



AUSTRALIAN CAPITAL TERRITORY

Rates and Land Rent (Relief) (Amendment) Act 1997

No. 14 of 1997

An Act to amend the *Rates and Land Rent (Relief) Act 1970*

[Notified in ACT Gazette S136: 29 May 1997]

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

Short title

1. This Act may be cited as the *Rates and Land Rent (Relief) (Amendment) Act 1997*.

Commencement

2. (1) Subject to subsection (2), this Act commences on the day on which it is notified in the *Gazette*.

(2) Section 12 commences on 1 July 1997.

Principal Act

3. In this Act, “Principal Act” means the *Rates and Land Rent (Relief) Act 1970*.¹

Interpretation

4. Section 2 of the Principal Act is amended—
- (a) by omitting from subsection (1) the definition of “prescribed land”; and
 - (b) by inserting in subsection (1) the following definition:
 - “ ‘domestic partner’, in relation to a pensioner, means a person who provides personal or financial commitment and support of a domestic nature for the material benefit of the pensioner, although not legally married to the pensioner, and includes a *de facto* husband or wife; ”.

Deferment of rent and rates

5. Section 3 of the Principal Act is amended—
- (a) by omitting from subsection (1) “shall,” and substituting “shall make a determination under this section”;
 - (b) by omitting from paragraph (1) (a) “or” (last occurring);
 - (c) by inserting after paragraph (1) (b) the following paragraphs:
 - “(c) that the owners are a pensioner and his or her spouse or domestic partner, where the spouse or partner is not a pensioner;
 - (d) in the case of an application made by a joint owner—that no other owner of the land can reasonably contribute to the payment of land rates for that parcel; or
 - (e) that—
 - (i) the owner is an eligible person to whom section 21BAAB applies; and
 - (ii) payment of the total rates due or to become due would be likely to cause substantial hardship to the owner.”; and
 - (d) by omitting from subsection (1) “make a determination under this section”.

Repeal

6. Sections 5 and 8A of the Principal Act are repealed.

Substitution

7. Section 11 of the Principal Act is repealed and the following section substituted:

Revocation of determination on prescribed grounds

“11. (1) The Minister may revoke a determination on a ground prescribed by subsection 10 (1) if—

- (a) notice of the proposed revocation has been given under subsection 10 (2); and
- (b) the notice has not been cancelled under subsection 10 (7).

“(2) The Minister may not act under subsection (1)—

- (a) within the 60 days within which an objection to the decision under subsection 10 (2) may be made;
- (b) if the person has objected to the decision, until—
 - (i) the objection is upheld or dismissed; and
 - (ii) the prescribed time under section 27 of the *Administrative Appeals Tribunal Act 1989* for lodging an application for review of the decision on the objection has expired and no such application has been lodged; or
- (c) if such an application has been duly lodged with the Tribunal, until the Tribunal has completed the review.”

Substitution

8. Section 18 of the Principal Act is repealed and the following section substituted:

Memorandum in relation to registered notice of determination

“18. Where notice of the making of a determination in relation to a person is registered under the *Land Titles Act 1925*, the Minister shall cause to be presented to the Registrar-General for registration under that Act a memorandum in accordance with Form 2 in Schedule 1 where—

- (a) an amount equal to the total of the amount for which the person became indebted to the Territory under this Act is paid; or
- (b) the Minister is satisfied that circumstances exist to justify such action.”

Repeal

9. Section 21 of the Principal Act is repealed.

Interpretation

10. Section 21A of the Principal Act is amended—

- (a) by inserting in paragraph (b) of the definition of “eligible person” in subsection (1) “or domestic partner” after “spouse”;
- (b) by inserting in paragraph (c) of the definition of “eligible person” in subsection (1) “or domestic partner” after “spouse” (wherever occurring);
- (c) by omitting from subsection (1) the definition of “spouse”;
- (d) by inserting in subsection (1) the following definition:
 - “ ‘owner’, in relation to a parcel of land, includes a person who—
 - (a) has a life interest, or an interest for a term of years, in the land under a will or pursuant to an order of a court; and
 - (b) is liable under the will or court order for land rates in respect of the land;”;
- (e) by inserting in paragraph (2) (b) “subject to subsection (2A),” before “where”;
- (f) by inserting after subsection (2) the following subsection:
 - “(2A) Where an eligible person is a joint owner of a parcel of land, and 1 or more of the other joint owners cannot reasonably contribute to the payment of rates in respect of the land, a reference in this Part to the eligible person’s liability for the payment of those rates shall—
 - (a) if no other joint owner can reasonably contribute to the payment of those rates—be read as a reference to the amount of rates payable in respect of the land; or
 - (b) if the rates are to be paid by 2 or more of the joint owners—be read as a reference to so much of the amount of rates payable by the eligible person in respect of the land as would be payable if the joint owners paying the rates—
 - (i) were the sole owners of the land; and
 - (ii) the value of their interests in the land were to be increased in proportion to their existing interests in the land.”; and

- (g) by omitting subsection (4).

Rebates of water and sewerage rates

11. Section 21B of the Principal Act is amended—

- (a) by omitting from subsection (1) “rates” and substituting “sewerage rates and water rates”; and
(b) by omitting subsections (2), (2B), (3), (4), (5) and (6).

Insertion

12. After section 21B of the Principal Act the following sections are inserted:

Rebates of land rates—uncapped

“21BAAA. (1) This section applies to an eligible person where—

- (a) the person has been continuously eligible since 30 June 1997 (or earlier) and has owned the same parcel of land for all of that period; or
(b) the person has—
(i) been continuously eligible since 30 June 1997 (or earlier); and
(ii) has changed his or her principal place of residence since 30 June 1997 (being a residence on a parcel of land owned by the person);

where no more than 6 months has elapsed between any period of occupation of any such principal place of residence, or such longer elapsed period as the Minister approves under subsection (4).

“(2) An eligible person to whom this section applies in a rating year is, subject to this Part, entitled to a rebate in liability for land rates in that year for a parcel of land to which this section applies that is the person’s principal place of residence for part or all of that year.

“(3) The amount of rebate under this section shall be calculated in accordance with the formula—

$$\frac{\mathbf{RL}}{2} \times \frac{\mathbf{D}}{365}$$

where:

RL is the amount of the person's liability for land rates for the rating year in respect of the parcel of land, including any land rates for the year deferred by determination under section 3;

D is the number of days in the rating year on which, as an eligible person, the person occupied the parcel of land as the person's principal place of residence.

“(4) For the purposes of paragraph (1) (b), on application by the eligible person, the Minister may, by notice in writing to the person, approve an elapsed period longer than 6 months if the Minister considers that it is justified in the circumstances.

Rebates of land rates—capped

“21BAAB. (1) This section applies to an eligible person where—

- (a) the person was not eligible on 30 June 1997, and the person becomes eligible on or after 1 July 1997 (notwithstanding that he or she may have been eligible at some time before 30 June 1997); or
- (b) the person is otherwise an eligible person to whom section 21BAAA does not apply.

“(2) An eligible person to whom this section applies in a rating year is, subject to this Part, entitled to a rebate in liability for land rates in that year for a parcel of land owned by the person that is the person's principal place of residence for part or all of that year.

“(3) Subject to subsection (5), the amount of rebate under this section shall be the lesser of the following amounts:

- (a) \$250;
- (b) the amount calculated in accordance with subsection (4).

“(4) The amount of rebate under paragraph (3) (b) shall be calculated in accordance with the formula—

$$\frac{\mathbf{RL}}{2} \times \frac{\mathbf{D}}{365}$$

where:

RL is the amount of the person's liability for land rates for the rating year in respect of the parcel of land, including any land rates for the year deferred by determination under section 3;

D is the number of days in the rating year on which, as an eligible person, the person occupied the parcel of land as the person's principal place of residence.

“(5) Where this section applies to a joint owner of land, the reference to \$250 in paragraph (3) (a) is to be taken to be a reference to so much of \$250 as is proportional to the value of the person's interest in the land.

Rebates and deferred liability

“21BAAC. Where—

- (a) a person's liability for part of his or her rates for a year has been deferred by determination under section 3; and
- (b) he or she is entitled to, and has applied for, a rebate under this Part in relation to the year;

the amount of the rebate shall be applied to reduce the amount of the person's liability for rates for that year, other than his or her deferred liability, and the remainder of the rebate, if any, shall be applied to reduce the deferred liability.

Application for rebates

“21BAAD. (1) A person is not entitled to a rebate under this Part unless the person applies in accordance with this section.

“(2) An application for a rebate—

- (a) shall be in writing signed by the applicant;
- (b) shall contain or be accompanied by—
 - (i) a statement of particulars relied upon in support of the application; and
 - (ii) a statement signed by the applicant authorising a person or body chosen from time to time by the Commissioner to disclose relevant information about the applicant to the Commissioner for the purpose of determining the applicant's entitlement to a rebate; and
- (c) be lodged with the Commissioner.

Non-eligibility for past years

“21BAAE. A person is not entitled to a rebate in the person's liability for rates in a rating year that occurred before the rating year in which the person applies for a rebate.

Joint and several liability for rates

“21BAAF. Nothing in this Part shall be taken to affect the operation of section 24 of the *Rates and Land Tax Act 1926*, section 27 of the *Sewerage Rates Act 1968* or section 32 of the *Water Rates Act 1959*.”.

Notice of change in circumstances

13. Section 21BA of the Principal Act is amended by omitting from subsection (1) “section 21B” and substituting “this Part”.

Adjustment of liability for rates

14. Section 21BAA of the Principal Act is amended—

- (a) by omitting from subsection (1) “section 21B” and substituting “this Part”; and
- (b) by adding at the end the following subsection:

“(2) Where, on request by a person for a decision under subsection (1), the Commissioner decides that the person’s entitlement to a rebate has not altered, the Commissioner shall give the person written notice of the decision.”.

Cessation and resumption of entitlement

15. Section 21BAB of the Principal Act is amended by omitting from subsections (1) and (2) “21B (4)” and substituting “21BAAD (2)”.

Repeal

16. Parts IV and V of the Principal Act are repealed.

Substitution

17. Sections 23A and 23B of the Principal Act are repealed and the following sections substituted:

Notification of decisions

“23A. Where a decision of the kind referred to in subsection 23B (1) (other than paragraph (e)) is made, the Minister shall give notice in writing of the decision—

- (a) in the case of a decision referred to in paragraph 23B (1) (a), (b) or (c)—to the applicant; or
- (b) in the case of a decision referred to in paragraph 23B (1) (d)—to the person to whom the determination relates.

Objections

“23B. (1) A person notified under section 23A may object to the following decisions of the Minister:

- (a) a decision under subsection 3 (1) refusing to make a determination;
- (b) a decision under subsection 3 (1) determining a period of deferment other than that applied for;
- (c) a decision under subsection 3 (1) making a determination for the deferral of an amount other than that applied for;
- (d) a decision under section 7 varying a determination;
- (e) a decision under subsection 10 (2) that a prescribed ground for revocation exists.

“(2) A person notified under section 21BAA (1) or (2) may object to a decision of the Commissioner under that subsection.

“(3) An objection shall be made to the original decision-maker—

- (a) within 60 days after service of notice of the decision; and
- (b) in writing, setting out the grounds of the objection.

“(4) On receipt of an objection in accordance with subsection (3), the original decision-maker shall, by written notice to the objector—

- (a) uphold the objection and substitute a new decision for the original decision objected to, in terms no less favourable to the objector than those of the original decision; or
- (b) dismiss the objection.

“(5) A notice under subsection (4) shall be in accordance with the requirements of the Code of Practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

“(6) Where an objection is upheld under paragraph (4) (a), this Act, other than section 23B, applies as if the decision substituted under that paragraph had been made instead of the original decision at the time the original decision was made.

“(7) In this section—

‘original decision-maker’ means—

- (a) in relation to a decision referred to in subsection (1)—the Minister; or

- (b) in relation to the decision referred to in subsection (2)—
the Commissioner.

Review of decisions

“23C. Application may be made to the Tribunal for a review of a decision of the Minister or the Commissioner—

- (a) under paragraph 23B (4) (a) substituting a new decision for a decision objected to; or
- (b) under paragraph 23B (4) (b) dismissing an objection.

Effect of pending objection or review

“23D. The fact that the consideration of an objection is pending does not affect the decision to which the objection relates, so that rates may be assessed and recovered as if no objection had been made.”.

Repeal

- 18. Schedules 1 and 2 to the Principal Act are repealed.

Renumbering of provisions

- 19. (1) The amended Act is amended as provided by this section.

(2) The sections of Part III of the amended Act are renumbered as set out in the Schedule to this Act.

(3) Any provision of the amended Act that refers to a section of that Act that has been renumbered by subsection (2) is further amended by omitting that reference and substituting a reference to the section as so renumbered.

(4) A reference in a provision of another law of the Territory made before the commencement of this section (whether or not that provision has commenced), or in any instrument or document, to a section of the amended Act that has been renumbered by subsection (2) shall (except as regards the operation of the section before it was so renumbered) be construed as a reference to that section as so renumbered.

- (5) In this section—

“amended Act” means the Principal Act as amended by the provisions of this Act other than this section.

SCHEDULE

Section 19

RENUMBERING OF PROVISIONS OF PART III OF PRINCIPAL ACT

Sections of amended Act	Renumbered sections
21BAAA	21C
21BAAB	21D
21BAAC	21E
21BAAD	21F
21BAAE	21G
21BAAF	21H
21BA	21J
21BAA	21JA
21BAB	21JB

NOTE

Principal Act

1. Reprinted as at 28 February 1995. See also Act No. 54, 1995.

NOTE ABOUT SECTION HEADING

On the day on which section 11 of the *Rates and Land Rent (Relief) Act 1970* is amended by this Act, in addition to any alteration of section headings indicated in the text of this Act, the heading to the following section of the Principal Act is altered as set out below:

Section	Alteration
10	Omit the heading, substitute the following heading: Notice of proposed revocation of determination on prescribed grounds

[Presentation speech made in Assembly on 10 April 1997]