



Australian Capital Territory

# Revenue Legislation Amendment Act 2009

A2009-4

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Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

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Australian Capital Territory

# Revenue Legislation Amendment Act 2009

A2009-4

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An Act to amend the *Duties Act 1999* and the *First Home Owner Grant Act 2000*

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

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Revenue Legislation Amendment Act 2009*.

### 2 Commencement

This Act commences on the day after its notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

## Part 2 Duties Act 1999

### 3 Legislation amended—pt 2

This part amends the *Duties Act 1999*.

### 4 Avoidance of double duty—duty paid in corresponding Australian jurisdiction Section 218, new example

*insert*

#### **Example**

Emmy applies to register her car in the ACT. The car is registered in Emmy's name in Queensland. Under Queensland law, registration of Emmy's car is exempt from duty. However, under this Act, registration of Emmy's car is not exempt from duty. Section 218 does not apply, as Emmy has not paid duty in Queensland.

*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).

## Part 3 First Home Owner Grant Act 2000

### 5 Legislation amended—pt 3

This part amends the *First Home Owner Grant Act 2000*.

### 6 New section 24A

*in division 2.6, insert*

#### 24A Meaning of *objector*—div 2.6

In this division:

*objector* means a person who gives a written objection to the commissioner under section 25.

### 7 Objections New section 25 (1A)

*insert*

- (1A) A third-party debtor for a grant recipient may give a written objection to the commissioner if the debtor is dissatisfied with a decision of the commissioner to require the debtor to pay a recoverable amount instead of the grant recipient.

### 8 Section 25 (2)

*omit*

applicant

*substitute*

objector

**9 New section 25 (3)**

*insert*

(3) In this section:

*recoverable amount*—see section 49 (1).

**10 Sections 26 to 28 and 31**

*omit*

applicant

*substitute*

objector

**11 Part 4 heading**

*substitute*

**Part 4 Repayment and recovery of grant****46 Definitions—pt 4**

In this part:

*recoverable amount*—see section 49 (1).

*recovery notice*—see section 49A (2).

**46A Meaning of *third-party debtor***

A *third-party debtor*, for a grant recipient, means 1 or more of the following people:

- (a) a person from whom any money is due or accruing, or may become due, to the grant recipient;
- (b) a person who holds, or may subsequently hold, money for or on account of the grant recipient;

- (c) a person who holds, or may subsequently hold, money for or on account of someone else for payment to the grant recipient;
- (d) a person who has authority from someone else to pay money to the grant recipient.

**12 Interest in relation to repayments**  
**Section 48 (1)**

*substitute*

- (1) A person is liable to pay interest under this section on the amount of a first home owner grant paid to the person if the amount is repayable under section 20 (2) (b) or section 21 (2).

**13 New section 48 (3) (aa)**

*insert*

- (aa) if the amount is repayable under section 21 (2)—the day the notice mentioned in section 21 (2) (a) is given to the commissioner; or

**14 Power to recover amount paid in error etc**  
**Section 49 (1)**

*after*

following amounts

*insert*

(each of which is a *recoverable amount*)



**15 Section 49**

*omit*

an amount to which this section applies

*substitute*

a recoverable amount

**16 New sections 49A to 49E and part 5 heading**

*insert*

**49A Power to recover amounts from third-party debtors**

- (1) The commissioner may require a third-party debtor for a grant recipient to pay a recoverable amount instead of the grant recipient.
- (2) The requirement must be made by written notice (a *recovery notice*) given to the third-party debtor.

*Note* For how documents may be given, see s 53 (1) (c).

- (3) The recovery notice must—
  - (a) state the date of the notice; and
  - (b) state the recoverable amount; and
  - (c) include a statement about the effect of section 49B (1); and
  - (d) if section 49B (2) applies—include a statement about the effect of the section, and the amount required to be paid out of each instalment; and
  - (e) include a statement about the effect of section 49B (3).
- (4) The recovery notice may also state a day by which the amount required to be paid under the recovery notice is payable.
- (5) The commissioner must give a copy of the recovery notice to the grant recipient.

**49B Payment of recoverable amounts by third-party debtors**

- (1) The amount that a third-party debtor for a grant recipient is required to pay under a recovery notice is—
  - (a) if the amount payable by the third-party debtor to the grant recipient is equal to or less than the recoverable amount—all of the amount payable; or
  - (b) if the amount payable by the third-party debtor to the grant recipient is more than the recoverable amount—the recoverable amount.
- (2) If the amount payable by the third-party debtor to the grant recipient is payable in instalments, the commissioner may require the debtor to pay the commissioner an amount out of each instalment.
- (3) A third-party debtor must pay the commissioner the amount required to be paid under a recovery notice by the later of the following:
  - (a) receipt of the recovery notice;
  - (b) when the amount held by the third-party debtor becomes due to the grant recipient;
  - (c) the day (if any) stated by the commissioner in the recovery notice.

**49C Payment of recoverable amounts by others**

- (1) This section applies if—
  - (a) the commissioner gives a recovery notice to a third-party debtor for a grant recipient; and
  - (b) someone else pays all or part of the recoverable amount to the commissioner after the notice is given.

- (2) If the other person pays all of the recoverable amount, the commissioner must—
  - (a) tell the third-party debtor that the debtor is not liable to pay the recoverable amount; and
  - (b) if the third-party debtor makes a payment towards the recoverable amount after the other person pays all of the amount—repay the third-party debtor the payment.
- (3) If the other person pays part of the recoverable amount, the commissioner must give the third-party debtor another notice (a *revised recovery notice*) stating the new amount that the debtor is required to pay.

#### **49D Offence—third-party debtors to comply with notices**

- (1) A third-party debtor for a grant recipient must comply with—
  - (a) a recovery notice; or
  - (b) if a revised recovery notice is given to the debtor—the revised recovery notice.

Maximum penalty: 50 penalty units.

- (2) If a third-party debtor is convicted of an offence against subsection (1), the court may, in addition to imposing a penalty on the debtor, order the debtor to pay the commissioner an amount that is not more than the recoverable amount under the recovery notice or revised recovery notice to which the offence relates.
- (3) In this section:  
*revised recovery notice*—see section 49C (3).

**49E Third-party debtors indemnified**

A third-party debtor for a grant recipient who makes a payment under this part is—

- (a) taken to be acting under the authority of the grant recipient and anyone else concerned; and
- (b) indemnified by this section in relation to the payment.

**Part 5 Miscellaneous****17 Secrecy  
Section 50 (1), definition of *protected information***

*substitute*

***protected information*** means information about the following people that is disclosed to, or obtained by, a person to whom this section applies in the course of work related to the administration of this Act:

- (a) a grant recipient;
- (b) a third-party debtor for a grant recipient.

**18 Dictionary, new definitions**

*insert*

***grant recipient*** means—

- (a) an applicant (or former applicant) for a first home owner grant to whom an amount is paid under this Act; or
- (b) any other person to whom an amount is paid under this Act.

***objector***, for division 2.6 (Objections and appeals)—see section 24A.

*recoverable amount*, for part 4 (Repayment and recovery of grant)—see section 49 (1).

*recovery notice*, for part 4 (Repayment and recovery of grant)—see section 49A (2).

*third-party debtor*, for a grant recipient—see section 46A.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 11 December 2008.

**2 Notification**

Notified under the Legislation Act on 4 March 2009.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Revenue Legislation Amendment Bill 2009, which originated in the Legislative Assembly as the Revenue Legislation Amendment Bill 2008 (No 2) and was passed by the Assembly on 24 February 2009.

Clerk of the Legislative Assembly

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