



AUSTRALIAN CAPITAL TERRITORY

Rates and Land Tax (Amendment) Act 1995

No. 12 of 1995

An Act to amend the *Rates and Land Tax Act 1926*

[Notified in ACT Gazette S135: 30 June 1995]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Rates and Land Tax (Amendment) Act 1995*.

Commencement

2. This Act commences on the day on which it is notified in the *Gazette*.

Principal Act

3. In this Act, “Principal Act” means the *Rates and Land Tax Act 1926*.¹

Interpretation

4. Section 4 of the Principal Act is amended by omitting from subsection (1) the definition of “instalment day” and substituting the following definition:

“ ‘instalment day’, in relation to the payment of rates, means an instalment day specified in the assessment notice given under section 14 in respect of the rates;”.

Insertion

5. After section 11 of the Principal Act the following section is inserted:

Unimproved values—1 January 1995

“11A. (1) For the purposes of this Act, the unimproved value of a parcel of land as at 1 January 1995 shall be ascertained in accordance with this section, despite any other provision of this Act.

“(2) Where the unimproved value of a parcel of land as at 1 January 1995 is to be determined or re-determined under another provision of this Act, the value determined or re-determined under that provision shall be the unimproved value of the parcel as at 1 January 1994.

“(3) Where the unimproved value of a parcel of land as at 1 January 1994 has been determined or re-determined under this Act before 1 July 1995—

- (a) subsection (2) does not apply;
- (b) the unimproved value of the parcel as at 1 January 1995 shall be taken to be the unimproved value of the parcel as so determined or re-determined as at 1 January 1994;
- (c) the fixing of the valuation under paragraph (b) shall be taken to be a valuation referred to in subsection 8 (1A);
- (d) section 12 applies in respect of the fixing of the valuation under paragraph (b) as if the value so fixed had been determined; and
- (e) section 29 does not apply in respect of the valuation under paragraph (b).”.

Imposition

6. Section 13 of the Principal Act is amended—

- (a) by omitting from subsection (1) “0.990%” and substituting “1.0296%”; and
- (b) by omitting from subsection (2) “0.495%” and substituting “0.5148%”.

Assessment of rates

7. Section 14 of the Principal Act is amended—

- (a) by omitting from subsection (1) “and of the due date for the payment of the rates”; and
- (b) by inserting after subsection (1) the following subsection:
 - “(1A) The notice shall specify that the rates may be paid—
 - (a) in full, no later than the due date specified in the notice; or
 - (b) by instalments, the amounts and due dates for which are specified in the notice.”.

Payment of rates

8. Section 15 of the Principal Act is amended—

- (a) by omitting subsection (4A);
- (b) by omitting paragraph (5) (b) and substituting the following paragraph:
 - “(b) by paying instalments in accordance with subsection (5A); or”;
- (c) by omitting from paragraph (5AA) “or (5A) (c)” and substituting “or (5A) (a)”;
- (d) by omitting subsection (5A) and substituting the following subsection:
 - “(5A) For the purpose of paragraph (5) (b)—
 - (a) the amount of each instalment shall be a whole dollar amount calculated by dividing the total amount of the rates payable by 4 and adding the sum of each remainder (if any) to the amount so calculated for the first instalment; and
 - (b) the date on which an instalment is due for payment shall be not less than 3 months after the date on which any previous instalment is due for payment.”;
- (e) by omitting from subsection (7) “365” and substituting “the number of days in the year”; and
- (f) by omitting from subsection (8) “365” and substituting “the number of days in the year”.

Repeal

9. Section 16 of the Principal Act is repealed.

Substitution

10. Section 22AAB of the Principal Act is repealed and the following section substituted:

Interpretation

- “22AAB. (1) In this Part—
- ‘prescribed date’, in relation to a quarter, means the first day of the quarter;
- ‘quarter’ means the period of 3 months commencing on 1 July, 1 October, 1 January or 1 April;
- ‘rent’ means valuable consideration for which a tenant is liable under a tenancy agreement in respect of the tenancy or a period of the tenancy;

‘tenancy agreement’ means an agreement under which a person grants to another person for value a right of occupation of a parcel of land for use as a residence—

- (a) whether the right of occupation is exclusive or not;
- (b) whether the agreement is express or implied; or
- (c) whether the agreement is in writing, is oral, or is partly in writing and partly oral;

but does not include an agreement conferring a right of occupation solely as a boarder or lodger;

‘tenant’ means a person who has a right of occupation under a tenancy agreement, or the person’s legal representative, heir or assign.

“(2) For the purposes of this Part, a parcel of land or dwelling shall not be taken to be rented only because a tenant is liable to pay for rates, land tax, repairs, maintenance or insurance in respect of the parcel or dwelling.

“(3) For the purposes of this Part, a parcel of land or a dwelling that is rented at any time in a quarter shall be taken to be rented on the prescribed date in the succeeding quarter unless the owner gives written notice to the Commissioner before the end of the succeeding quarter to the effect that—

- (a) if the notice is given before the end of the first-mentioned quarter—the parcel or dwelling will not be rented at any time in the succeeding quarter; and
- (b) if the notice is given at any time during the succeeding quarter—the parcel or dwelling has not been, and will not be, rented at any time in that quarter.”.

Imposition

11. Section 22A of the Principal Act is amended by omitting from subsection (1) “year” and substituting “quarter”.

Exempt land

12. Section 22B of the Principal Act is amended—

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

- “(a) a parcel of land leased for residential purposes that, on the prescribed date, is not rented by a tenant;
- (b) a parcel of land leased for residential purposes—
 - (i) that, on the prescribed date, is rented by a tenant; and
 - (ii) in respect of which the Commissioner is satisfied the owner is temporarily absent because of compelling compassionate reasons;”;

- (b) by omitting paragraphs (1) (e) and (f) and substituting the following paragraphs:

- “(e) a parcel of land leased for the purposes of a retirement village;
- (f) a parcel of land leased for the purposes of a nursing home;
- (g) a parcel of land leased for the purposes of a nursing home and a retirement village;
- (h) a parcel of land leased by a religious institution or order for the purposes of providing residential accommodation to a member of the institution or order and enabling the member to perform his or her duties as a member of the institution or order;
- (j) a parcel of land being used for a prescribed purpose.”;

- (c) by omitting subsection (1A) and substituting the following subsection:

“(1A) Paragraphs (1) (a) and (b) do not apply to a parcel of land on which a person carries on business as the proprietor of a boarding-house.”; and

- (d) by omitting subsection (3) and substituting the following subsection:

“(3) In this section—

‘nursing home’ means premises that—

- (a) are approved, or deemed to be approved, as a nursing home under the *National Health Act 1953* of the Commonwealth; and
- (b) are built on land under a lease which permits the use of the land—
 - (i) for the purpose of providing residential accommodation and nursing care for patients who, by reason of infirmity or illness, disease, incapacity or disability have a continuing need for nursing care; and
 - (ii) if the land is also used, or to be used, as a retirement village—for the purpose of residential retirement accommodation;

‘retirement village’ means a complex of residential premises (whether or not including hostel units)—

- (a) being accommodation intended predominantly for retired persons who are not less than 55 years of

- age, or couples, at least 1 of whom is not less than 55 years of age;
- (b) each of which is, or is to be, occupied or used under a sub-lease, licence or other arrangement (other than a lease);
- (c) that is built on land under a lease which permits the use of the land—
 - (i) for the purpose of residential retirement accommodation; and
 - (ii) if the land is also used, or to be used, for a nursing home—for the purpose described in subparagraph (b) (i) of the definition of ‘nursing home’; and
- (d) from which no business activity is conducted by the lessee, other than a business connected with the conduct of—
 - (i) a retirement village; or
 - (ii) if a nursing home is also conducted under the same lease—the nursing home.”.

Application for exemption—compassionate cases

13. Section 22BA of the Principal Act is amended—

- (a) by omitting from subsection (1) “Paragraphs 22B (1) (a), (aa) and (b) do not apply” and substituting “Paragraph 22B (1) (b) does not apply”;
- (b) by omitting from paragraph (2) (a) “paragraph 22B (1) (a), (aa) or (b), as the case requires,” and substituting “paragraph 22B (1) (b)”;
- (c) by inserting in paragraph (2) (a) “for a specified period not exceeding 12 months” after “land tax”.

Assessment

14. Section 22C of the Principal Act is amended by omitting from subsection (1) “year” and substituting “quarter”.

Substitution

15. Section 22DA of the Principal Act is repealed and the following section substituted:

Multiple dwellings

“22DA. (1) Where a parcel of land leased for residential purposes contains multiple dwellings any of which is rented by a tenant—

- (a) section 22B does not apply to the parcel; and
- (b) for the purposes of section 22A, the unimproved value of the parcel shall be an amount that is such a proportion of the amount that would, but for this subsection, be the unimproved value of that parcel as the Commissioner determines to be fair and reasonable having regard to the floor area rented.

“(2) In this section—

‘dwelling’ does not include a unit to which section 24A applies.”.

Payment of land tax

16. Section 22E of the Principal Act is amended—

- (a) by omitting from subsection (3) “year” and substituting “quarter”;
- (b) by omitting subsection (4);
- (c) by omitting from paragraph (5) (a) “year” and “years” and substituting “quarter” and “quarters”, respectively;
- (d) by omitting from paragraph (5) (b) “year” and substituting “quarter”;
- (e) by omitting paragraph (5) (c);
- (f) by omitting paragraph (5) (d) and substituting the following paragraph:
 - “(d) by paying such amounts on such days as the person wishes, but so that the amount due on the due date is paid no later than that date.”;
- (g) by omitting subsection (7);
- (h) by omitting from subsection (8) “year” (wherever occurring) and substituting “quarter”;
- (i) by omitting from subsection (8) “365” and substituting “the number of days in the quarter”; and
- (j) by omitting from subsection (9) “for a year”.

Land not previously valued

17. Section 22EA of the Principal Act is amended by omitting from paragraph (4) (b) “the annual land tax declared for the year or years” and substituting “the quarterly land tax declared for the quarter or quarters”.

Objections

18. Section 22GE of the Principal Act is amended by omitting from paragraph (1) (ba) “subsection 22DA (2)” and substituting “paragraph 22DA (1) (b)”.

Unit subdivisions

19. Section 24A of the Principal Act is amended by inserting in subsection (2) “or quarter, respectively,” after “year”.

Application

20. The Principal Act as amended by this Act applies in relation to the year commencing on 1 July 1995 and each subsequent year.

NOTE**Principal Act**

1. Reprinted as at 28 February 1995.

[Presentation speech made in Assembly on 1 June 1995]