



Australian Capital Territory

# Land Tax Act 2004

A2004-4

**Republication No 20**

**Effective: 25 November 2015 – 30 April 2017**

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Last amendment made by [A2015-49](#)

## About this republication

### The republished law

This is a republication of the *Land Tax Act 2004* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 25 November 2015. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 25 November 2015.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$150 for an individual and \$750 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Land Tax Act 2004

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Australian Capital Territory

# Land Tax Act 2004

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An Act about land tax

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Land Tax Act 2004*.

*Note* This Act is a **tax law** under the Taxation Administration Act. As a tax law, this Act is subject to provisions of the Taxation Administration Act about the administration and enforcement of tax laws generally.

### 3 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition ‘*unit subdivision*—see the [Rates Act 2004](#), dictionary.’ means that the term ‘unit subdivision’ is defined in that dictionary and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

### 4 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.



## 5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## Part 2 Imposition and payment of land tax

### 6 Pt 2 subject to pt 4

This part is subject to part 4 (Unit subdivisions).

### 7 Definitions for pt 2

In this part:

*rent* means valuable consideration for which a tenant is liable under a tenancy agreement in relation to the tenancy or a period of the tenancy.

*tenancy agreement*—

- (a) means an agreement under which a person grants to someone else for value a right of occupation of a parcel of land for use as a residence—
  - (i) whether the right of occupation is exclusive or not; and
  - (ii) whether the agreement is express or implied; and
  - (iii) whether the agreement is in writing, is oral, or is partly in writing and partly oral; but
- (b) does not include an agreement giving a right of occupation only as a boarder or lodger.

*tenant* means a person with a right of occupation under a tenancy agreement.

*trustee* does not include—

- (a) in relation to a dead person—an executor of the will, or an administrator of the estate, of the dead person; or
- (b) a guardian or manager of the property of a person with a legal disability.

**8 When is something *rented* for pt 2?**

- (1) For this part, a parcel of land or dwelling is not taken to be *rented* only because a tenant is liable to pay for rates, land tax, repairs, maintenance or insurance in relation to the parcel or dwelling.

*Note* For provision about multiple dwellings on a parcel of land, see s 15.

- (2) For this part, a parcel of land or dwelling is taken to be *rented* if it is rented on the 1st day of a quarter.
- (3) For this part, a parcel of land or dwelling is taken to be *rented* on the 1st day of a quarter if—
- (a) it is leased for residential purposes on that day; and
  - (b) it was rented at any time in the previous quarter.
- (4) However, the parcel of land or dwelling is taken not to be *rented* on the 1st day of a quarter if—
- (a) the owner gives written notice to the commissioner before the beginning of the quarter that the parcel or dwelling will not be rented at any time in the quarter; or
  - (b) the owner gives written notice to the commissioner during the quarter that the parcel or dwelling has not been, and will not be, rented at any time in the quarter; or
  - (c) the owner gives written notice to the commissioner after the quarter that the parcel was not rented at any time in the quarter; or
  - (d) the owner gives written notice to the commissioner that the parcel or dwelling was not rented during a continuous period of at least 91 days that—
    - (i) begins in a quarter after the 1st day of the quarter; and
    - (ii) ends in the following quarter.

- (5) Also, if the owner of a parcel of land becomes the owner on the 1st day of a quarter or during the previous quarter, the parcel is taken to be not rented on the 1st day of the quarter unless—
- (a) the owner advises under section 14 that the parcel is rented; or
  - (b) the commissioner is otherwise satisfied that the parcel is rented.

## 9 Imposition of land tax

- (1) Land tax at the appropriate rate is imposed for a quarter on each parcel of rateable land that is—
- (a) rented residential land; or
  - (b) residential land owned by a corporation or trustee.
- (2) The *appropriate rate* of land tax for a parcel of land is the amount worked out for the parcel as follows:

$$FC + (AUV \times P)$$

- (3) However, land tax is not imposed on a parcel of land that is exempt under section 10 or section 11.
- (4) In this section:

*AUV* means the average unimproved value of the parcel of land under the [Rates Act 2004](#).

*FC* means the fixed charge determined under the [Taxation Administration Act](#), section 139 for the parcel of land.

*P* means the percentage rate determined under the [Taxation Administration Act](#), section 139 for the parcel of land.

*Note* Power to determine a fixed charge or percentage rate under the [Taxation Administration Act](#) includes the power to determine a different charge or rate for different matters or classes of matter (see [Legislation Act](#), s 48).

## 10 Land exempted from s 9 generally

(1) The following parcels of land are exempt from land tax imposed under section 9:

(a) a parcel of residential land owned by an individual if the parcel is exempted under section 13 (Decision on compassionate application) in relation to the parcel;

*Note* An exemption under s 13 is for 1 year or less.

(b) a parcel of rural land;

(c) a parcel of land owned by the housing commissioner under the *Housing Assistance Act 2007*;

(d) a parcel of land owned or leased by an entity declared under the *Duties Act 1999*, section 73A (Transfers etc to entities for community housing);

(e) a parcel of land leased for a retirement village;

(f) a parcel of land leased for a nursing home;

(g) a parcel of land leased for a nursing home and a retirement village;

(h) a parcel of land leased by a religious institution or order to provide residential accommodation to a member of the institution or order and allow the member to perform his or her duties as a member of the institution or order;

(i) a parcel of land, other than a parcel of residential land leased to a corporation or trustee, being used for a purpose prescribed under the regulations.

(2) In this section:

***nursing home*** means premises that—

(a) are approved, or taken to be approved, as a nursing home under the *National Health Act 1953* (Cwlth); and

- (b) are built on land under a lease that allows the use of the land—
  - (i) for residential accommodation and nursing care for patients who, because 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 residential retirement accommodation.

***retirement village*** means a complex of buildings (whether or not including hostel units)—

- (a) that is intended predominantly for retired people who are at least 55 years old, or couples, at least 1 of whom is at least 55 years old; and
- (b) each of which is, or is to be, occupied or used under a sublease, licence or other arrangement (other than a lease); and
- (c) each of which is intended, and able, to be occupied as a home; and
- (d) that is built on land under a lease that allows the use of the land—
  - (i) for residential retirement accommodation; and
  - (ii) if the land is also used, or to be used, for a nursing home—for residential accommodation and nursing care for patients who, because of infirmity or illness, disease, incapacity or disability have a continuing need for nursing care; and
- (e) 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.

**rural land** means—

- (a) rateable land leased for the purpose of primary production only; or
- (b) rateable land leased for the purpose of primary production and other purposes but used mainly for primary production; or
- (c) a parcel of rateable land included in the common property of a community title scheme under the *Community Title Act 2001*, if no parcel of land in the scheme is—
  - (i) residential land; or
  - (ii) leased for a commercial purpose.

*Note* Section 15 (2) disapples this section in certain circumstances.

## **11 Land exempted from land tax**

- (1) The following parcels of land are exempted from land tax:
  - (a) a parcel of land held under a development lease by a corporation;
  - (b) a parcel of residential land owned by a not-for-profit housing corporation.
- (2) A corporation carrying on business as a builder or land developer may apply, in writing, to the commissioner for a declaration that a parcel of land owned by the corporation is exempt from land tax for 2 years beginning on the 1st day of the 1st quarter after the corporation becomes the owner of the parcel if—
  - (a) the parcel is used by the corporation only to construct new residential premises; and
  - (b) the new residential premises are to be sold by the corporation when finished.

(3) In this section:

**development lease**, of land, means a lease for the development of the land by the lessee, or at the lessee's expense, by clearing, filling, grading, draining, levelling or excavating the land to make it suitable for subdivision into parcels of land to be leased.

**new residential premises** includes premises intended and able to be occupied as a home that—

- (a) have been created through substantial renovations of a building; or
- (b) have been built, or contain a building that has been built, to replace demolished premises on the same land.

**not-for-profit housing corporation** means a corporation registered under the [Corporations Act](#) or the [Cooperatives Act 2002](#) with a constitution that—

- (a) states that the main objective of the corporation is the provision of housing; and
- (b) prohibits the corporation from making a distribution (whether in money, property or another way) to its members.

**substantial renovations**, of a building, are renovations in which all, or substantially all, of the building is removed or replaced, whether or not the renovations involve removal or replacement of foundations, external walls, interior supporting walls, floors, roof or staircases.

*Note* Section 15 (2) disapplies this section in certain circumstances.

## 12 Application for compassionate case exemption

- (1) This section applies if, on the 1<sup>st</sup> day of a quarter, a parcel of residential land is owned by an individual (the **owner**) and rented by a tenant.



- (2) The owner may apply in writing to the commissioner for a declaration that the parcel of land be treated as exempt from land tax on compelling compassionate grounds.
- (3) The application must set out the grounds on which it is made.

### **13 Decision on compassionate application**

- (1) On receiving an application under section 12 by the owner of a parcel of land, the commissioner must—
  - (a) if satisfied that the owner is temporarily absent because of compelling compassionate reasons and the parcel is not a parcel to which subsection (2) relates—exempt the parcel from land tax; or
  - (b) in any other case—refuse to exempt the parcel from land tax.
- (2) The commissioner must not exempt a parcel of land under this section if—
  - (a) a person carries on business as the proprietor of a boarding house on the parcel; or
  - (b) the parcel is leased to a corporation or trustee.
- (3) An exemption under subsection (1) in relation to a parcel of land must state that the parcel is exempt from land tax for a stated period of 1 year or less.
- (4) A notice of refusal under subsection (1) (b) must give reasons why the commissioner is not satisfied that the parcel should be exempt from land tax under this section.
- (5) The commissioner may, by notice given to the owner of the parcel of land, revoke an exemption under this section if satisfied that the parcel should no longer be exempted.

**14 Commissioner to be told if residential land rented**

- (1) This section applies in relation to a parcel of land that—
  - (a) is leased for residential purposes; and
  - (b) is rented by a tenant.
- (2) A relevant person must tell the commissioner, in writing—
  - (a) that the parcel is rented; and
  - (b) when the rental began.

*Note 1* If a form is approved under the [Taxation Administration Act 1999](#), s 139C, the form must be used.

*Note 2* It is an offence to fail to notify the commissioner under this section (see [Taxation Administration Act 1999](#), s 67 (2)).

*Note 3* It is also an offence to knowingly avoid paying, or disclosing a liability to pay, part or all of an amount of tax (see [Taxation Administration Act 1999](#), s 65 (1)).

- (3) The relevant person must tell the commissioner the information mentioned in subsection (2) not later than 30 days after—
  - (a) if there is a change of ownership of the parcel—the day the ownership changes; or
  - (b) in any other case—the day the rental begins.
- (4) This section does not apply if the owner of the parcel of land is a corporation.

(5) In this section:

**relevant person** means—

- (a) the owner of the parcel of land; or
- (b) if the owner has authorised an agent to act on the owner's behalf in relation to the rental of the parcel—the agent.

**Examples—agent**

accountant, real estate agent, solicitor

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

#### **14A Commissioner to be told if residential land owned by an individual as trustee**

- (1) This section applies in relation to a parcel of residential land that is owned by an individual as trustee.
- (2) The individual must tell the commissioner, in writing—
  - (a) that the individual owns the parcel as trustee; and
  - (b) when the ownership as trustee began.

*Note 1* If a form is approved under the [Taxation Administration Act 1999](#), s 139C, the form must be used.

*Note 2* It is an offence to fail to notify the commissioner under this section (see [Taxation Administration Act 1999](#), s 67 (2)).

*Note 3* It is also an offence to knowingly avoid paying, or disclosing a liability to pay, part or all of an amount of tax (see [Taxation Administration Act 1999](#), s 65 (1)).

- (3) The individual must tell the commissioner the information mentioned in subsection (2) not later than 30 days after—
  - (a) if there is a change of ownership of the parcel—the day the ownership changes; or
  - (b) in any other case—the day the ownership as trustee begins.

## 15 Multiple dwellings

- (1) This section applies if—
- (a) a parcel of residential land owned by someone other than a corporation or trustee contains multiple dwellings; and
  - (b) at least 1 of the dwellings is rented by a tenant.
- (2) Section 10 (Land exempted from s 9 generally) and section 11 (Land exempted from land tax) do not apply to the parcel of land.
- (3) In working out the land tax payable for the parcel of land under section 9 (Imposition of land tax), the AUV of the parcel of land is the amount worked out as follows:

$$\text{AUV} \times \frac{\text{FA}}{\text{TFA}}$$

- (4) In working out the land tax payable for the parcel of land under section 9 (Imposition of land tax), the FC for the parcel of land is the amount worked out as follows:

$$\text{FC} \times \frac{\text{FA}}{\text{TFA}}$$

- (5) In this section:

*AUV* means the average unimproved value of the parcel of land under the *Rates Act 2004*.

*dwelling* does not include—

- (a) a garage, carport, garden shed, veranda, pergola or patio, or any other structure not used for living in; or
- (b) a unit.

*FA* means the floor area of the rented dwelling.

*FC* means the fixed charge determined under the [Taxation Administration Act](#), section 139 for section 9 (4), definition of *FC*.

*TFA* means the total floor area of all dwellings on the parcel of land.

## 16 Land partly owned by corporation or trustee

- (1) This section applies to a parcel of residential land that is not rented and is owned by—
  - (a) 1 or more people who are corporations or trustees; and
  - (b) 1 or more people who are not corporations or trustees.
- (2) In working out the land tax payable for the parcel of land under section 9 (Imposition of land tax), the AUV of the parcel of land is the amount worked out as follows:

$$\text{AUV} \times \frac{\text{C\&TI}}{\text{AI}}$$

- (3) In working out the land tax payable for the parcel of land under section 9 (Imposition of land tax), the FC for the parcel of land is the amount worked out as follows:

$$\text{FC} \times \frac{\text{C\&TI}}{\text{AI}}$$

- (4) In subsection (2):

*AI* means the value of all interests in the parcel of land.

*AUV* means the average unimproved value of the parcel of land under the [Rates Act 2004](#).

*C&TI* means the value of all interests in the parcel of land held by corporations and trustees.

*FC* means the fixed charge determined under the [Taxation Administration Act](#), section 139 for section 9 (4), definition of *FC*.

- (5) Any land tax payable for the parcel of land is payable by the owners of the land who are corporations or trustees.

**17 Payment of land tax**

- (1) Land tax in relation to a parcel of land is payable to the commissioner by the owner of the parcel.
- (2) A person who is the owner of the parcel of land is liable to pay to the commissioner any unpaid land tax payable in relation to the parcel, whether the amount became payable before or after the person became the owner.
- (3) However, if the owner of the parcel is a person to whom section 20 (3) applies in relation to the unpaid land tax, the amount is payable by the person who was the owner of the parcel for the period to which the liability relates.
- (4) The assessment notice for the land tax payable for a quarter for a parcel of land must state a date for payment of the land tax (the *payment date*).
- (5) The payment date must not be earlier than 4 weeks after the date of the notice.
- (6) A person may pay the land tax in relation to which an assessment notice has been given—
- (a) if the amount payable is for a quarter and any arrears of land tax in relation to previous quarters have been paid in full—by paying, on or before the date for the payment of the land tax, the amount of the land tax; or
  - (b) if the amount payable is for part of a quarter—by paying the amount of the land tax on or before the payment date for the land tax; or
  - (c) by paying the amounts on the days that the person wishes, but so that the amount owing on the date for payment is paid no later than the date for payment.

(7) In this section:

*assessment notice*, in relation to land tax, means a notice of assessment under the Taxation Administration Act, section 14 in relation to the land tax.

## 18 Land tax for part of quarter

(1) This section applies to a parcel of land if—

- (a) the parcel starts or stops being rateable in the quarter; and
- (b) land tax is payable for the parcel at any time during the quarter.

(2) In working out the land tax payable for the parcel of land under section 9 (Imposition of land tax), the amount of land tax payable for the parcel for the quarter is the amount worked out in accordance with the following formula:

$$\text{land tax otherwise payable for quarter} \times \frac{\text{taxable days}}{\text{quarter days}}$$

(3) In subsection (2):

*taxable days* means the number of days in the quarter that the parcel of land was a rateable parcel.

*quarter days* means the number of days in the quarter.

## Part 3 Enforcement

### 19 Interest payable on overdue land tax

- (1) Interest on an amount of unpaid overdue land tax is worked out—
  - (a) for each month that the amount remains unpaid; and
  - (b) on the 1st day of that month; and
  - (c) at the interest rate applying to that day; and
  - (d) on the total amount of overdue land tax that is unpaid on a day when the interest is worked out.

*Note* The Minister may determine an interest rate for this section under the [Taxation Administration Act](#), section 139.

- (2) For subsection (1) (a), if an amount remains unpaid for part of a month, interest is payable for the whole month.

#### Example

Fred's land tax is due on 15 August. He doesn't pay it until 5 October. Fred has to pay interest worked out for the overdue period from 16 August to 5 October. Because of the operation of s (2), Fred has to pay interest for the period from 16 August to 15 October. Interest for the month from 16 August to 15 September is at the rate applying on 16 August, which is the 1st day of the 1st month that the amount remains unpaid (see s (1)). Interest for the month from 16 September to 15 October is at the rate applying on 16 September, which is the 1st day of the 2nd month that the amount remains unpaid (see s (1)).

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (3) The [Taxation Administration Act](#), section 25 (Interest in relation to tax defaults) does not apply to unpaid overdue land tax.



**19A Interest and penalty tax payable on land tax if no disclosure**

- (1) This section applies if—
  - (a) land tax is imposed on a parcel of rateable land; and
  - (b) the owner of the parcel of land fails to comply with section 14 (Commissioner to be told if residential land rented) or section 14A (Commissioner to be told if residential land owned by an individual as trustee).
- (2) The owner is liable to pay interest on the amount of land tax from the end of 30 days after the 1st day of the 1st quarter for which the tax is imposed.
- (3) Interest on the amount of land tax is worked out—
  - (a) for each month that the amount is payable; and
  - (b) on the 1st day of that month; and
  - (c) at the interest rate applying to that day; and
  - (d) on the total amount of land tax that is payable on a day when the interest is worked out.

*Note* The Minister may determine an interest rate for this section under the [Taxation Administration Act](#), s 139.
- (4) For subsection (3) (a), if an amount of land tax is payable for part of a month, interest is payable for the whole month.
- (5) The [Taxation Administration Act](#), division 5.2 (Penalty tax) applies to the owner of the parcel of land as if—
  - (a) the owner's failure to comply with section 14 or section 14A were a tax default; and
  - (b) a reference to interest under division 5.1 were a reference to interest under this section; and

**Part 3** Enforcement

Section 19A

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- (c) a reference to the amount of tax unpaid were a reference to the amount of land tax payable.
- (6) This section applies to land tax imposed before or after the commencement of this section.

## Part 4 Unit subdivisions

*Note* Section 9 imposes land tax on unit subdivisions.

### 26 Unit subdivisions

- (1) For this Act, if a parcel of land is a unit subdivision, the land making up the parcel is taken to continue to be a single parcel of land.
- (2) However, in the application of this Act to a unit subdivision—
  - (a) a reference to a parcel of land in relation to the assessment or payment of land tax is a reference to a unit; and
  - (b) a reference to the owner is—
    - (i) in relation to the assessment or payment of land tax—a reference to the unit owner; and
    - (ii) in relation to any other notice—a reference to the owners corporation.

### 27 Unit subdivisions—land tax

- (1) This section applies to a parcel of land that is a unit subdivision.
- (2) If land tax imposed for the parcel of land for the quarter when the units plan is registered is not paid before registration of the units plan, it is payable by the person who was the owner of the parcel on the day before the day when the units plan was registered.
- (3) On and after the 1st day of the next quarter after the day when the units plan is registered or, if it is registered on the 1st day of a quarter, on and after that day—
  - (a) any land tax imposed for the parcel of land is payable by the unit owners whose units are subject to land tax; and
  - (b) the amount payable by each unit owner whose unit is subject to land tax is the amount worked out under subsection (5); and

- (c) no land tax for the parcel is payable by the owners corporation.
- (4) Section 9 (Imposition of land tax) applies to impose land tax on a unit that is part of the unit subdivision as if a reference to a parcel of land were a reference to the unit.
- (5) In working out the land tax payable for the parcel of land under section 9 (Imposition of land tax), the AUV of the parcel of land is the amount worked out as follows:

$$\text{AUV} \times \frac{\text{UE}}{\text{TUE}}$$

- (6) In this section:

*AUV* means the average unimproved value of the parcel of land under the [Rates Act 2004](#).

*TUE* means the unit entitlement of all the units in the units plan.

*UE* means the unit entitlement of the unit.

*unit entitlement*—see the [Unit Titles Act](#), section 8.

*units plan* means a units plan under the [Unit Titles Act](#), section 7.

## Part 5 Exemptions, remissions and certain interest payments

### 34 Exemption from land tax

- (1) The Minister may exempt the owner of a parcel of land from payment of land tax owing for any period in relation to the parcel, or from payment of a stated part of the land tax.

- (2) An exemption is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

- (3) The Minister may make guidelines for the exercise of a function under this section.

- (4) Guidelines are a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

### 35 Remission of land tax

- (1) The Minister may remit the land tax, or part of the land tax, payable for a parcel of land if the Minister is satisfied that it is fair and reasonable in the circumstances.

- (2) The Minister may make guidelines for the exercise of a function under this section.

- (3) Guidelines are a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**36 Remission of interest**

- (1) The commissioner may remit all or part of an amount of interest payable by a person in relation to land tax if the commissioner is satisfied that it is fair and reasonable having regard to—
  - (a) any circumstances that contributed to the delay in payment of the land tax; or
  - (b) any other relevant matter.
- (2) The Minister may make guidelines for the exercise of a function under this section.
- (3) Guidelines are a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**37 Interest on refund**

- (1) This section applies if the commissioner is satisfied that—
  - (a) an assessment of land tax payable for a parcel of land has been wrongly made because of an administrative error; and
  - (b) because of the error, a person has overpaid land tax for the parcel.
- (2) The commissioner may pay interest to the owner of the parcel—
  - (a) at the market rate component determined under the [Taxation Administration Act](#), section 26; and
  - (b) worked out from the date when the overpayment was made or a later date the commissioner considers appropriate.

## Part 6 Miscellaneous

### 38 Objections

The following decisions of the commissioner are prescribed for the [Taxation Administration Act](#), section 100 (Objection):

- (a) a decision under section 13 (1) (b) to refuse to exempt a parcel of land from land tax on compassionate grounds;
- (b) a decision under section 13 (5) revoking an exemption given on compassionate grounds;
- (c) a decision under section 36 (1) to refuse to remit interest payable by a person in relation to land tax;
- (d) a decision under section 37 to refuse to pay interest on an overpayment or to pay interest other than from the date when the overpayment was made.

*Note* Assessments are made under the Taxation Administration Act and objections may be made under that [Act](#), s 100 (1) (a). For example, if a person is given an assessment for land tax and the person is dissatisfied with the assessment because land tax was not payable in relation to the parcel of land, the person may object under that paragraph.

### 39 Review of decisions by ACAT

- (1) This section applies to a determination by the commissioner of an objection to a decision mentioned in section 38 , other than a decision mentioned in section 38 (c).
- (2) The determination is prescribed for the [Taxation Administration Act](#), section 107A (Meaning of *reviewable decision* etc—div 10.2).

*Note* Applications for review by the ACAT may be made in relation to a determination by the commissioner of a decision on an objection to an assessment.

**40 Working out amounts with fractions for Act**

- (1) If an amount worked out under this Act contains a fraction of a cent, the amount must be rounded to the nearest cent, with  $\frac{1}{2}$  a cent being disregarded.
- (2) However, in working out the average unimproved value under section 15 (3) (Multiple dwellings), section 16 (2) (Land partly owned by corporation or trustee) or section 27 (5) (Unit subdivisions—land tax), any fraction of a dollar in the amount worked out must be disregarded.
- (3) The [Taxation Administration Act](#), section 123 (Adjustments of amounts) does not apply in working out an amount under this Act.

**41 Certificate of land tax and other charges**

- (1) A person may apply to the commissioner for a certificate of—
  - (a) the land tax assessed to be payable under this Act for a parcel of land for the current financial year; and
  - (b) the land tax and other amounts immediately payable to the commissioner under this Act in relation to the parcel.

*Note 1* A fee may be determined under s 43 for this provision.

*Note 2* If a form is approved under the [Taxation Administration Act](#), s 139C for an application, the form must be used.

*Note 3* A single application form may be approved for this section and the [Land Rent Act 2008](#), s 31 and the [Rates Act 2004](#), s 76 (see [Legislation Act](#) s 255 (7)).

- (2) The commissioner must give the applicant the certificate.
- (3) The certificate is conclusive proof for an honest buyer for value of the parcel of land of the matters certified.

*Note* The certificate may include a certificate of amounts payable under the [Rates Act 2004](#) in relation to the parcel (see [Legislation Act](#), s 49).



- (4) For this section, land tax and other amounts are taken to be payable immediately even if any necessary time after service of a notice has not ended.

## **42 Statement of amounts payable and payments made**

- (1) A person may apply to the commissioner for a statement of—
- (a) the amounts that became payable to the commissioner under this Act in relation to a parcel of land in a stated financial year; and
  - (b) the payments received by the commissioner in the financial year for amounts that became payable under this Act in relation to the parcel.

*Note 1* A fee may be determined under s 43 for this provision.

*Note 2* If a form is approved under the [Taxation Administration Act](#), s 139C for an application, the form must be used.

*Note 3* A single application form may be approved for this section and the [Rates Act 2004](#), s 77 (see [Legislation Act](#), s 255 (7)).

- (2) The commissioner must give the applicant the statement.

*Note* The statement may include a statement of rates payable and received under the [Rates Act 2004](#) in relation to the parcel of land (see [Legislation Act](#), s 49).

## **43 Determination of fees**

- (1) The Minister may determine fees for this Act.

*Note* The [Legislation Act](#) contains provisions about the making of determinations and regulations relating to fees (see pt 6.3)

- (2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**44 Regulation-making power**

The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

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## Dictionary

(see s 3)

*Note 1* The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

*Note 2* For example, the [Legislation Act](#), dict, pt 1 defines the following terms:

- ACAT
- commissioner for revenue
- corporation
- financial year
- function
- interest
- month
- person (see s 160)
- quarter
- under.

*commissioner* means the commissioner for revenue.

*land sublease*—see the [Planning and Development Act 2007](#), dictionary.

*land tax* includes—

- (a) penalty tax; and
- (b) the total of—
  - (i) the costs and expenses reasonably incurred by the Territory in attempting to recover the land tax; and
  - (ii) interest payable in relation to the land tax.

**lease** means a lease from the Commonwealth or the Territory, and includes an agreement with the Commonwealth or the Territory—

- (a) for a lease of a parcel of land; or
- (b) for the tenancy or occupation of a parcel of land.

**owner**, of a parcel of land means—

- (a) the registered proprietor of an interest in the parcel (other than an interest in a lease granted by a person other than the Territory or the Commonwealth); or
- (b) if the registered proprietor has sold the interest to another person (the **new owner**) and the new owner is in possession of the parcel but not yet registered as the proprietor—the new owner; or
- (c) a mortgagee in possession of the parcel; or
- (d) a person holding the parcel under a sublease from the Territory, if the Territory holds the parcel under a lease from the Commonwealth; or
- (e) for a parcel held under a land sublease—the sublessee.

**owners corporation**—see the [Unit Titles \(Management\) Act 2011](#), dictionary.

**parcel** includes a part of a parcel of land that is separately held by an occupier, tenant, lessee or owner.

**primary production** means—

- (a) production resulting directly from—
  - (i) cultivation of land; or
  - (ii) keeping animals for their sale, bodily produce or natural increase; or

- (iii) fishing operations; or
- (iv) forest operations; and
- (b) the manufacture of dairy produce by the person who produced the raw material used in that manufacture.

**rateable land**—see the *Rates Act 2004*, section 8.

**rates**—see the *Rates Act 2004*, dictionary.

**rent**, for part 2 (Imposition and payment of land tax)—see section 7.

**rented**, for part 2 (Imposition and payment of land tax)—see section 8.

**residential land** means—

- (a) rateable land leased for residential purposes only; or
- (b) rateable land leased for residential purposes and other purposes but used for residential purposes only; or
- (c) a parcel of rateable land included in the common property of a community title scheme under the *Community Title Act 2001*, if—
  - (i) at least 1 parcel of land in the scheme is residential land under paragraph (a) or (b); and
  - (ii) no parcel of land in the scheme is leased for a commercial purpose.

**Taxation Administration Act** means the *Taxation Administration Act 1999*.

**tenancy agreement**, for part 2 (Imposition and payment of land tax)—see section 7.

**tenant**, for part 2 (Imposition and payment of land tax)—see section 7.

*trustee*, for part 2 (Imposition and payment of land tax)—see section 7.

*unit* means a unit under the [Unit Titles Act](#), section 9.

*unit owner* means—

- (a) the registered proprietor of the lease of a unit; or
- (b) if the registered proprietor has sold the interest to another person (the *new owner*) and the new owner is in possession of the unit but not yet registered as the proprietor—the new owner.

*unit subdivision*—see the [Rates Act 2004](#), dictionary.

*Unit Titles Act* means the [Unit Titles Act 2001](#).

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Land Tax Act 2004 A2004-4**

notified LR 18 February 2004

s 1, s 2 commenced 18 February 2004 (LA s 75 (1))

remainder commenced 1 July 2004 (s 2)

as amended by

#### **Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.32**

notified LR 12 May 2005

s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))

sch 3 pt 3.32 commenced 2 June 2005 (s 2 (1))

#### **Revenue Legislation Amendment Act 2005 A2005-29 pt 3**

notified LR 28 June 2005

s 1, s 2 commenced 28 June 2005 (LA s 75 (1))

pt 3 commenced 29 June 2005 (s 2 (2))

#### **Revenue Legislation Amendment Act 2006 A2006-19 pt 3**

notified LR 17 May 2006

s 1, s 2 commenced 17 May 2006 (LA s 75 (1))

pt 3 commenced 18 May 2006 (s 2 (3))

#### **Housing Assistance Act 2007 A2007-8 sch 1 pt 1.5**

notified LR 10 May 2007

s 1, s 2 commenced 10 May 2007 (LA s 75 (1))

sch 1 pt 1.5 commenced 10 November 2007 (s 2 and LA s 79)

#### **Land Tax (Interest and Penalty) Amendment Act 2007 A2007-20**

notified LR 14 June 2007

s 1, s 2 commenced 14 June 2007 (LA s 75 (1))

remainder commenced 15 June 2007 (s 2)

#### **Revenue Legislation Amendment Act 2007 A2007-21 pt 3**

notified LR 19 June 2007

s 1, s 2 commenced 19 June 2007 (LA s 75 (1))

pt 3 commenced 20 June 2007 (s 2)



**Revenue Legislation (Housing Affordability Initiatives) Amendment Act 2007 A2007-29 pt 3**

notified LR 2 October 2007  
s 1, s 2 commenced 2 October 2007 (LA s 75 (1))  
pt 3 commenced 3 October 2007 (s 2)

**Land Rent Act 2008 A2008-16 sch 1 pt 1.1**

notified LR 30 June 2008  
s 1, s 2 commenced 30 June 2008 (LA s 75 (1))  
sch 1 pt 1.1 commenced 1 July 2008 (s 2 and [CN2008-10](#))

**ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.62**

notified LR 4 September 2008  
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))  
sch 1 pt 1.62 commenced 2 February 2009 (s 2 (1) and see [ACT Civil and Administrative Tribunal Act 2008](#) A2008-35, s 2 (1) and [CN2009-2](#))

**Rates and Land Tax Legislation Amendment Act 2009 A2009-52 pt 2**

notified LR 18 December 2009  
s 1, s 2 commenced 18 December 2009 (LA s 75 (1))  
pt 2 commenced 1 January 2010 (s 2)

**Land Tax Amendment Act 2011 A2011-33**

notified LR 1 September 2011  
s 1, s 2 commenced 1 September 2011 (LA s 75 (1))  
remainder commenced 2 September 2011 (s 2)

**Unit Titles (Management) Act 2011 A2011-41 sch 5 pt 5.5**

notified LR 3 November 2011  
s 1, s 2 commenced 3 November 2011 (LA s 75 (1))  
sch 5 pt 5.5 commenced 30 March 2012 (s 2 and [CN2012-6](#))

**Rates and Land Tax Legislation Amendment Act 2012 A2012-37 pt 2**

notified LR 18 June 2012  
s 1, s 2 commenced 18 June 2012 (LA s 75 (1))  
pt 2 commenced 1 July 2012 (s 2)

## Endnotes

3 Legislation history

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### **Revenue Legislation (Tax Reform) Amendment Act 2013 A2013-17**

#### **sch 1 pt 1.1**

notified LR 22 May 2013

s 1, s 2 commenced 22 May 2013 (LA s 75 (1))

sch 1 pt 1.1 commenced 23 May 2013 (s 2)

### **Land Tax Amendment Act 2014 A2014-36**

notified LR 22 August 2014

s 1, s 2 commenced 22 August 2014 (LA s 75 (1))

remainder commenced 1 October 2014 (s 2)

### **Statute Law Amendment Act 2014 (No 2) A2014-44 sch 3 pt 3.7**

notified LR 5 November 2014

s 1, s 2 commenced 5 November 2014 (LA s 75 (1))

sch 3 pt 3.7 commenced 19 November 2014 (s 2)

### **Planning and Development (University of Canberra and Other Leases) Legislation Amendment Act 2015 A2015-19 pt 10**

notified LR 11 June 2015

s 1, s 2 commenced 11 June 2015 (LA s 75 (1))

pt 10 commenced 1 July 2015 (s 2 and [CN2015-9](#))

### **Revenue Legislation Amendment Act 2015 A2015-49 pt 5**

notified LR 24 November 2015

s 1, s 2 commenced 24 November 2015 (LA s 75 (1))

pt 5 commenced 25 November 2015 (s 2)

## 4 Amendment history

### Commencement

s 2 om LA s 89 (4)

### Imposition of land tax

s 9 am [A2005-29](#) s 11; [A2013-17](#) amdt 1.1, amdt 1.2; [A2014-36](#) s 4, s 5

### Land exempted from s 9 generally

s 10 am [A2007-29](#) s 14; pars renum R8 LA; [A2007-8](#) amdt 1.11; [A2014-44](#) amdt 3.30

### Land exempted from land tax

s 11 am [A2015-49](#) s 24

### Commissioner to be told if residential land rented

s 14 sub [A2009-52](#) s 4

### Commissioner to be told if residential land owned by an individual as trustee

s 14A ins [A2011-33](#) s 4

### Multiple dwellings

s 15 am [A2005-29](#) s 12; [A2014-36](#) s 6, s 7; ss renum R17 LA

### Land partly owned by corporation or trustee

s 16 am [A2005-29](#) s 13; [A2014-36](#) s 8, s 9; ss renum R17 LA

### Payment of land tax

s 17 am [A2007-21](#) s 9; ss renum R7 LA; [A2014-44](#) amdt 3.31

### Land tax for part of quarter

s 18 am [A2005-29](#) s 14; [A2015-49](#) s 25

### Interest payable on overdue land tax

s 19 am [A2014-44](#) amdt 3.32

### Interest and penalty tax payable on land tax if no disclosure

s 19A ins [A2007-20](#) s 4  
am [A2014-44](#) amdt 3.32; [A2015-49](#) ss 26-28

### Charge of land tax on rateable land

s 20 om [A2015-49](#) s 29

### Notice of land tax in arrears

s 21 om [A2015-49](#) s 29

### Unoccupied land—letting for unpaid land tax

s 22 om [A2015-49](#) s 29

### Entitlement to possession of land held by commissioner

s 23 om [A2015-49](#) s 29

## Endnotes

4 Amendment history

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### **Sale of land for nonpayment of land tax**

s 24 sub [A2006-19](#) s 20  
am [A2008-16](#) amdt 1.1, amdt 1.2  
om [A2015-49](#) s 29

### **Application may relate to more than 1 parcel**

s 25 am [A2006-19](#) s 21  
om [A2015-49](#) s 29

### **Application of Act to unit subdivisions**

div 4.1 hdg om [A2013-17](#) amdt 1.3

### **Unit subdivisions—land tax**

s 27 am [A2005-20](#) amdt 3.185; [A2014-36](#) s 10

### **Certain proposed unit subdivisions**

div 4.2 hdg om [A2013-17](#) amdt 1.4

### **Meaning of *qualifying parcel of land* for div 4.2**

s 28 om [A2013-17](#) amdt 1.4

### **When div 4.2 applies to parcel of land**

s 29 om [A2013-17](#) amdt 1.4

### **Imposition of land tax—qualifying parcels of land**

s 30 am [A2005-29](#) s 15  
om [A2013-17](#) amdt 1.4

### **End of application of div 4.2**

s 31 om [A2013-17](#) amdt 1.4

### **Reassessment—completion of development**

s 32 om [A2013-17](#) amdt 1.4

### **Reassessment—noncompletion of development**

s 33 om [A2013-17](#) amdt 1.4

### **Exemption from land tax**

s 34 am [A2014-44](#) amdt 3.33

### **Interest on refund**

s 37 am [A2005-29](#) s 16

### **Objections**

s 38 am [A2015-49](#) s 30; pars renum R20 LA

### **Review of decisions by ACAT**

s 39 sub [A2008-37](#) amdt 1.286  
am [A2015-49](#) s 31

### **Certificate of land tax and other charges**

s 41 am [A2008-16](#) amdt 1.3

**Determination of fees**

s 43 am [A2014-44](#) amdt 3.34

**Transitional**

pt 7 hdg exp 1 July 2005 (s 57)

**Meaning of *repealed Act* for pt 7**

s 45 exp 1 July 2005 (s 57)

**Special provision for period to 30 June 1987**

s 46 exp 1 July 2005 (s 57)

**Meaning of *assessment***

s 47 exp 1 July 2005 (s 57)

**Land tax payable under repealed Act**

s 48 exp 1 July 2005 (s 57)

**Land to which repealed Act, pt 4A applied**

s 49 exp 1 July 2005 (s 57)

**Right to object if no objection lodged**

s 50 exp 1 July 2005 (s 57)

**Objections lodged under repealed Act**

s 51 exp 1 July 2005 (s 57)

**Applications for review if no application lodged**

s 52 exp 1 July 2005 (s 57)

**Application for review if application lodged**

s 53 exp 1 July 2005 (s 57)

**Notice of land tax in arrears**

s 54 exp 1 July 2005 (s 57)

**Statements under s 42**

s 55 exp 1 July 2005 (s 57)

**Modification of pt 7's operation**

s 56 exp 1 July 2005 (s 57)

**Expiry of pt 7**

s 57 exp 1 July 2005 (s 57)

## Endnotes

4 Amendment history

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### Dictionary

dict

am [A2008-37](#) amdt 1.287; [A2014-44](#) amdt 3.35  
def **assessment notice** om [A2014-44](#) amdt 3.36  
def **land sublease** ins [A2015-19](#) s 52  
def **owner** am [A2009-52](#) s 5, pars renum R12 LA;  
[A2015-19](#) s 53  
def **owners corporation** sub [A2011-41](#) amdt 5.9  
def **qualifying parcel of land** om [A2013-17](#) amdt 1.5  
def **residential land** sub [A2012-37](#) s 4  
def **rural land** sub [A2012-37](#) s 4  
om [A2014-44](#) amdt 3.37  
def **unit owner** sub [A2009-52](#) s 6

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 1 July 2004	1 July 2004– 1 June 2005	not amended	new Act
R2 2 June 2005	2 June 2005– 28 June 2005	<a href="#">A2005-20</a>	amendments by <a href="#">A2005-20</a>
R3 29 June 2005	29 June 2005– 1 July 2005	<a href="#">A2005-29</a>	amendments by <a href="#">A2005-29</a>
R4 2 July 2005	2 July 2005– 17 May 2006	<a href="#">A2005-29</a>	commenced expiry
R5 18 May 2006	18 May 2006– 14 June 2007	<a href="#">A2006-19</a>	amendments by <a href="#">A2006-19</a>
R6 15 June 2007	15 June 2007– 19 June 2007	<a href="#">A2007-20</a>	amendments by <a href="#">A2007-20</a>
R7 20 June 2007	20 June 2007– 2 Oct 2007	<a href="#">A2007-21</a>	amendments by <a href="#">A2007-21</a>
R8 3 Oct 2007	3 Oct 2007– 9 Nov 2007	<a href="#">A2007-29</a>	amendments by <a href="#">A2007-29</a>
R9 10 Nov 2007	10 Nov 2007– 30 June 2008	<a href="#">A2007-29</a>	amendments by <a href="#">A2007-8</a>
R10 1 July 2008	1 July 2008– 1 Feb 2009	<a href="#">A2008-16</a>	amendments by <a href="#">A2008-16</a>
R11 2 Feb 2009	2 Feb 2009– 31 Dec 2009	<a href="#">A2008-37</a>	amendments by <a href="#">A2008-37</a>
R12* 1 Jan 2010	1 Jan 2010– 1 Sept 2011	<a href="#">A2009-52</a>	amendments by <a href="#">A2009-52</a>

## Endnotes

### 5 Earlier republications

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<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R13 2 Sept 2011	2 Sept 2011– 29 Mar 2012	<a href="#">A2011-33</a>	amendments by <a href="#">A2011-33</a>
R14 30 Mar 2012	30 Mar 2012– 30 June 2012	<a href="#">A2011-41</a>	amendments by <a href="#">A2011-41</a>
R15 1 July 2012	1 July 2012– 22 May 2013	<a href="#">A2012-37</a>	amendments by <a href="#">A2012-37</a>
R16 23 May 2013	23 May 2013– 30 Sept 2014	<a href="#">A2013-17</a>	amendments by <a href="#">A2013-17</a>
R17 1 Oct 2014	1 Oct 2014– 18 Nov 2014	<a href="#">A2014-36</a>	amendments by <a href="#">A2014-36</a>
R18 19 Nov 2014	19 Nov 2014– 30 June 2015	<a href="#">A2014-44</a>	amendments by <a href="#">A2014-44</a>
R19 1 July 2015	1 July 2015– 24 Nov 2015	<a href="#">A2015-19</a>	amendments by <a href="#">A2015-19</a>

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