the parcel;
- (b) a reference in sub-sections 14 (1), 15 (1), (2), (3), (4A), (9) and (10), 22B (1), 22C (1) and 22E (1), (2), (3), (4) and (9), section 22F, sub-section 28 (2) and section 28A to a parcel of land shall be read as a reference to a unit;
- (c) a reference in any other section or sub-section to a parcel of land shall be read as a reference to the parcel or a unit, as the case requires;
- (d) a reference in sections 10, 12, 29 and 33 to the owner shall be read as a reference to the corporation;
- (e) a reference in sub-sections 14 (1), 15 (1), (2), (3), (4A), (9) and (10), section 17, sub-sections 19 (1) and (4), sections 20 and 22, sub-sections 22C (1), 22D (2), 22E (1), (2), (3), (4) and (9), sections 22F, 23, 24, 28 and 28A and sub-section 34 (2) to the owner shall be read a reference to the relevant member of the corporation;
- (f) a reference in any other section or sub-section to the owner shall be read as a reference to the corporation or the relevant member of corporation, as the case requires; and
- (g) sub-sections 26 (1) and (2) do not apply in relation to the service of a notice on the corporation.

“(5) For the purpose of the calculation of any amount pursuant to paragraphs (3) (a) and (c)—

- (a) a fraction of a cent that does not exceed half a cent shall be disregarded; and
- (b) a fraction of a cent that exceeds half a cent shall be regarded as one cent.

“(6) In this section ‘unit’ has the same meaning as in Part III of the *Unit Titles Ordinance 1970*.

“(7) Expressions used in this section that are defined by section 5 of the *Unit Titles Ordinance 1970* have the same respective meanings in this section.”.

Service of notices

18. Section 26 of the Principal Ordinance is amended—

- (a) by inserting in sub-section (1) “or land subject to land tax” after “rateable land”; and
- (b) by omitting paragraph (1) (c) and substituting the following paragraph:
 - “(c) posted in a prepaid letter addressed to the owner—
 - (i) at his or her last known place of residence; or
 - (ii) at a non-residential address notice of which has been given in writing to the Department by the owner.”;
- (c) by omitting sub-section (2).

Exemption from rates or land tax

19. Section 28 of the Principal Ordinance is amended by adding at the end the following sub-section:

“(2) The Minister may, by notice published in the *Gazette*, exempt, for a specified period, an owner of a parcel of land from payment of land tax imposed in respect of that parcel of land, or from payment of any specified portion of that tax.”.

Refund or remission of rates or land tax

20. Section 28A of the Principal Ordinance is amended—

- (a) by omitting “or a portion of any rates” and substituting “or land tax or a portion of any rates or land tax”;
- (b) by omitting “Minster” and substituting “Minister”; and
- (c) by omitting “or that portion.” and substituting “or that land tax or that portion of those rates or that land tax.”.

Rates and land tax to be paid, pending variation

21. Section 33 of the Principal Ordinance is amended by omitting all the words after “not, in the meantime,” and substituting—

“affect—

- (a) the assessment or rates in respect of that parcel of land under section 14; or

- (b) the assessment of land tax in respect of that parcel of land under section 22C,

and rates and land tax, if any, as so assessed are payable and may be recovered as if the application had not been made.”.

Effect of alteration of determination

22. Section 34 of the Principal Ordinance is amended—

- (a) by inserting in paragraph (1) (c) “or of land tax” after “assessment of rates”;
- (b) by omitting from paragraph (1) (c) “fourteen” and substituting “14 or 22C respectively”;
- (c) by omitting from paragraph (1) (c) “payable” (second occurring) and substituting “or land tax, as the case requires,”;
- (d) by inserting in sub-section (2) “or as land tax” after “rates” (first occurring);
- (e) by inserting in paragraph (2) (a) “or land tax, respectively,” after “rates”; and
- (f) by inserting in paragraph (2) (b) “or land tax, respectively,” after “rates”.

Evidence

23. Section 35 of the Principal Ordinance is amended—

- (a) by omitting from paragraph (1) (c) all the words after “or re-assessment” (first occurring) and substituting—
 - (i) the amount of rates payable in respect of a parcel of land for a year under section 14 or 34 respectively; or
 - (ii) the amount of land tax payable in respect of a parcel of land for a year under section 22C or 34, respectively,

as set out in a document attached to the certificate purporting to be a copy of the notice of the assessment or re-assessment, as the case may be, given to the owner of the parcel of land under the relevant section and certified as a true copy under the hand of the Secretary or of a person authorized in writing by him or her;”;

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

“(ca) that—

- (i) the amount of rates specified in the certificate is payable in respect of a parcel of rateable land; or
- (ii) the amount of land tax specified in the certificate is payable in respect of a parcel of land subject to land tax, as the case may be, and that, on the date of the certificate, that amount, or a specified portion of that amount, has not been paid; or”.

Second Schedule

24. The Second Schedule to the Principal Ordinance is amended by omitting “*Rates Ordinance 1926*” (wherever occurring) and substituting “*Rates and Land Tax Ordinance 1926*”.

Amendment of Ordinances

25. The provisions of the Ordinances specified in the Schedule are amended as set out in the Schedule.

SCHEDULE

Section 25

Amendment of Ordinances

Land Rent and Rates (Deferment and Remission) Ordinance 1970

Sections 2 and 2A, paragraph 8A (1) (b) and sub-section 21BA (3)

Omit “*Rates Ordinance 1926*”, substitute “*Rates and Land Tax Ordinance 1926*”.

Leases (Special Purposes) Ordinance 1925

Sub-sections 5B (5) and (6)

Omit “*Rates Ordinance 1926-1970*”, substitute “*Rates and Land Tax Ordinance 1926*”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 22 December 1986.
2. No. 6, 1926 as amended to date. For previous amendments see Note 2 to No. 2, 1986 and see also No. 2, 1986.